PURSUANT TO A.R.S. SECTION 38-431 THE GILA COUNTY BOARD OF SUPERVISORS WILL HOLD AN OPEN MEETING IN THE SUPERVISORS' AUDITORIUM, 1400 EAST ASH STREET, GLOBE, ARIZONA. ONE OR MORE BOARD MEMBERS MAY PARTICIPATE IN THE MEETING BY TELEPHONE CONFERENCE CALL OR BY INTERACTIVE TELEVISION VIDEO (ITV). **ANY MEMBER OF THE PUBLIC IS WELCOME TO ATTEND THE MEETING VIA ITV WHICH IS HELD AT 610 E. HIGHWAY 260, BOARD OF SUPERVISORS' CONFERENCE ROOM, PAYSON, ARIZONA.** THE AGENDA IS AS FOLLOWS:

REGULAR MEETING - TUESDAY, DECEMBER 6, 2011 - 10 A.M.

1 Call to Order - Pledge of Allegiance – Invocation

2 **PRESENTATIONS:**

A Public recognition of 4 employees for November's "Spotlight on Employees" Program, as follows: Sharon Listiak, Ramon Hernandez, Ted "Lynn" Durst and Matthew Waddell. **(Erica Raymond)**

3 **REGULAR AGENDA ITEMS:**

A Information/Discussion/Action to approve Subgrantee Agreement No. 11-AZDOHS-HSGP-888303-01 entitled "Gila County Communications Center Tower Project" in the amount of $50,000 between the Arizona Department of Homeland Security and the Gila County Sheriff's Office. **(Adam Shepherd)**

B Information/Discussion/Action to authorize the advertisement of Request for Bids No. 103111-1 for the Sheriff's Office Tower Installation and Radio Equipment Relocation Project. **(Adam Shepherd)**

C Information/Discussion/Action to authorize the advertisement of Invitation for Bids No. 110111-1 for the purchase of one or more new 10-wheel dump trucks to be used by the Consolidated Roads Department. **(Steve Stratton)**

D Information/Discussion/Action to authorize the advertisement of Invitation for Bids No. 092111-1 for the purchase of CRS-2 chip seal oil for Gila County road repair and maintenance. **(Steve Stratton)**

E Information/Discussion/Action to approve a Power Purchase Agreement between Tioga Solar Gila, LLC and Gila County at the Central Heights Complex whereby Tioga will provide for privately owned solar photo-voltaic energy generating systems to Gila County in the amount of $0.077 per kWh for a 20 year term. **(Steve Stratton)**

F Information/Discussion/Action to approve Amendment E to the Copper Mountain Inn, Inc. Lease Agreement whereby the County leases office space at 1100 Monroe Street, Globe, Arizona, in the monthly amount of $12,176.51. **(Steve Stratton)**

G Information/Discussion/Action to ratify the County Manager's letter of November 23 exercising the thirty-day termination clause in Contract No. 070111-1 between Gila County and G. B. Home Cleaning for janitorial services in County facilities in Globe, Arizona. Pursuant to A.R.S.§ 38-431.03(A)(3), the Board of Supervisors may vote to go into executive session to obtain legal advice from its attorney. **(Joe Heatherly)**

4 **CONSENT AGENDA ACTION ITEMS:**

A Approval of Amendment No. 6 to Contract No. C037-09-02 between the Governor's Office of Energy Policy and the Gila County Division of Community Services, Weatherization Program, revising portions of Paragraph 32 of the American Recovery and Reinvestment Act (ARRA) Contract to stipulate that ARRA-funded client eligibility remains at 200% of the Federal Poverty Guidelines Income.

B Approval of Amendment No. 1 to an Intergovernmental Agreement (Contract No. HG161095) between Gila County and the Arizona Department of Health Services to continue to provide injury prevention services and allow the changes needed to the contract.

C Acceptance of an Amendment to a contract between Gila County and University Physicians Healthcare for required contract changes as outlined in Exhibit 5-Subcontract Provision that takes effect on October 1, 2011. This Contract and Amendment allows Gila County to continue to submit for reimbursement of administration fees for immunizations provided to AHCCCS clients.

D Approval of the Chairman's signature on Intergovernmental Agreement (IGA) (Contract ADHS12-007886) between the Division of Health & Emergency Services and the Arizona Department of Health Services for a period starting August 31, 2011, and ending August 30, 2016.

E Authorization of the Chairman's signature on Amendment No. 1 to the Power Purchase Agreement between Gila County and Tioga Solar Gila, LLC to lower the energy purchase rate from $0.080 to $0.077 per kWh at the Gila County Courthouse.

F Acknowledgment of the appointments of Robert Zache - term expires December 31, 2014; Richard Dixon - term expires December 31, 2012; Mitch Malkovich - term expires December 31, 2014; Kevin Kenney - term expires December 31, 2014; and Mary Anne Moreno - term expires December 31, 2012, as Tri-City Regional Sanitary District Governing Board Members.

G Approval of the October 2011 monthly activity reports submitted by the Clerk of the Superior Court's Office.

H Approval of the October 2011 monthly activity reports submitted by the Payson Regional Constable's Office.

I Approval of the October 2011 monthly activity reports submitted by the Payson Regional Justice of the Peace's Office

J Approval of the October 2011 monthly activity reports submitted by the Globe Regional Justice of the Peace's Office.

K Acknowledgement of the Human Resources weekly reports for all personnel action items approved by the County Manager for the month of November 2011, as follows: November 1, 2011, November 8, 2011, November 15, 2011, November 22, 2011, and November 29, 2011.

L Acknowledgment of contracts under $50,000 which have been approved by the County Manager for weeks of:
November 5, 2011, through November 11, 2011
November 12, 2011, through November 18, 2011
November 19, 2011 through November 25, 2011

M Approval of the October 18, 2011, November 1, 2011, and November 15, 2011, BOS meeting minutes and November 14, 2011, Board of Equalization meeting minutes.

N Approval of finance reports/demands/transfers for the weeks of November 22, 2011, November 29, 2011, and December 6, 2011.

5 **CALL TO THE PUBLIC:** Call to the Public is held for public benefit to allow individuals to address issue(s) within the Board's jurisdiction. Board members may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to Arizona Revised Statute §38-431.01(G), action taken as a result of public comment will be limited to directing staff to study the matter, responding to criticism, or scheduling the matter for further discussion and decision at a future date.

6 At any time during this meeting pursuant to A.R.S. §38-431.02(K), members of the Board of Supervisors and the Chief Administrator may present a brief summary of current events. No action may be taken on issues presented.

IF SPECIAL ACCOMMODATIONS ARE NEEDED, PLEASE CONTACT THE RECEPTIONIST AT (928) 425-3231 AS EARLY AS POSSIBLE TO ARRANGE THE ACCOMMODATIONS. FOR TTY, PLEASE DIAL 7-1-1 TO REACH THE ARIZONA RELAY SERVICE AND ASK THE OPERATOR TO CONNECT YOU TO (928) 425-3231.

THE BOARD MAY VOTE TO HOLD AN EXECUTIVE SESSION FOR THE PURPOSE OF OBTAINING LEGAL ADVICE FROM THE BOARD'S ATTORNEY ON ANY MATTER LISTED ON THE AGENDA PURSUANT TO A.R.S. SECTION 38-431.03(A)((3)

THE ORDER OR DELETION OF ANY ITEM ON THIS AGENDA IS SUBJECT TO MODIFICATION AT THE MEETING

ARF-978 **Presentation Agenda Item 2- A**

Regular BOS Meeting

Meeting Date: 12/06/2011

Submitted For: Berthan DeNero, Human Resources Director

Submitted By: Erica Raymond, Human Resources Assistant, Human Resources

Department: Human Resources

Presenter's Name: Erica Raymond

Information

Request/Subject

November 2011 Spotlight on Employee's Program

Background Information

The purpose of this program is to provide recognition to employees for the following qualities: teamwork, quality, morale building, integrity, customer service and initiative.

Evaluation

N/A

Conclusion

N/A

Recommendation

To allow the Human Resources Department to publicly recognize employees for November 2011 through the County's "Spotlight on Employees" Program.

Suggested Motion

Public recognition of 4 employees for November's "Spotlight on Employees" Program, as follows: Sharon Listiak, Ramon Hernandez, Ted "Lynn" Durst and Matthew Waddell. **(Erica Raymond)**

ARF-965 **Regular Agenda Item 3- A**

Regular BOS Meeting

Meeting Date: 12/06/2011

Submitted For:	Claudia DalMolin, Chief Administrative Officer	Submitted By:	Claudia DalMolin, Chief Administrative Officer, Sheriff's Office
Department:	Sheriff's Office		
Fiscal Year:	FY2011-2012	Budgeted?:	No
Contract Dates Begin & End:	Oct. 1, 2011-Sept. 30, 2012	Grant?:	Yes
Matching Requirement?:	Yes	Fund?:	New
Presenter's Name:	Undersheriff Shepherd/Commander DalMolin		

Information

Request/Subject

FY2011 Subgrantee Agreement No. 11-AZDOHS-HSGP-888303-01 between the Arizona Department of Homeland Security and the Gila County Sheriff's Office

Background Information

In the latter part of 2010, the County constructed a new communications center on the property adjacent to the old equipment shop behind the Courthouse at 1342 E Monroe Street in Globe. The move was necessary to take advantage of State 911 grant funds that were available to upgrade the 911 system, a project that has been completed. As part of the move, the Sheriff's Office two-way radio equipment remained in the old building that houses the Sheriff's Office administration as well as the County jail at 1100 South Street. This project is proposed to install a communications tower next to the new building and move the equipment to the new communications center.

Evaluation

For many years the Sheriff's Office had maintained a communications center located in the main administrative building in Globe, which included a "Public Safety Answering Point" (or PSAP) for 911 calls and the two-way radio communications system. In 2010, the state 911 Office made grant funds available to upgrade the 911 system, and the funds had to be utilized within a very short time frame. Due to future plans to move Sheriff's Office administration onto the property where the Globe equipment shop currently stands, a plan was developed by the County to construct a new communications center at the planned site (this was done to avoid an approximate $25,000 fee to move the 911 equipment in the future).

The County constructed the new building, the new 911 equipment was installed under the grant, and the building was occupied as the new communications center for the Sheriff's Office. Due to budget constraints on the project the two-way radio equipment was not moved from the old location, but was connected to the new building via a temporary wireless data connection. The link is considered temporary because it provides a non-redundant link and creates a single point of failure for the entire two-way radio communications system. Public safety grade communication systems are typically built with redundant backups and do not rely on single points of failure.

As part of the Arizona Department of Homeland Security (ADOHS) Federal fiscal year 2011 grant process, the Sheriff's Office applied for the funding to construct a new communications tower and move the equipment to the new communications center location. The grant was considered along with other submissions by the Eastern Regional Advisory Committee (ERAC) and approved for funding consideration. On October 10, 2011, the ADOHS informed the Sheriff's Office that the Grant had been awarded.

Conclusion

The temporary wireless data link connecting the two-way radio system between the two buildings was only meant to be in place long enough to find funding to move the equipment to the new location. To be able to return the system to a public-safety suitable system requires this project to be completed. The Homeland Security Grant will allow the project to be financed at no significant cost to the County.

Recommendation

The Sheriff's Office recommends that the Board of Supervisors accept and approve the Homeland Security Grant.

Suggested Motion

Information/Discussion/Action to approve Subgrantee Agreement No. 11-AZDOHS-HSGP-888303-01 entitled "Gila County Communications Center Tower Project" in the amount of $50,000 between the Arizona Department of Homeland Security and the Gila County Sheriff's Office. **(Adam Shepherd)**

Attachments

Subgrantee Agreement No. 11-AZDOHS-HSGP-888303-01

Legal explanantion

SUBGRANTEE AGREEMENT

11-AZDOHS-HSGP-888303-01

Enter Grant Agreement Number above (e.g., 888xxx-xx)

Between

The Arizona Department of Homeland Security
And

Gila County Sheriff's Office

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

Gila County Sheriff's Office

Enter the Name of the Subrecipient Agency Above

(subrecipient) for services under the terms of this Grant 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, 2011** and shall terminate on **September 30, 2012**. 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 "Gila Couny Communications Center Tower Project"

Enter Title of Application

and funded at $ 50,000.00 (as may have been modified by the award letter).

Enter Funded Amount above

IV. MANNER OF FINANCING

The AZDOHS shall:

a) Provide up to $ 50,000.00 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 RESPONSBILITY

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/PROGRAMATIC 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 OMB Circular #A-133 ("Audits of States, Local Governments, and Non-profit Organizations") if the subrecipient expends more than $500,000 from Federal awards. If the subrecipient has expended more than $500,000 in Federal dollars, a copy of the subrecipient's audit report for the previous fiscal year must be submitted to the AZDOHS for review within thirty (30) days of signing this Agreement.

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 onsite 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, 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 grant guidance Office of Management and Budget (OMB) Circulars Code of Federal Regulations (CFR) and other Federal guidance including but not limited to:

a) 44 CFR Chapter 1, Federal Emergency Management Agency, Department of Homeland Security at http://www.access.gpo.gov/nara/cfr/waisidx_07/44cfrv1_07.html.

b) 2 CFR 225 Cost Principles for State, Local & Indian Tribal Governments (formerly OMB), at http://www.access.gpo.gov/nara/cfr/waisidx_07/2cfr225_07.html.
Cost Principles: 2 CFR Part 225, State and Local Governments; 2 CFR Part 220, Educational Institutions; 2 CFR Part 230, Non-Profit Organizations; Federal Acquisition Regulation Sub-part 31.2, Contracts with Commercial Organizations.
OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, at http://www.whitehouse.gov/omb/circulars/a133/a133.html.

c) 44 CFR Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (formerly OMB Circular A-102), at http://149.168.212.15/mitigation/Library/44_CFR-Part_13.pdf. U.S. Department of Homeland Security Authorized Equipment List (AEL), at https://www.rkb.mipt.org/ael.cfm 2 CFR Part 215, Institutions of Higher Education, Hospitals and Other Non-Profit Organizations.

d) 28 CFR applicable to grants and cooperative agreements, including Part II, Applicability of Office of Management and Budget Circulators; Part 18, Administrative Review Procedure; Part 20, Criminal Justice Information Systems; Part 22, Confidentiality of Identifiable Research and Statistical Information; Part 23, Criminal Intelligence System Operating Policies; Part 42, Non-discrimination Equal Employment Opportunities Policies and Procedures; Part 61, Procedures for Implementing the National Environmental Policy Act; Part 63, Floodplain Management and Wetland Protection Procedures; and Part 66, Uniform Administrative Requirements for Grants and Co-operative Agreements to State and Local Government.

Included within the above mentioned guidance documents are provisions for the following:

NIMSCAST
The subrecipient agrees to complete the National Incident Management System Compliance Assistance Support Tool (NIMSCAST) and remain in compliance.

Environmental Planning and Historic Preservation
The subrecipient shall comply with all applicable Federal, State, and Local environmental and historic preservation (EHP) requirements and shall provide any information requested by FEMA to ensure compliance with applicable laws including: National Environmental Policy Act, National Historic Preservation Act, Endangered Species Act, and Executive Orders on Floodplains (11988), Wetlands (11990) and Environmental Justice (12898).Subrecipient shall not undertake any project having the potential to impact EHP resources without the prior approval of AZDOHS/FEMA, including but not limited to communications towers, physical security enhancements, new construction, and modifications to buildings that are 50 years old or greater. Subrecipient must comply with all conditions placed on the project as the result of the EHP review. Any change to the approved project scope of work will require re-evaluation for compliance with these EHP requirements. If ground disturbing activities occur during project implementation, the subrecipient must ensure monitoring of ground disturbance and if any potential archeological resources are discovered, the subrecipient will immediately cease construction in that area and notify FEMA and the appropriate State Historic Preservation Office. Construction activities shall not be initiated prior to the full environmental and historic preservation review.

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 44 CFR Chapter 1, Part 13 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 the OMB Circulars, Code of Federal Regulations, DHS Guidance and DHS Program Guide. 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 must be applied uniformly to both federally financed and other activities of the agency. 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: http://www.gao.state.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 Sole or Single Source procurement agreement, unless prior written approval is granted by the AZDOHS.

Training
The subrecipient agrees that any grant funds used for training must be in compliance with grant guidance. All training must be approved through the ADEM/AZDOHS training request process prior to execution of training contract(s).

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 solely for authorized purposes as described in the guidance and application. The subrecipient shall exercise caution in the use, maintenance, protection and preservation of such property.

Terms used in this sub-part have the following meaning (see also Reclamation Supplement to Federal Property Management Regulations, Part 60 Property Accountability, Sub-part 114S-60.4 Classification of Property).

a) 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 $300 (Three Hundred Dollars) or more, and does not become a fixture or lose its identity as a component of other equipment or plant.

b) At the time when the final request for reimbursement is submitted, the subrecipient must file with the AZDOHS a copy of the Property Control Record Form listing all such property acquired with grant funds. The subrecipient agrees to be subject to equipment monitoring and auditing by state or federal authorized representatives for verification of information.

c) 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. When use of the property for project activities is discontinued, the subrecipient shall request in writing disposition instructions from the AZDOHS before actual disposition of the property. Theft, destruction, or loss of property shall be reported to the AZDOHS immediately. An equipment/capital asset list shall be maintained for the entire scope of the program or project for which it was acquired. All equipment having an acquisition cost of $5,000 (Five Thousand Dollars) or more per unit and/or a useful life of more than one year shall be included in the equipment/capital asset list.

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 OMB Circulars, Code of Federal Regulations, authorized equipment lists and guidance documents referenced above.

a) The subrecipient agrees that grant funds are not to be expended for any indirect costs that may be incurred by the subrecipient for administering these funds.

b) The subrecipeint 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 Grant Guidance.

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."

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 Format template, which is posted at www.azdohs.gov. 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 reports are due:
January 15 (period October 1– December 31)
April 15 (period January 1 – March 31)
July 15 (period April 1 – June 30)
October 15 (period July 1 – September 30)

c) Financial Reimbursements
The subrecipient shall provide as frequently as monthly but not less than quarterly requests for reimbursement. Reimbursements shall be submitted with the Reimbursement Form provided by the AZDOHS staff. The subrecipient shall submit a final reimbursement for expenses received and invoiced prior to the end of the termination of this Agreement no more than **forty-five (45) days** after the end of the Agreement. Requests for reimbursement received later than the forty-five (45) days after the Agreement termination will not be paid. The final reimbursement request as submitted shall be marked FINAL, and include a copy of the Property Control Form, if applicable.

The AZDOHS requires that all requests for reimbursement are submitted via U.S. mail (United States Postal Service), FedEx, UPS, etc...or in person. Reimbursements 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 XXXIX, 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.

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 sentence. 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. 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.

XIV. AGREEMENT RENEWAL

This Agreement shall not bind nor purport to bind the AZDOHS for any contractual commitment in excess of the original Agreement period.

XV. 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.

XVI. **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.

XVII. **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.

XVIII. **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.

XIX. **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.

XX. **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.

XXI. **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.

XXII. **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.

XXIII. 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 X, REPORTING REQUIREMENTS; provided; however, that 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. 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.

XXIV. 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.

XXV. 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.

XXVI. 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 Order2009-09.

XXVII. 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.

XXVIII. 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.

XXIX. 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.

XXX. 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 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 sub-recipients 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.

XXXI. 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.

XXXII. INDEMNIFICATION

To the extent permitted by law, each party (as indemnitor) agrees to indemnify, defend 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.

XXXIII. 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.

XXXIV. 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.

XXXV. 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.

XXXVI. 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.

XXXVII. 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.

XXXVIII. 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 U.S. Department of Homeland Security and the AZDOHS reserves 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 that, when practicable, any equipment purchased with grant funding shall be prominently marked as follows: **"Purchased with funds provided by the U.S. Department of Homeland Security."**

d) 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.

e) The subrecipient is prohibited from transferring funds between programs (State Homeland Security Program, Urban Area Security Initiative, Citizen Corps Program, Operation Stonegarden, and Metropolitan Medical Response System).

XXXIX. 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, Suite 210
Phoenix, AZ 85007

The subrecipient shall address all programmatic notices relative to this Agreement to the appropriate the AZDOHS staff; contact information at www.azdohs.gov.

The subrecipient shall submit reimbursement requests relative to this Agreement to the appropriate the AZDOHS staff; contact information at www.azdohs.gov

The AZDOHS shall address all notices relative to this Agreement to:

John R. Armer- Sheriff
Enter Title, First & Last Name above
Gila County Sheriff's Office
Enter Agency Name above
P.O. Box 311
Enter Street Address
Globe, Arizona 85502
Enter City, State, ZIP

XXXX. IN WITNESS WHEREOF

The parties hereto agree to execute this Agreement.

FOR AND BEHALF OF THE

Gila County Sheriff's Office
Enter Agency Name above

Authorized Signature above

John R. Armer- Sheriff
Print Name & Title above

Enter Date above

FOR AND BEHALF OF THE

Arizona Department of Homeland Security

Gilbert M. Orrantia
Director

Date

Approved:

Tommie C. Martin, Chairman
Gila County Board of Supervisors

Date: _____

Approved as to form:

Bryan Chambers
Chief Deputy County Attorney

Date: _____

(Please be sure to complete and mail two original documents to the Arizona Department of Homeland Security.)

GILA COUNTY ATTORNEY
Daisy Flores

Re: County Attorney's Office approval of IGA pursuant to A.R.S. § 11-952(D).

To whom it may concern:

The County Attorney's Office has reviewed the Intergovernmental Agreement attached to this agenda item and has determined that it is in its "proper form" and "is within the powers and authority granted under the laws of this state to such public agency or public procurement unit" pursuant to A.R.S. § A.R.S. § 11-952(D).

Explanation of the Gila County Attorney's Office Intergovernmental Agreement (IGA) Review

A.R.S. § 11-952(D) requires that

> every agreement or contract involving any public agency or public procurement unit of this state . . . before its execution, shall be submitted to the attorney for each such public agency or public procurement unit, who shall determine whether the agreement is in proper form and is within the powers and authority granted under the laws of this state to such public agency or public procurement unit.

In performing this review, the County Attorney's Office reviews IGAs to see that they are in "proper form" prior to their execution. "Proper form" means that the contract conforms to fundamental contract law, conforms to specific legislative requirements, and is within the powers and authority granted to the public agency. It does not mean that the County Attorney's Office approves of or supports the policy objectives contained in the IGA. That approval is solely the province of the public agency through its elected body.

Likewise, this approval is not a certification that the IGA has been properly executed. Proper execution can only be determined after all the entities entering into the IGA have taken legal action to approve the IGA. There is no statutory requirement for the County Attorney's Office to certify that IGAs are properly executed.

Nonetheless, it is imperative for each public agency to ensure that each IGA is properly executed because A.R.S. § 11-952(F) requires that "[a]ppropriate action … applicable to the governing bodies of the participating agencies approving or extending the duration of the … contract shall be necessary before any such agreement, contract or extension may be filed or become effective." This can be done by ensuring that the governing body gives the public proper notice of the meeting wherein action will be taken to approve the IGA, that the item is adequately described in the agenda accompanying the notice, and that the governing body takes such action. Any questions regarding whether the IGA has been properly executed may be directed to the County Attorney's Office.

Proper execution of IGAs is important because A.R.S. § 11-952(H) provides that "[p]ayment for services under this section shall not be made unless pursuant to a fully approved written contract." Additionally, A.R.S. § 11-952(I) provides that "[a] person who authorizes payment of any monies in violation of this section is liable for the monies paid plus twenty per cent of such amount and legal interest from the date of payment."

The public agency or department submitting the IGA for review has the responsibility to read and understand the IGA in order to completely understand its obligations under the IGA if it is ultimately approved by the public entity's board. This is because while the County Attorney's Office can approve the IGA as to form, the office may not have any idea whether the public agency has the capacity to actually comply with its contractual obligations. Also, the County Attorney's Office does not monitor IGA compliance. Hence the public entity or submitting department will need to be prepared to monitor their own compliance. A thorough knowledge of the provisions of the IGA will be necessary to monitor compliance.

Before determining whether an IGA contract "is in proper form," the County Attorney's Office will answer any questions or concerns the public agency has about the contract. It is the responsibility of the public agency or department submitting the IGA for review to ask any specific questions or address any concerns it has about the IGA to the County Attorney's Office at the same time they submit the IGA for review. Making such an inquiry also helps improve the County Attorney's Office review of the IGA because it will help focus the review on specific issues that are of greatest concern to the public agency. Failing to make such an inquiry when the agency does have issues or concerns will decrease the ability of the County Attorney's Office to meaningfully review the IGA.

ARF-960 **Regular Agenda Item 3- B**

Regular BOS Meeting

Meeting Date: 12/06/2011

Submitted For: Adam Shepherd Submitted By: Valrie Bejarano, Contracts Support Specialist, Finance Department

Department: Sheriff's Office

Fiscal Year:	FY 2011-2012	Budgeted?:	Yes
Contract Dates Begin & End:	1-24-12 to 1-23-13	Grant?:	Yes
Matching Requirement?:	No	Fund?:	New

Presenter's Name: Adam Shepherd

Information

Request/Subject

Request to Advertise Invitation for Proposals No. 103111-1 for S.O. Tower Installation & Radio Equipment Relocation Project

Background Information

In the latter part of 2010, the County constructed a new communications center on the property adjacent to the old equipment shop behind the Courthouse at 1342 E Monroe Street in Globe. The move was necessary to take advantage of State 911 grant funds that were available to upgrade the 911 system, a project that has been completed. As part of the move, the Sheriff's Office two-way radio equipment remained in the old building that houses Sheriff's Office administration as well as the County jail at 1100 South Street. This project is proposed to advertise for bids and select a vendor to install a communications tower next to the new building and move the equipment to the new communications center.

Evaluation

For many years the Sheriff's Office had maintained a communications center located in the main administrative building in Globe, which included a "Public Safety Answering Point" (or PSAP) for 911 calls and the two-way radio communications system. In 2010, the State 911 Office made grant funds available to upgrade the 911 system, and the funds had to be utilized within a very short time frame. Due to future plans to move Sheriff's Office administration onto the property where the Globe equipment shop currently stands, a plan was developed by the County to construct a new communications center at the planned site (this was done to avoid an approximate $25,000 fee to move the 911 equipment in the future).

The County constructed the new building, the new 911 equipment was installed under the grant, and the building was occupied as the new communications center for the Sheriff's Office. Due to budget constraints on the project the two-way radio equipment was not moved from the old location, but was connected to the new building via a temporary wireless data connection. The link is considered temporary because it provides a non-redundant link and creates a single point of failure for the entire two-way radio communications system. Public safety grade communication systems are typically built with redundant backups and do not rely on single points of failure. As part of the Arizona Department of Homeland Security (ADOHS) Federal Fiscal Year 2011 Grant process, the Sheriff's Office applied for the funding to construct a new communications tower and move the equipment to the new communications center location. The grant was considered along with other submissions by the Eastern Regional Advisory Committee (ERAC) and approved for funding consideration. On October 10, 2011, the ADOHS informed the Sheriff's Office that the Grant had been awarded. In an effort to select a vendor to complete this work, it is necessary to advertise for bids.

Conclusion

The temporary wireless data link connecting the two-way radio system between the two buildings was only meant to be in place long enough to find funding to move the equipment to the new location. To be able to return the system to a public-safety suitable system requires this project to be completed. The Homeland Security Grant will allow the project to be financed at no significant cost to the County; however, due to its complexity the project requires advertisement for bids to select a vendor.

Recommendation

The Sheriff's Office recommends that the Board of Supervisors approve the request to advertise Request for Bids No. 103111-1 for the S.O. Tower Installation and Radio Equipment Relocation Project to the new 911 dispatch building on Monroe Street.

Suggested Motion

Information/Discussion/Action to authorize the advertisement of Request for Bids No. 103111-1 for the Sheriff's Office Tower Installation and Radio Equipment Relocation Project. **(Adam Shepherd)**

Attachments

Request to Advertise Bid No. 103111-1

Invitation for Bid No. 103111-1

GILA COUNTY DEPARTMENTAL REQUEST TO ADVERTISE FOR BIDS

SEE GC2-7-111 (ART.1) OF PROCUREMENT PROCEDURES FOR INSTRUCTIONS TO PREPARE THIS FORM

All departments procuring purchases in excess of $50,000.00 that requires advertising for bids must follow the Procurement Procedure and must complete item "I" of this form prior to such a purchase. **The requesting Department is responsible for writing the necessary specifications and routing them, including this form, accompanied by a Bid Request Form to the Procurement Department.** THIS FORM MUST BE COMPLETE, ACCURATE, AND HAVE A COPY OF THE SPECIFICATIONS ATTACHED BEFORE ROUTING BEGINS. ALL CALLS FOR BID/PROPOSALS AND SPECIFICATIONS WILL BE IN ACCORDANCE WITH THE AZ. REVISED STATUTES AND THE GILA COUNTY PURCHASING CODE AND PROCEDURES.

I. IS THIS A CALL FOR BID: _____ PROPOSAL: X DEPARTMENT NAME: Gila County Sheriff's Office

FUNDING SOURCE: FUND NO.: _____ DEPT NO.: ____ PROGRAM NO.: _____ LOCATION NO.: 000 ACCOUNT NO.: _____ PJCT: _____

I. DESCRIPTION: List item(s) to be purchased, Purpose, Spec. Summary, Estimated Cost and Funding Source. It is the intent of this solicitation to establish a contract with a contract to install a 70 foot tower and relocated the radio equipment for 911 dispatch for the Sheriff's Office.

Signed: John R. Arner Date: 11/21/11 Signature indicates material specifications are approved as written.
Elected Officials or Department Head

II. DEPARTMENTAL INFORMATION ONLY BID NO.: 103111-1
(For Procurement Use Only)

Action Dates:

Department Receipt: ___/___/___ Placed on Agenda: 12 / 06 / 11

Presented to Board: ___/___/___ Approved to Call: ___/___/___

Delivered to Paper: ___/___/___ Paper Name: Arizona Silver Belt .

Advertised Dates: From: 12 / 07 / 11 To: 12 / 14 / 11

Closing Date: 12 / 29 / 11 Bid Award Date: ___/___/___

Awarded to: _____ P.O. No.: _____

Proposed Delivery Date: ___/___/___

III. OTHER APPROVAL (only as necessary)

Public Works: Dept. Head Sign: _____ Date: ___/___/___

Community Action: Dept. Head Sign: _____ Date: ___/___/___

MIS Department: Dept. Head Sign: _____ Date: ___/___/___

IV. APPROVED FUNDING

Finance Director Signature: _____ Date: ___/___/___

V. LEGAL AND ADMINISTRATIVE APPROVAL (Bid packet must be completed and attached)

Signed: _____ Date: ___/___/___
Bryan B. Chambers, Chief Deputy County Attorney (Approved as to form)
for Daisy Flores County Attorney

Signed: _____ Date: ___/___/___
Tommie C. Martin, Chairman, Board of Supervisors (Approved as to specifications and information)

VI. AWARD APPROVAL

Signed: _____ Date: ___/___/___
(Declaration that the Board of Supervisors approved the award as stated in Section V. of this page)
Tommie C. Martin, Chairman of the Board of Supervisors, Gila County

GILA COUNTY

NOTICE OF REQUEST FOR PROPOSALS

BID CALL 103111-1

S.O. TOWER INSTALLATION
&
RADIO EQUIPMENT RELOCATION PROJECT

BIDDER'S INFORMATION
CONTRACT DOCUMENTS AND SPECIFICATIONS

BOARD OF SUPERVISORS
Tommie C. Martin, Chairman
Shirley L. Dawson, Vice Chairman
Michael A. Pastor, Member

County Manager
Don E. McDaniel Jr.

1400 E. Ash Street
Globe, Arizona
85501

GILA COUNTY
PROCUREMENT GROUP
NOTICE OF INVITATION FOR BID

SOLICITATION NUMBER
103111-1

BID DUE DATE: **December 29, 2011** **TIME: 2:00 PM**

DESCRIPTION: **S.O. Tower Installation & Radio Equipment Relocation**

MANDATORY SITE VISIT: **December 15, 2011**

Bid Opening Location: **GILA COUNTY**
BOARD CONFERENCE ROOM #257
1400 EAST ASH STREET, GLOBE, ARIZONA 85501

Bid Submittal Location: **GILA COUNTY PROCUREMENT, 1400 E. Ash St., Globe, AZ 85501**

In accordance with A.R.S. §41-2533, Invitation for Bid for the materials and services specified will be received by the Gila County Procurement Group at the above specified location until the time and date cited.

Request for submittals after the specified date and time to the Procurement Group shall not be considered. To receive bid documents contact the Procurement Group at (928)402-8612.

Additional instructions for preparing a bid are provided on pages 4-7 of the bid documents to Offerors as contained within the solicitation.

The Board of Supervisors reserves the right to reject any or all bid proposals, or to accept any bid proposal, or to waive any informality in any bid proposal, or to withhold the award if deemed in the best interest of Gila County. All procurement activities conducted by Gila County are in conformance with the rules and regulations of the Gila County Procurement Code. A copy of the Code is available for review in the Deputy Clerk of the Board's office, Globe, AZ.

Arizona Silver Belt advertisement dates: December 7 and 14, 2011

BIDDERS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE SOLICITATION.

Signed: _____ Date: _____
Bryan B. Chambers, Chief Deputy County Attorney
for Daisy Flores, County Attorney

Signed: _____ Date: _____
Tommie C. Martin, Chairman, Board of Supervisors

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BIDDERS ARE HEREBY NOTIFIED

1. The bidder must supply all the information required by the bidding documents or specifications. All proposals shall be made on the bid proposal forms prepared by Gila County as part of the Contract Documents. The proposal must include the following forms, **all with original signatures**, must accompany the bidders proposal:

   - Qualification & Certification Form (Item No. 5 information included)
   - Price Sheet
   - Reference List
   - Intentions Concerning Subcontracting
   - Affidavit of No Collusion
   - Legal AZ Workers Act Compliance
   - Surety (Bid) Bond
   - Bidders Checklist & Addenda Acknowledgment
   - Offer Page

   Failure to include all required documents, all with original signatures, may invalidate the bid. Prices shall include all applicable taxes.

2. **Proposal Guaranty** -Proposals shall be accompanied by a certified check, cashier's check or bid bond for 10 percent (10%) of the total contract price bid.

3. **Delivery of Proposal** - Each bid shall be sealed and plainly marked **"Bid No. 103111-1 S.O. Tower Installation & Radio Equipment Relocation"**, on the outer most envelope or label. If courier is used, bidder shall instruct the courier to deliver the package by **Thursday, December 29th, 2011**, **2:00 p.m.** on the date specified herein, to the Gila County Procurement Group at 1400 East Ash, Globe, Arizona 85501. **No bids will be accepted after 2:00 PM, December 29th, 2011.**

4. **Rejection of Bids** -The Owner reserves the right to reject any and all bids, waive all or any informalities in the bids.

6. **Arizona Contractor's License** -**Prior to submission of bids**, bidders must have a valid Arizona Contractor's License of a type which meets all criteria and requirements to perform the work as specified in the contract documents in accordance with the **Arizona State Registrar of Contractors**.

7. **Certificate of Insurance** –All certificates and endorsements are to be received and approved by the County prior to work commencing.

7. **Bid Opening Information** - Information regarding the bid award will not be available until after the Gila County Board of Supervisors has issued a decision regarding the submitted project bids. This will be the only time, until bid award, this information will be revealed.

8. **Mandatory Pre-Bid Walk Through**
   There is a mandatory site walk through scheduled for Thursday**, December 15, 2011, 10:00 AM**. Meeting shall be at the Gila County Sheriff's Office, 1100 South St., Globe, AZ. Only those companies signed in on the walk through sign-in sheet will be permitted to bid.

SCOPE OF WORK

The Gila County Sheriff's Office is seeking a qualified Contractor to provide and install a seventy foot self supporting tower and move all radio/communications/ancillary support equipment from one location to another. As this bid is being funded through a federal grant the total cost of the project, including all applicable taxes, goods and services, is $50,000. The total cost of this project shall not exceed this amount.

The intent of the contract is to provide for construction and completion, in every detail, of the work described. It is further intended that the Contractor shall furnish all labor, drawings, materials, equipment, tools, and supplies required to complete the work in accordance with the specifications, and terms of the contract.

In this scope of work items indicated as "should" shall be considered as required while those indicated as "may" are subject to the discretion of and/or agreement between the contractor and the Gila County Sheriff's Office. Contractor is defined as the company/organization in responsible charge of all project implementation and associated activities.

Equipment currently located at:

- Gila County Sheriff's Office Globe Arizona, 1100 South St., Globe, Arizona

Equipment to be relocated to:

- Gila County 911 Dispatch Center, 1342 E. Monroe St., Globe, Arizona
  Existing tower located by building.

Requirements

This project includes; proper installation, bonding, grounding, suitable lightning protection, antenna/RF management equipment necessary to provide the best communications support on behalf of the Gila County Sheriff's Office This work also involves uninstalling all radio/communications/ancillary support equipment presently located at the Globe, Arizona Office of the Gila County Sheriff, relocating and installing all radio/communications/ancillary support equipment into the new dispatch center located near the Gila County Courthouse in Globe (approximately 2 blocks away).

The present equipment includes, but is not limited to the following manufacturers:

- I-Com
- Vertex
- Telex/Vega
- Tait
- Motorola

A complete inventory of all radio equipment, frequencies, power output, antennas, etc. will be available upon written request. Requests can be sent to Undersheriff Adam Shepherd.

- Mailing address is Gila County Sheriff's Office, 108 West Main Street, Payson, Arizona 85541, or email to ashepherd@co.gila.az.us.

The support/ancillary equipment includes the Vega Voice over IP interface(s) along with decoding equipment necessary to decode MDC 1200 transmission. The interface should include an ANSI Standard RS 232 output that can be used as a computer interface. The Sheriff's Office has a requirement for five (5) units.

The project should also include a minimum of six (6) copies of Telex/Vega "C-Soft" software(c) to support the necessary interface into the new county's microwave system. A component of this software/system installation shall also include establishing suitable IP addressing as to allow control of all radio equipment

through the new microwave system. This will enable either dispatch location to operate the control stations for either the Globe or Payson Dispatch Centers. A copy of the existing IP addressing scheme is available upon written/email request (see above).

The various communications transmit and receive frequencies used at the Sheriff's Office (available upon request) should be considered to allow for implementation of proper RF management to optimize performance of the control/repeater stations, including but not limited to: isolators, bandpass filters, cavities, duplexers, etc. Interconnect cables should be double shielded or "hardline" type cable to minimize RF cable interconnection interference.

The existing antenna facility at the site should be considered as a part of the relocation project as well. The relocation should also include a new antenna structure and antennas to allow for the optimization of the overall control station systems performance. A "high gain" VHF omnidirectional antenna should be installed at the top of the 70 ft. tower. Directional antennas should be installed where appropriate. All transmission feed lines should be at least ½ inch diameter "hardline" or suitable alternative. The antenna structure should be a freestanding tower suitable for the task. All RF/antenna/tower equipment should be bonded and grounded in accordance with current engineering practice.

Contractor will provide drawings and suitable documentation for "as-built" equipment installation. Also to be included are details regarding IP addressing assignment(s) for all equipment / interface equipment.

Inspection of Work

All work shall be subject to inspection by the County. The County shall be allowed access to all parts of the work and shall be furnished with such information and assistance by the Contractor as is required to make a complete and detailed inspection.

Final Clean Up

Upon completion of the work and before acceptance the Contractor shall remove from the site all machinery, equipment, surplus and discarded materials, and rubbish.

Negotiations

It is the intent of the County to award a Contract to the lowest responsible Bidder provided the Bid has been submitted in accordance with the requirements of the Bid Documents, is judged reasonable, and does not exceed the funds available.

(a) The County shall have the authority to negotiate with the lowest bidder to reduce the scope of the Project in the event that all responsive bids exceed the Project budget.

Bids shall be made available for public inspection by appointment only after the award has been made by the Board of Supervisors. The Board of Supervisors has the sole authority to award bids and any statement by any employee of the County is not binding on the Board.

The following criteria will be considered a part of the evaluation process:

(a) Competence and responsibility of Bidder.
(b) Qualifications and experience of Bidder.
(c) Past performance of Bidder.
(d) Conformity with bidding requirements and general considerations.
(e) Record of timely completion on past projects.

Negotiations with Individual Contractors

Gila County Public Works Division shall establish procedures and schedules for conducting Negotiations. Disclosure of one (1) Contractor's Price or any information derived from competing Bid Prices or any information derived from competing Bids is prohibited.

(a) Any response to a request for clarification of a bid shall be in writing.
(b) The Public Works Division shall keep a record of all negotiations.

For the purpose of conducting Negotiations with Contractors, Gila County may use any of the following methods that, in their judgment, best meets the unique requirements.

(a) Concurrent Negotiations: Negotiations may be conducted concurrently with responsible Contractors for the purpose of determining source selection and/or Contract Award.
(b) Exclusive Negotiations: A determination may be made by the Public Works Director to enter into exclusive negotiations with the responsible Contractor whose bid is determined in the selection process to be the most Advantageous to Gila County.

Exclusive Negotiations may be conducted subsequent to concurrent Negotiations or may be conducted without requiring previous concurrent Negotiations.

(a) A determination to conduct exclusive Negotiations shall not constitute a Contract Award nor shall it confer any property rights to the successful bidder.
(b) If exclusive Negotiations are conducted and an agreement is not reached, the County may enter into exclusive Negotiations with the next highest ranked Contractor without the need to repeat the formal Solicitation process.

Bonds and Proposal Guaranty

All supplemental agreements shall require consent of the Contractor's surety and separate performance and payment ponds.

- **Surety (Bid Bond)**: Proposals shall be accompanied by a 10 percent (10%) Surety (Bid) Bond of the total Contract price bid.

- **Performance Bond and Labor & Material Bond** covering the faithful performance of the Contract and the payment of all obligations arising thereunder, each in the amount of one-hundred percent (100%) of the Contract Sum, shall be submitted in within five (5) days after notification of award of the Contract.

GENERAL PR0VISIONS

Laws to be Observed

The Contractor shall keep fully informed of all Federal and State laws, all local laws, ordinances, and regulations and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed on the work, or which in any way affect the conduct of the work. He shall at all times observe and comply with all such laws, ordinances, regulations, orders, and decrees; and shall protect and indemnify the Owner and all his officers, agents, or servants against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by himself or his employees.

Laws and Ordinances: This agreement shall be enforced under the laws of the State of Arizona and Gila County. The Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Contractor. The Contractor shall comply with the applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the Act.

Permits, Licenses, and Taxes

The Contractor shall procure all permits and licenses, pay all charges, fees, and taxes, and give all notices necessary and incidental to the due and lawful prosecution of the work. All costs for any permits, licenses, fees, taxes, or other charges shall be included in the contract price bid.

Public Convenience and Safety

The Contractor shall control his operations and those of his subcontractors and all suppliers, to assure the least inconvenience to the traveling public. Under all circumstances, safety shall be the most important consideration.

Contractors Responsibility for Work

Until the County's final written acceptance of the entire completed work, the Contractor shall have the charge and care thereof and shall take every precaution against injury or damage to any part due to the action of the elements or from any other cause, whether arising from the execution or from the non-execution of work. The Contractor shall rebuild, repair, restore, and make good all injuries or damages to any portion of the work occasioned by any of the above causes before final acceptance and shall bear the expense thereof except damage to the work due to unforeseeable causes beyond the control of and without the fault or negligence of the Contractor, including but not restricted to acts of God such as earthquake, tidal wave, tornado, hurricane or other cataclysmic phenomenon of nature, or acts of the public enemy or governmental authorities.

Character of Workers, Methods, and Equipment

The Contractor shall, at all times, employ sufficient labor and equipment for prosecuting the work to full completion in the manner and time required by the contract, plans and specifications.

All workers shall have sufficient skill and experience to perform properly the work assigned to them. Workers engaged in special work or skilled work shall have sufficient experience in such work and in the operation of the equipment required to perform the work satisfactorily.

Safety and Lost Control

The Gila County Safety and Loss Control booklet must be read and signed by all working at the job site. During the pre-construction meeting a time will be set for the Gila County QA/QC Safety Compliance Officer for a safety meeting.

INSTRUCTIONS TO CONTRACTORS

IMPORTANT: EXHIBIT "A", INSTRUCTIONS TO CONTRACTORS AND EXHIBIT "B", CONTRACTORS AWARD AGREEMENT ARE BASIC CONTENT TO GILA COUNTY BID PACKAGES. INDIVIDUAL BIDS MAY REQUIRE DIFFERENT LANGUAGE FOR INSTRUCTIONS AND AWARD AGREEMENTS. WHERE APPLICABLE, SUCH CHANGES WILL APPEAR IN EXHIBIT "C", MINIMUM PRODUCT SPECIFICATIONS AND INFORMATION AND TAKE PRECEDENCE OVER THE LANGUAGE APPEARING IN EXHIBITS "A" & "B".

EXHIBIT "A" INSTRUCTIONS TO CONTRACTORS

Preparation of Sealed Proposal

A. Sealed Proposals will be received by the County of Gila Public Works Division, from Contractor(s) to deliver the product(s), goods and services contained to establish a contract for specified location within Gila County. The County seeks sealed Proposals only from qualified, experienced Contractors able to provide services which are, in all respects, responsive to the specifications. All Proposals shall be on the forms provided in this Request for Sealed Proposal package. It is permissible to copy these forms if required.

B. Before submitting its Proposal and Qualification Form each Contractor shall familiarize itself with the Scope of Work, laws, regulations and other factors affecting performance of work. It shall carefully correlate its observations with requirements of the Contract and otherwise satisfy itself of the expense and difficulties attending the performance of the work. The submission of a Proposal will constitute a representation of compliance by the Contractor. There will be no subsequent financial adjustment, other than that provided for by the Contract, for lack of such familiarization.

C. Contractor(s) must complete the Proposal and Qualifications Forms provided in this Request for Proposal package in full, original signature in ink, by the person(s) authorized to sign the Proposal and to be submitted at the time of bid, and made a part of this contract. The County will use the Proposal and Qualifications Form in evaluating the capacity of the Contractor(s) to perform the Scope of Services as set forth in the Contract. Failure of any Contractor to complete and submit the Price Sheet and Signature/Offer Page at time and place of opening shall be grounds for automatic disqualification of the Contractor from further consideration.

D. The names of all persons authorized to sign the Proposal must also be legibly printed below the signature.

E. The full name of each person or company interested in the Request for Proposal shall be listed on the Proposal.

F. No alterations in Proposals, or in the printed forms therefore, by erasures, interpolations, or otherwise will be acceptable unless each such alteration is signed or initialed by the Contractor; if initialed, the County may require the Contractor to identify any alteration so initialed.

Amendments

Any addendum issued as a result of any change in this Request for Sealed Proposal must be acknowledged by all Contractors in the following manner:

1. The Contractor Checklist and Addenda Acknowledgement Form shall contain an acknowledgment of receipt of all Addenda.

Failure to indicate receipt of addenda in one of the above manners may result in a Proposal being rejected as non-responsive.

Inquiries

Any questions related to this Request for Proposal must be directed to those whose names appear on the Notice. Questions should be submitted in writing when time permits. The Gila County Supervisors, at their sole discretion, may require all questions be submitted in writing. Any correspondence related to a Request for Proposals should refer to the appropriate Request for Proposals number, page, and paragraph number. However, the Contractor(s) must not place the Request for Proposal number on the outside of an envelope containing questions since such an envelope may be identified as a sealed Proposal and may not be opened until after the official Request for Proposal due date and time. Questions received less than five (5) working days prior to the date for opening Proposals will be answered only if time permits. Only questions answered by formal written addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

A. Proposal results ARE NOT provided in response to telephone inquires. A tabulation of proposals received shall be on file in the Gila County Board of Supervisors and Public Works offices and available for review after contract award.

Late Proposals

Any proposal received later than the date and time specified on Invitation for Bids shall not be considered.

Submittal Proposal Format

It is required that Two copies (2 TOTAL) with original signatures on all two (2) of the Proposal and Qualification Forms, Price Sheet, and Offer Page shall be submitted on the forms and in the format specified in the Request for Proposal. The County will not be liable for any cost incident to the preparation of Proposal, materials, reproductions, presentations, copy-right infringements, etc. It is permissible to copy these forms if required. Facsimiles or mailgrams shall not be considered.

1. By signature in the offer section of the Offer and Acceptance page, Contractor certifies:
   A. The submission of the offer did not involve collusion or other anti-competitive practices.
   B. The Contractor has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer.
   C. In order to conserve resources, reduce procurement costs, improve timely acquisition and cost of supplies and to improve efficiency and economy of procurement, any political subdivision, State, County, City, Town, etc., of the State of Arizona, will be allowed by Contractor awarded the contract to provide the same services, at the same prices stated in the Proposal. Delivery charges may differentiate depending on geographical location.

2. Proposals submitted early may be modified or withdrawn by notice to the party receiving proposals at the place and prior to the time designated for receipts of Proposals.

3. The County is not responsible for any Contractor(s) errors or omissions. Negligence in preparing an offer confers no right to the Contractor unless the Contractor discovers and corrects such errors prior to the Proposal deadline.

Disqualification of Bidders

A bidder shall be considered disqualified for any of the following reasons:

(a) Submitting more than one proposal from the same partnership, firm, or corporation under the same or different name.

(b) Evidence of collusion among bidders. Bidders participating in such collusion shall be disqualified as bidders for any future work of the County until any such participating bidder has been reinstated by the County as a qualified bidder.

(c) Failure to submit all required official bid forms.

The Proposal shall be submitted in a sealed envelope.

- Minimum of TWO (2) copies, all with ORIGINAL SIGNATURES, shall be provided by the Contractor.
- The words "REQUEST FOR PROPOSALS" with Proposal Title "S.O. TOWER INSTALLATION & RADIO EQUIPMENT RELOCATION", Contract Number, "103111-1", Date "DECEMBER 29, 2011", and Time "2:00 PM" of Proposal opening shall be written on the envelope along with the name of the bidding Firm.
- The Contractor shall assume full responsibility for timely delivery at the location designated in the Notice.

GENERAL TERMS AND CONDITIONS

Award of Contract

The award of contract, if it is to be awarded, shall be made within sixty (60) calendar days of the date specified for publicly opening proposals, unless otherwise specified herein.

1. The Gila County Board of Supervisors reserves the right to award any Proposal by individual line item, by group of line items or as total, or any part thereof, whichever is deemed to be in the best interest, most advantageous of the County of Gila.
    a. Notwithstanding any or other provisions of the RFP, the County reserves the right to:
        1. Waive any immaterial defects or informalities; or
        2. Reject any or all Proposals; or portions thereof; or
        3. Reissue a Request for Proposal.

2. It is the responsibility of the Gila County Board of Supervisors to let the County contracts to the lowest responsive and responsible Contractor(s). To ensure that all Contractors are experienced, reasonably equipped and adequately financed to meet their contractual obligations, a determination of responsibility shall be made by the Gila County Board of Supervisors prior to contract award.

3. Further, the County reserves the right to reject the Proposal of any Contractor(s) who has previously failed to perform adequately after having once been awarded a prior Proposal for furnishing and installing materials similar in nature.

4. All submitted forms provided in this Request for Proposal will be reviewed by the Gila County Board of Supervisors.

5. Those Contractor(s) who, in the opinion of the Gila County Board of Supervisors, are best qualified and whose Proposals are most advantageous of the County <u>may</u> be invited to appear before the Board for an oral review.

6. The apparent successful Contractor(s) shall sign and file with the County, within ten (10) days after Notice of Intent to Award, all documents necessary to successfully execute the contract.

Protests

Only other Contractors who have submitted a proposal have the right to protest. Protest of a proposed award or of an award must be filed within ten (10) days after award by the Board of Supervisors. A protest must be in writing and must include:

A. The name, address and telephone number of the protester.
B. The signature of the protester or its representative, and evidence of authority to sign.
C. Identification of the contract and the solicitation or contract number.
D. A detailed statement of the legal and factual grounds of protest including copies of relevant documents.
E. The form of relief requested.

All Protests shall be sent to the attention of the Gila County Board of Supervisors, 1400 East Ash street, Globe, Arizona 85501.

Laws and Ordinances
This agreement shall be enforced under the laws of the State of Arizona and Gila County. Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Contractor. The Contractor shall comply with the applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the act.

EXHIBIT "B" CONTRACTORS AWARD AGREEMENT

This exhibit shall serve as an example of the contract agreement to any Contractor, their agents, and/or representative's, awarded this or any portion of this contract by the County, by submitting Proposals to this or any other solicitation requiring sealed Proposals, does hereby agree to the following provisions. Proof of acceptance of these provisions will be the Contractor's signature(s) appearing on page 29, Contractors Offer Page, and Exhibit "D" Contractors Qualification and Certification forms(s) pages 20-21.

Overcharges by Antitrust Violations
The County maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the County any and all claims for such overcharges as to the goods or services used to fulfill the contract.

Authority to Contract
This contract shall be based upon the Request for Proposal issued by the County and the offer submitted by the Contractor in response to the RFP. The offer shall substantially conform to the terms, conditions, specifications and other requirements set forth within the text of the RFP. The county reserves the right to clarify any contractual terms with the concurrence of the Contractor; however, any substantial non-conformity in the offer, as determined by the County Attorney, shall be deemed non-responsive and the offer rejected. The contract shall contain the entire agreement between Gila County and the Contractor relating to these requirements and shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders, or master agreement in any form. The contract activity is issued under the authority of the Gila County Manager, after the Gila County Board of Supervisors approves the award. No alteration of any portion of the contract, any items or services awarded, or any other agreement that is based upon this contract may be made without express written approval of the Gila County Board of Supervisors in the form of an official contract amendment. Any attempt to alter any documents on the part of the Contractor or any agency is a violation of the County Procurement Code. Any such action is subject to the legal and contractual remedies available to the County inclusive, but not limited to, contract cancellation, suspension and/or debarment of the Contractor.

Contract Amendments
The contract shall be modified only by a written contract amendment signed by the Gila County Board of Supervisors and persons duly authorized to enter into contracts on behalf of the Contractor.

Contract Default

A. The County, by written notice of default to the Contractor, may terminate the whole or any part of this contract in any one of the following circumstances:

    1. If the Contractor fails to make delivery of the supplies or to perform the services within the times specified; or

2. If the Contractor fails to perform any of the other provisions of this contract; and fails to remedy the situation within a period of ten (10) days after receipt of notice.

B. In the event the County terminates this contract in whole or part, because of contractor default as described in (A)(1) and (A)(2) above, the County may procure supplies or services similar to those terminated, and the Contractor shall be liable to the County for any excess costs for such similar supplies or services.

Right to Assurance

Whenever one party to this contract in good faith has reason to question the other party's intent to perform, the other party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of this contract.

Costs and Payments

Payments shall comply with the requirements of A.R.S. Title 35 and 41, Net 30 days. Upon receipt and acceptance of goods and services, the Vendor shall submit a complete and accurate invoice for payment.
IRS W9 Form: In order to receive payment the Vendor shall have a current IRS W9 Form on file with the County unless not required by law.

Requirements of Contract Bonds

At the time of the execution of the contract, the successful bidder shall furnish the County surety bond or bonds which have been fully executed by the bidder and his surety guaranteeing the performance of the work and the payment of all legal debts that may be incurred by reason of the Contractor's performance of the work. The surety and the form of the bond or bonds shall be acceptable to the County. All bonds shall conform to the requirements of A.R.S. §34-222 and §34-223.

Co-op Use of Contract – Intergovernmental Purchasing

Gila County has entered into an active purchasing agreement with other political subdivisions, cities, and towns of the State of Arizona in order to conserve resources, reduce procurement costs and improve timely acquisition and cost of supplies, equipment and services. The Contractor(s) to whom this contract is awarded may be requested by other parties of said interactive purchasing agreements to extend to those parties the right to purchase supplies, equipment and services provided by the Contractor under this contract, pursuant to the terms and conditions stated herein. Any such usage by other entities must be in accord with the rules and regulations of the respective entity and the approval of the Contractor.

Cancellation of County Contracts

This contract is subject to the cancellation provisions of **A.R.S. §38-511.**

Termination of Contract

The County, with or without cause, may terminate this contract at any time by mutual written consent, or by giving thirty (30) days written notice to you. The County at its convenience, by written notice, may terminate this contract, in whole or in part. If this contract is terminated, the County shall be liable only for payment under the payment provisions of this contract for the services rendered and accepted material received by the County before the effective date of termination.

The County reserves the right to cancel the whole or any part of this contract due to failure of Contractor to carry out any term, promise, or condition of the contract. The County will issue a written ten (10) day notice of default to Contractor for acting or failing to act as in any of the following:

1. In the opinion of the County, Contractor fails to perform adequately the stipulations, conditions or services/specifications required in the contract.

2. In the opinion of the County, Contractor attempts to impose on the County material products, or workmanship, which is of unacceptable quality.

3. Contractor fails to furnish the required service and/or product within the time stipulated in the contract.

4. In the opinion of the County, Contractor fails to make progress in the performance of the requirements of the contract and/or give the County a positive indication that Contractor will not or cannot perform to the requirements of the contract.

Each payment obligation of the County created hereby is conditioned upon the availability of County, State and Federal funds, which are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the County and available for the continuance of service herein contemplated, the contract period for the service may be terminated by the County at the end of the period for which funds are available. The County shall notify the Contractor at the earliest possible time which service may be affected by a shortage of funds. No penalty shall accrue to the County in the event this provision is exercised, and the County shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

General

After receipt of all proposals, each submittal shall be screened to determine if any shall be deemed non-responsive. Unsigned proposals, unacknowledged Addenda, incomplete proposals, non-conformance with mandatory requirements, etc., may result in the determination of non-responsive.

MINIMUM SPECIFICATIONS

EXHIBIT "C" MINIMUM SPECIFICATIONS FOR: S.O. Tower Installation & Radio Equipment Relocation

Purpose:
It is the intent of Gila County to establish, by this Request for Proposals, a contract for the relocation and installation of existing communications equipment and tower installation for the Gila County Sheriff's Office.

SECTION 1.0

General:

1.1 Contractor should have adequate facilities to serve the needs of Gila County.

1.2 All proposals must represent the entire package. Partial awards will not be made unless otherwise stated in the proposal specifications.

1.3 The parties specifically understand and agree that the quantities used for bidding purposes are estimates of County needs and in no event shall the County be obligated to purchase the exact quantities of any item set forth in the proposal. The County does not guarantee any maximum or minimum amounts of purchase.

1.4 Contractor shall review its Proposal submission to assure the following requirements are met.

- **1.4.1 One (1) original and One (1) copy, Two (2) total, all with original signatures shall be submitted**
- 1.4.2 Qualification and Certification Forms (pgs 20-21)
- 1.4.3 Price Sheet (pg 22)
- 1.4.4 Reference List (pg 23)
- 1.4.5 Intentions Concerning Subcontracting (pg 24)
- 1.4.6 No Collusion in Bidding (pg 25)
- 1.4.7 Legal Arizona Workers Act Compliance (pg 26)
- 1.4.8 Bid Bond (pg 27)
- 1.4.9 Checklist & Addenda Acknowledgement (page 28)
- 1.4.10 Offer Page (pgs 29-30)

SECTION 2.0

Bid Pricing:

2.1 The Contractor shall submit the Proposal in the form of a firm unit price. Prices shall be in effect for the duration of the contract period. Contractor shall incorporate all profit and discount into their price. The exception will be any price reduction, which will be applied to the contract immediately upon the Contractor's or Gila County's discovery of any such price reduction.

2.2 The term of the contract shall commence upon award and shall remain in effect for the period the services are performed, canceled or extended as otherwise provided herein.

SECTION 3.0

Ordering and Delivery:

3.1 Contractor shall retain title and control of all goods until they are delivered and the contract of coverage has been completed. All risks of transportation and all related charges shall be the responsibility of the Contractor. All claims for visible or concealed damage shall be filed by the Contractor. The County will assist the Contractor in arranging for inspection.

SECTION 4.0 Minimum Specifications: S.O. Tower Installation & Radio Equipment Relocation

Refer to page 4-7 scope of work. Any exceptions must be explained.

INSURANCE PROVISIONS

INDEMNIFICATION CLAUSE:

Contractor shall indemnify, defend, save and hold harmless the County of Gila and its 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 Contractor or any of its owners, officers, directors, agents, employees or subcontractors. 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 Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the County, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the County.

INSURANCE REQUIREMENTS:

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The County in no way warrants that the minimum limits contained herein are sufficient to protect the 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 is free to purchase additional insurance as may be determined necessary.

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 and broad form contractual liability and XCU coverage.
   - General Aggregate $2,000,000
   - Products – Completed Operations Aggregate $1,000,000
   - Personal and Advertising Injury $1,000,000
   - Each Occurrence $1,000,000

   a. The policy shall be endorsed to include the following additional insured language*:* **"The County of Gila shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor."**

2. **Automobile Liability**
   Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) $1,000,000

a. The policy shall be endorsed to include the following additional insured language: **"The County of Gila shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including automobiles owned, leased, hired or borrowed by the Contractor."**

3. **Worker's Compensation and Employers' Liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	$100,000
Disease – Each Employee	$100,000
Disease – Policy Limit	$500,000

a. Policy shall contain a **waiver of subrogation** against the County of Gila.

4. **Installation Floater** $_____

In an amount equal to the initial Contract Amount.

a. The County of Gila, Contractor, subcontractor and any others with an insurable interest in the work shall be Insured's on the policy.

b. Coverage shall be written on an all risk, replacement cost basis and shall include coverage for flood and earth movement as well as coverage for losses that may occur during equipment testing.

c. Policy shall be maintained until whichever of the following shall first occur: (1) final payment has been made; or, (2) until no person or entity, other than the County of Gila, has an insurable interest in the property required to be covered.

d. Policy shall be endorsed such that the insurance shall not be canceled or lapse because of any partial use or occupancy by the County.

e. The Installation Floater must provide coverage from the time the equipment/material becomes the responsibility of the Contractor and shall continue without interruption during the installation, including any time during which the equipment/material is being transported to the installation site, or awaiting installation, whether on or off site.

f. Policy shall contain a waiver of subrogation against the County of Gila.

g. Contractor is responsible for the payment of all deductibles under the Installation Floater policy.

B. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, the following provisions:

1. On insurance policies where the County of Gila is named as an additional insured, the County of Gila shall be an additional insured 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.
2. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.
3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

C. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, reduced in coverage or endorsed to lower limits except after thirty (30) days prior written notice `has been given to the County. Such notice shall be sent directly to **Gila County Purchasing Department, 1400 E. Ash St., Globe, Arizona, 85501** and shall be sent by certified mail, return receipt requested.

D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed or approved unlicensed companies in the state of Arizona and with an "A.M. Best" rating of not less than B+ VI. The County 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 County with certificates of insurance (ACORD form or equivalent approved by the County) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the County 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 **Gila County Purchasing Department, 1400 E. Ash., St., Globe, Arizona, 85501**. The County project/contract number and project description are to be noted on the certificate of insurance. The County reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time**.**

F. **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as additional insured's under its policies **or** Contractor shall furnish to the County separate certificates and endorsements for each subcontractor. All coverage's for subcontractors shall be subject to the minimum requirements identified above.

G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by the County Attorney, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

QUALIFICATION AND CERTIFICATION FORMS

Purpose
This exhibit shall serve as a requirement to enable the evaluation team to assess the qualifications of Contractors under consideration for final award.

The information may or may not be a determining factor in award.

Contract Number 103111-1 S.O. Tower Installation & Radio Equipment Relocation
The Contractor submitting this Bid warrants the following:

1. Name, Address, and Telephone Number of Principal Contractor:

   _____
   _____
   _____

2. Had Contractor (under its present or any previous name) ever failed to complete a contract? _____Yes _____No. If "Yes, give details, including the date, the contracting agency, and the reasons Contractor failed to perform in the narrative part of this Contract.

3. Has Contractor (under its present or any previous name) ever been disbarred or prohibited from competing for a contract? _____Yes _____No. If "Yes", give details, including the date, the contracting agency, the reasons for the Contractors disqualification, and whether this disqualification remains in effect in the narrative part of this Contract.

4. Has a contracting agency ever terminated a contract for cause with Contractor prior to contract expiration (under your firm's present or any previous name)? _____Yes _____No. If "Yes", give details including the date, the contracting agency, and the reasons Contractor was terminated in the narrative part of this Contract.

5. **Contractor must also provide at least the following information:**
   a. A brief history of the Contractors Firm.
   b. A Cost Proposal shall be submitted on the Price Sheet, attached hereon and made a full part of this contract by this reference.
   c. A list of previous and current customers, which are considered identical or similar to the Scope of Work described herein; shall be submitted on the Reference List, attached hereon and made a full part of this contract by this reference.
   d. List the specific qualifications the Contractor has in supplying the specified services.
   e. List of any subcontractors (if applicable) to be used in performing the service must accompany the Proposal. The subcontractors Arizona ROC, contact name and phone # must be included.
   f. Gila County reserves the right to request additional information.

6 **Contractor Experience Modifier (e-mod) Rating in Arizona**: _____
(If Applicable)

A method the National Council on Compensation Insurance (NCCI) uses to measure a business' computed loss ratio and determine a factor, which when multiplied by premium, can reward policyholders with lower losses. E-mod rate may be a determining factor in bid award.

6. **Current Arizona Contractor License Number:** _____
(If Applicable)

_____
Signature of Authorized Representative

_____
Printed Name

_____
Title

PRICE SHEET

Complete and Return this form for the total price being proposed. Attach any pertinent cost breakdowns, sub-totals of component cost, etc. to this proposal-pricing page.

S.O. TOWER INSTALLATION & RADIO EQUIPMENT RELOCATION PROJECT
GILA COUNTY, ARIZONA

We agree to provide all work and material necessary to complete the project as shown on specifications for the following Contract Price:

Firm Name: _____

TOTAL CONTRACT PRICE, for the sum of $ _____

WRITTEN TOTAL CONTRACT PRICE

_____**Dollars**

and _____**Cents.**

*Note: All labor shall be included in amount proposed.

REFERENCE LIST

These references are required to enable the evaluation team to assess the qualifications of the Contractor under consideration for final award. The information may be a determining factor in award.

References

Please list a minimum of three (3) references for projects of similar size and scope to the as this Invitation for Bids during the past twelve (12) months, in or as close to Gila County as possible.

1. **Company:** _____

   Contact: _____

   Phone: _____

   Address: _____

   Project Name: _____

2. **Company:** _____

   Contact: _____

   Phone: _____

   Address: _____

   Project Name: _____

3. **Company:** _____

   Contact: _____

   Phone: _____

   Address: _____

   Project Name: _____

_____

Name of Business

_____

Signature of Authorized Representative

_____

Title

CERTIFICATION: INTENTIONS CONCERNING SUBCONTRACTING

At the time of the submission of bids on **Bid No. 103111-1 S.O. Tower Installation & Radio Equipment Relocation** my intention concerning subcontracting a portion of the work is as indicated below.

In indicating that it is my intention to subcontract a portion of the work, this will acknowledge that such subcontractors will be identified and approved by the County prior to award of the contract; and that documentation, such as copies of letters, requests for quotations, quotations, etc., substantiating the actions taken and the responses to such actions is on file and available for review.

A list of any subcontractors (if applicable) to be used in performing the service must accompany the Bid. The list must include the subcontractors name, address, and phone number.

Any subcontractor not listed with the bid must be approved by the County prior to providing any work pursuant to this contract. Further, contractor warrants that all subcontractors will comply with all terms and conditions of this contract. The County reserves the right to terminate the contract if the contractor fails to comply with the provisions of this certification.

☐ It is my intention to subcontract a portion of the work.

☐ It is not my intention to subcontract a portion of the work.

_____
Name of Firm

_____
By: (Signature)

_____
Title

AFFIDAVIT BY CONTRACTOR
CERTIFYING THAT THERE WAS NO COLLUSION
IN BIDDING FOR CONTRACT

STATE OF ARIZONA)
)ss
COUNTY OF:)

_____
(Name of Individual)
being first duly sworn, deposes and says:

That he is _____
(Title)

of_____ and
(Name of Business)

That he is bidding on **Gila County BID NO. 103111-1 S.O. Tower Installation and Radio Equipment Relocation, Globe** and,

That neither he nor anyone associated with the said _____

_____
(Name of Business)

has, directly or indirectly entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with the above mentioned project.

_____
Name of Business

_____
By

_____
Title

Subscribed and sworn to before me this _____ day of _____, 20_____.

_____ My Commission expires: _____
Notary Public

LEGAL ARIZONA WORKERS ACT COMPLIANCE

Contractor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Contractor's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Contractor shall further ensure that each subcontractor who performs any work for Contractor 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 Contractor and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of Contractor'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 Contractor 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, Contractor 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 as soon as possible so as not to delay project completion.

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

_____

Signature of Authorized Representative

_____

Printed Name

_____

Title

SURETY (BID) BOND

(Penalty of this Bond must not be less than 10% of the bid amount)

KNOW ALL MEN BY THESE PRESENTS,

that we, the undersigned _____, as Principal, hereinafter called the Principal, and _____ a corporation duly organized under the laws of the State of _____, as Surety, hereinafter called the Surety, holding a certificate of authority to transact surety business in this State issued by the Director of the Department of Insurance, are held and firmly bound unto the Gila County as Obligee, hereinafter called the Obligee, in the sum of ten percent (10%) of the amount bid, submitted by Principal to Gila County for the Work described below, for the payment of which sum well and truly to be made, the said Principal and the said Surety bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal is herewith submitting its proposal for:

TOWER INSTALLATION & RADIO EQUIPMENT RELOCATION
GILA COUNTY SHERIFF'S OFFICE , ARIZONA, BID CALL NO. 103111-1

NOW THEREFORE, if the Obligee, acting by and through its County Engineer, accepts the proposal of the Principal and the Principal shall enter into contract with the Obligee in accordance with the terms of such proposal, and give such bonds and certificates of insurance as may be specified in the contract documents with good and sufficient surety for the faithful performance of such contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter into such contract and give such bonds and certificates of insurance, if the Principal shall pay to the Obligee the difference not to exceed the penalty of the bond between the amount specified in the proposal and such larger amount for which the Obligee may in good faith contract with another party to perform the work covered by the proposal then this obligation is void. Otherwise, it remains in full force and effect provided, however, that this bond is executed pursuant to the provisions of A.R.S. §34-201, and all liabilities on this bond shall be determined in accordance with the provisions of the section to the extent as if it were copied at length herein.

IN WITNESS WHEREOF, we hereunto set our hands and seals:

Principal	**Surety**
By	**By Attorney-in-Fact**
Title	**Address, Attorney-in-Fact**
	Subscribed and sworn to before me
	This _____ **day** of _____,**20**____
	My commission expires: _____
	Notary Public

BIDDERS CHECKLIST & ADDENDA ACKNOWLEDGEMENT

Bid No. 103111-1

NOTICE IS HEREBY GIVEN that all Bid Documents shall be completed and/or executed and submitted with this RFP. If Contractor fails to complete and/or execute any portion of the Bid Documents, this RFP will be determined to be "non-responsive" and rejected.

CHECKLIST:

REQUIRED DOCUMENT	**COMPLETED / EXECUTED**
QUALIFICATION & CERTIFICATION FORM	_____
REFERENCE LIST	_____
BID PROPOSAL	_____
PRICE SHEET	_____
NO COLLUSION IN BIDDING	_____
INTENTIONS CONCERNING SUBCONTRACTING	_____
SURETY (BID) BOND	_____

ACKNOWLEDGMENT OF RECEIPT OF ADDENDA:

	#1	#2	#3	#4	#5
Initials	_____	_____	_____	_____	_____
Date	_____	_____	_____	_____	_____

Signed and dated this _____ day of _____, 20____

_____

CONTRACTOR:

_____

BY:

Each proposal shall be sealed in an envelope addressed to the Public Works Division, Gila County and bearing the following statement on the outside of the envelope: Request for Bids: Bid No. 10311-1 S.O. Tower Installation & Radio Equipment Relocation. All proposals shall be filed with the Gila County Procurement Group in the at 1400 E. Ash St., Globe, AZ on or before December 29, 2011, 2:00 PM.

OFFER PAGE

TO GILA COUNTY:

The undersigned hereby offers and agrees to furnish the material or service in compliance with all terms and conditions, instruction, specifications, and any amendments contained in this Invitation for bids.

Signature also certifies the Vendors bid proposal is genuine, and is not in any way collusive or a sham; that the bid proposal is not made with the intent to restrict or prohibit competition; that the Vendor submitting the bid proposal has not revealed the contents of the proposal to, or in any way colluded with, any other Vendor which may compete for the contract; and that no other Vendor which may compete for the contract has revealed the contents of a proposal to, or in any way colluded with, the Vendor submitting this proposal.

Pursuant to A.R.S. §35-393.06(B) and 35-391.06(A) the Contractor 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.

CONTRACT NUMBER: 103111-1 S.O. Tower Installation and Radio Equipment Relocation

Firm Submitting Proposal:

_____
Company Name

_____
Address

_____
City State Zip

For clarification of this offer, contact:

Name: _____

Phone No.: _____

Fax _____

Email: _____

_____
Signature of Authorized Person to Sign

_____
Printed Name

_____
Title

Proposal must be signed by a duly authorized officer(s) eligible to sign contract documents for the Firm.

ACCEPTANCE OF OFFER

(For Gila County use only)

The Offer is hereby Accepted:

The Vendor _____ is now bound to provide the materials or services listed in Invitation for Bid No.: 103111-1 including all terms and conditions, specifications, amendments, etc. and the Vendor's Offer as accepted by County/public entity.

The contract shall henceforth be referenced to as ***Contract No. 103111-1***. The Vendor has been cautioned not to commence any billable work or to provide any material or service under this Contract until Vendor receives written notice to proceed from Gila County.

Awarded this _____ day of _____, 2012

GILA COUNTY BOARD OF SUPERVISORS:

_____

Tommie C. Martin, Chairman, Board of Supervisors

ATTEST:

_____

Marian Sheppard, Chief Deputy Clerk of the Board

APPROVED AS TO FORM:

_____

Bryan B. Chambers, Chief Deputy County Attorney
***for* Daisy Flores, County Attorney**

ARF-959 **Regular Agenda Item 3- C**

Regular BOS Meeting

Meeting Date: 12/06/2011

Submitted For:	Steve Stratton, Public Works Division Director	Submitted By:	Valrie Bejarano, Contracts Support Specialist, Finance Department
Department:	Public Works Division	Division:	Roads
Fiscal Year:	FY 2011-2012	Budgeted?:	Yes
Contract Dates Begin & End:	1-24-12 to 1-23-13	Grant?:	No
Matching Requirement?:	No	Fund?:	New
Presenter's Name:	Steve Stratton		

Information

Request/Subject

Request to Advertise Invitation for Bids No. 110111-1 New 10 Wheel Dump Truck

Background Information

Many of the County's 10-wheel dump trucks need to be replaced due to their age, mileage and availability of replacement parts. As an example, one of the 10-wheel dump trucks is a 1987 Kenworth bought in July 1995 with 52,000 miles on it for $39,608. The mileage is now 168,248. Parts for this truck are increasingly difficult to locate and the vin numbers on the parts are different because it was repaired with other truck parts. Since the County has owned this truck, a total of $111,883 has been spent on parts and labor. This same truck has metal fatigue and is in catastrophic failure. The rear suspension broke loose from the frame and it could take an estimated $9,000 for repairs.

Evaluation

It is time to begin replacing the County's older dump trucks due to the high number of miles, the difficulty in locating replacement parts, and concerns for employees' safety when operating older trucks. Depending on incentives provided by the winning bidder, the County may choose to purchase one or more of these trucks or possibly enter into a lease-purchase agreeement.

Conclusion

By purchasing one or more new 10-wheel dump trucks in the future, the County will provide safer vehicles and there will be a reduction in the cost for repairs.

Recommendation

The Public Works Director recommends that the Board of Supervisors approve the advertisement of Invitation for Bids No. 110111-1 for the purchase of one or more new 10-wheel dump trucks.

Suggested Motion

Information/Discussion/Action to authorize the advertisement of Invitation for Bids No. 110111-1 for the purchase of one or more new 10-wheel dump trucks to be used by the Consolidated Roads Department. **(Steve Stratton)**

Attachments

Request to Advertise Bid No. 110111-1

Call for Bids No. 110111-1 10-Wheel Dump Truck

GILA COUNTY DEPARTMENTAL REQUEST TO ADVERTISE FOR BIDS

SEE GC2-7-111 (ART.1) OF PROCUREMENT PROCEDURES FOR INSTRUCTIONS TO PREPARE THIS FORM

All departments procuring purchases in excess of $50,000.00 that requires advertising for bids must follow the Procurement Procedure and must complete item "I" of this form prior to such a purchase. **The requesting Department is responsible for writing the necessary specifications and routing them, including this form, accompanied by a Bid Request Form to the Procurement Department.** THIS FORM MUST BE COMPLETE, ACCURATE, AND HAVE A COPY OF THE SPECIFICATIONS ATTACHED BEFORE ROUTING BEGINS. ALL CALLS FOR BID/PROPOSALS AND SPECIFICATIONS WILL BE IN ACCORDANCE WITH THE AZ. REVISED STATUTES AND THE GILA COUNTY PURCHASING CODE AND PROCEDURES.

I. IS THIS A CALL FOR BID: X PROPOSAL: _____ DEPARTMENT NAME: **Public Works – Consolidated Roads**

FUNDING SOURCE: FUND NO.: **6510** DEPT NO.: **341** PROGRAM NO.: **526** LOCATION NO.: **000** ACCOUNT NO.: **4500.40**

I. DESCRIPTION: List item(s) to be purchased, Purpose, Spec. Summary, Estimated Cost and Funding Source. It is the intent of this solicitation to establish a contract with a vendor for the purchase of a New 10 Wheel Dump Truck for the Gila County Consolidated Roads Department.

Signed: _____ Date: 11/2/11 Signature indicates material specifications are approved as written.
Elected Officials or Department Head

II. DEPARTMENTAL INFORMATION ONLY BID NO.: 110111-1
(For Procurement Use Only)

Action Dates:

Department Receipt: ___/___/___ Placed on Agenda: 12 / 06 / 11

Presented to Board: ___/___/___ Approved to Call: ___/___/___

Delivered to Paper: ___/___/___ Paper Name: **Arizona Silver Belt**

Advertised Dates: From: 12 / 14 / 11 To: 12 / 21 / 11

Closing Date: 01 / 06 / 12 Bid Award Date: ___/___/___

Awarded to: _____ P.O. No.: _____

Proposed Delivery Date: ___/___/___

III. OTHER APPROVAL (only as necessary)

Public Works: Dept. Head Sign: _____ Date: 11 / 2 / 11

Community Action: Dept. Head Sign: _____ Date: ___/___/___

MIS Department: Dept. Head Sign: _____ Date: ___/___/___

IV. APPROVED FUNDING

Finance Director Signature: _____ Date: ___/___/___

V. LEGAL AND ADMINISTRATIVE APPROVAL (Bid packet must be completed and attached)

Signed: _____ Date: ___/___/___
Bryan B. Chambers, Chief Deputy County Attorney (Approved as to form)
for Daisy Flores County Attorney

Signed: _____ Date: ___/___/___
Tommie C. Martin, Chairman, Board of Supervisors (Approved as to specifications and information)

VI. AWARD APPROVAL

Signed: _____ Date: ___/___/___
(Declaration that the Board of Supervisors approved the award as stated in Section V. of this page)
Tommie C. Martin, Chairman of the Board of Supervisors, Gila County

GILA COUNTY

NOTICE OF INVITATION FOR BID

BID CALL 110111-1

NEW 10 WHEEL DUMP TRUCK

BIDDER'S INFORMATION
CONTRACT DOCUMENTS AND SPECIFICATIONS

BOARD OF SUPERVISORS
Tommie C. Martin, Chairman
Shirley L. Dawson, Vice Chairman
Michael A. Pastor, Member

County Manager
Don E. McDaniel Jr.

1400 E. Ash Street
Globe, Arizona
85501

GILA COUNTY
PROCUREMENT GROUP
NOTICE OF INVITATION FOR BID

SOLICITATION NUMBER
110111-1

BID DUE DATE: **January 6, 2012** **TIME: 11:00 AM**

DESCRIPTION: **New 10 Wheel Dump Truck**

Bid Opening Location: **GILA COUNTY**
BOARD CONFERENCE ROOM #257
1400 EAST ASH STREET, GLOBE, ARIZONA 85501

Bid Submittal Location: **GILA COUNTY PROCUREMENT, 1400 E. Ash St., Globe, AZ 85501**

In accordance with A.R.S. §41-2533, Invitation for Bid for the materials and services specified will be received by the Gila County Procurement Group at the above specified location until the time and date cited.

Request for submittals after the specified date and time to the Procurement Group shall not be considered. To receive bid documents contact the Procurement Group at (928)402-8612.

Additional instructions for preparing a bid are provided on pages 4-6 of the bid documents to Offerors as contained within the solicitation.

The Board of Supervisors reserves the right to reject any or all bid proposals, or to accept any bid proposal, or to waive any informality in any bid proposal, or to withhold the award if deemed in the best interest of Gila County. All procurement activities conducted by Gila County are in conformance with the rules and regulations of the Gila County Procurement Code. A copy of the Code is available for review in the Deputy Clerk of the Board's office, Globe, AZ.

Arizona Silver Belt advertisement dates: December 14 and 21, 2011

BIDDERS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE SOLICITATION.

Designated Department: Gila County Consolidated Roads
Phone Number: (928)200-1580

Signed: _____ Date: _____
Bryan B. Chambers, Chief Deputy County Attorney
for Daisy Flores, County Attorney

Signed: _____ Date: _____
Tommie C. Martin, Chairman, Board of Supervisors

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GENERAL SCOPE OF WORK

It is the intent of this solicitation to award a contract for the purchase or lease purchase of one or more New 10 Wheel Dump Truck for the Gila County Consolidated Roads Department.

See Minimum Specifications pages 12-16 and Price Sheet pages 18-19 for total price being proposed.

Vendors who agree to provide the Minimum Proposal Specifications for this equipment shall be considered for award.

INSTRUCTIONS TO VENDORS

IMPORTANT: EXHIBIT "A", INSTRUCTIONS TO VENDORS AND EXHIBIT "B", VENDORS AWARD AGREEMENT ARE BASIC CONTENT TO GILA COUNTY BID PACKAGES. INDIVIDUAL BIDS MAY REQUIRE DIFFERENT LANGUAGE FOR INSTRUCTIONS AND AWARD AGREEMENTS. WHERE APPLICABLE, SUCH CHANGES WILL APPEAR IN EXHIBIT "C", MINIMUM PRODUCT SPECIFICATIONS AND INFORMATION AND TAKE PRECEDENCE OVER THE LANGUAGE APPEARING IN EXHIBITS "A" & "B".

EXHIBIT "A" INSTRUCTIONS TO VENDORS

Preparation of Sealed Bid Proposal

A. Sealed Bids will be received by the Gila County Procurement, from individuals and vendors to deliver the product(s), goods and services contained to establish a contract for specified locations within Gila County. The County seeks sealed bid proposals only from qualified, experienced vendors able to provide services which are, in all respects, responsive to the specifications. All bid proposals shall be on the forms provided in this Invitation for Bid package. It is permissible to copy these forms if required.

B. Before submitting its Proposal and Qualification Form each vendor shall familiarize itself with the Scope of Work, laws, regulations and other factors affecting performance of work. It shall carefully correlate its observations with requirements of the Contract and otherwise satisfy itself of the expense and difficulties attending the performance of the work. The submission of a Proposal will constitute a representation of compliance by the vendor. There will be no subsequent financial adjustment, other than that provided for by the Contract, for lack of such familiarization.

C. Vendors must complete the Proposal and Qualifications Forms provided in this Request for Proposal package in full, original signature in ink, by the person(s) authorized to sign the Proposal and to be submitted at the time of bid, and made a part of this contract. The County will use the Proposal and Qualifications Form in evaluating the capacity of vendor(s) to perform the Scope of Services as set forth in the Contract. Failure of any Vendor to complete and submit the Price Sheet and Signature/Offer Page at time and place of opening shall be grounds for automatic disqualification of the vendor(s) from further consideration.

D. The names of all persons authorized to sign the Proposal must also be legibly printed below the signature. Evidence of the authority of the person signing shall be furnished.

E. The full name of each person or company interested in the Invitation for Bids shall be listed on the Proposal.

F. No alterations in Proposals, or in the printed forms therefore, by erasures, interpolations, or otherwise will be acceptable unless each such alteration is signed or initialed by the vendor; if initialed, the County may require the vendor to identify any alteration so initialed.

Amendments

Any addendum issued as a result of any change in this Invitation for Bids must be acknowledged by all Vendors in the following manner:

1. Completion of the Vendor Checklist & Addenda Acknowledgment form, page 22.

Failure to indicate receipt of addenda in the above manner may result in a bid proposal being rejected as non-responsive.

Inquires

Any questions related to this IFB must be directed to those whose names appear on the Notice. Questions should be submitted in writing when time permits. The Gila County Supervisors, at their sole discretion, may require all questions be submitted in writing.

Any correspondence related to a Invitation for Bids should refer to the appropriate Invitation for Bids number, page, and paragraph number. However, the Vendor(s) must not place the IFB number on the outside of an envelope containing questions since such an envelope may be identified as a sealed Proposal and may not be opened until after the official IFB due date and time. Questions received less than seven (7) working days prior to the date for opening Proposals will be answered only if time permits.

Only questions answered by formal written addenda will be binding. Oral and other interpretations or clarifications will be without legal effect. An offeror shall not rely on verbal responses to inquires. A verbal reply to an inquiry does not constitute a modification of the solicitation.

A. Bid results ARE NOT provided in response to telephone inquires or email requests. A tabulation of bids received is on file in the Gila County Board of Supervisors Office and will be available for review after contract award.

Late Bids

Any bid received later than the date and time specified on Notice for Sealed Bids shall not be considered.

Submittal Bid Format:

It is requested that One (1) Original and One (1) copies (2 TOTAL) with original signatures on all two (2) of the Proposal and Qualification Forms, Price Sheet, and Offer Page shall be submitted on the forms and in the format specified in the Invitation for Bid. The County will not be liable for any cost incident to the preparation of Proposal, materials, reproductions, presentations, copy-right infringements, etc. It is permissible to copy these forms if required. Facsimiles or mailgrams shall not be considered.

1. By signature in the offer section of the Offer and Acceptance page, Vendor certifies:

   A. The submission of the offer did not involve collusion or other anti-competitive practices.

   B. The Vendor has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer.

   C. In order to conserve resources, reduce procurement costs, improve timely acquisition and cost of supplies and to improve efficiency and economy of procurement, any political subdivision, State, County, City, Town, etc., of the State of Arizona, will be allowed by the Vendor(s) awarded the contract to provide the same services, at the same prices stated in the bid proposal. Delivery charges may differentiate depending on geographical location.

2. Bid proposals submitted early may be modified or withdrawn by notice to the party receiving proposals at the place and prior to the time designated for receipts of Proposals.

3. The County is not responsible for any Vendor's errors or omissions. Negligence in preparing an offer confers no right to the Vendor unless the Vendor discovers and corrects such errors prior to the Proposal deadline.

All bids shall be submitted in a sealed envelope.

- **A minimum of Two (2) copies with original signatures on both copies shall be provided by the Vendor.**
- **The words "Invitation for Bid" with Title "New 10 Wheel Dump Truck", Bid No., "110111-1", Date "January 6, 2012", and Time "11:00 AM" of Bid opening shall be written on the envelope.**
- **The Vendor shall assume full responsibility for timely delivery at the location designated in the Notice.**

GENERAL TERMS AND CONDITIONS

Award of Contract

1. The Gila County Board of Supervisors reserves the right to award any Bid by individual line item, by group of line items or as total, or any part thereof, whichever is deemed to be in the best interest, most advantageous of the County of Gila.

   a. Notwithstanding any or other provisions of the Bid, the County reserves the right to:
      1. Waive any immaterial defects or informalities; or
      2. Reject any or all Proposals; or portions thereof; or
      3. Reissue a Request for Proposal.

2. It is the responsibility of the Gila County Board of Supervisors to let the County contracts to the lowest responsive and responsible Vendor(s). To ensure that all Vendors are experienced, reasonably equipped and adequately financed to meet their contractual obligations, a determination of responsibility shall be made by the Gila County Board of Supervisors prior to contract award.

3. Further, the County reserves the right to reject the Bid of any Vendor(s) who has previously failed to perform adequately after having once been awarded a prior Bid for furnishing and installing materials similar in nature.

4. All submitted forms provided in this Invitation for Bids will be reviewed by the Gila County Board of Supervisors.

5. Those Vendor(s) who, in the opinion of the Gila County Board of Supervisors, are best qualified and whose Bids are most advantageous to the County may be invited to appear before the Board for an oral review.

6. The apparent successful Vendor(s) shall sign and file with the County, within ten (10) days after Notice of Intent to Award, all documents necessary to successfully execute the contract.

Protests

Only other Vendors who have submitted a bid proposal under this IFB have the right to protest. A protest of an award must be filed within ten (10) days after the award by the Board of Supervisors. A protest must be in writing and must include the following:

A. Name, address and telephone number of the protester.
B. Signature of the protester or its representative, and evidence of authority to sign.
C. Identification of the contract and the solicitation or contract number.
D. Detailed statement of the legal and factual grounds of protest including copies of relevant documents.
E. The form of relief requested.

All protests shall be sent to the attention of the Gila County Board of Supervisors, 1400 East Ash Street, Globe, Arizona 85501.

Laws and Ordinances

This agreement shall be enforced under the laws of the State of Arizona and Gila County. Firm shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Firm. The Firm shall comply with the applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the act.

EXHIBIT "B" VENDOR AWARD AGREEMENT

This exhibit shall serve as an example of the contract agreement to any Vendor, their agents, subcontractors and/or representatives, awarded this or any portion of this contract by the County, by submitting Bid proposals to this or any other solicitation requiring sealed bids, does hereby agree to the following provisions. Proof of acceptance of these provisions will be the Vendor's signature(s) appearing on page 23, VENDORS OFFER PAGE, Exhibit "D" Vendors Qualification and Certification forms(s) pages 17.

Authority to Contract

This contract shall be based upon the Invitation for Bids issued by the County and the offer submitted by the Vendor in response to the IFB. The offer shall substantially conform to the terms, conditions, specifications and other requirements set forth within the text of the IFB. The county reserves the right to clarify any contractual terms with the concurrence of the Vendor; however, any substantial non-conformity in the offer, as determined by the County Attorney, shall be deemed non-responsive and the offer rejected. The contract shall contain the entire agreement between Gila County and the Vendor relating to these requirements and shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders, or master agreement in any form. The contract activity is issued under the authority of the Gila County Manager, after the Gila County Board of Supervisors approves the award. No alteration of any portion of the contract, any items or services awarded, or any other agreement that is based upon this contract may be made without express written approval of the Gila County Board of Supervisors in the form of an official contract amendment. Any attempt to alter any documents on the part of the Vendor or any agency is a violation of the County Procurement Code. Any such action is subject to the legal and contractual remedies available to the County inclusive, but not limited to, contract cancellation, suspension and/or debarment of the Vendor.

Contract Amendments

The contract shall be modified only by a written contract amendment signed by the Gila County Board of Supervisors and persons duly authorized to enter into contracts on behalf of the Vendor.

Contract Default

A. The County, by written notice of default to the Vendor, may terminate the whole or any part of this contract in any one of the following circumstances:

   1. If the Vendor fails to make delivery of the supplies or to perform the services within the times specified; or

   2. If the Vendor fails to perform any of the other provisions of this contract; and fails to remedy the situation within a period of ten (10) days after receipt of notice.

B. In the event the County terminates this contract in whole or part, the County may procure supplies or services similar to those terminated, and the Vendor shall be liable to the County for any excess costs for such similar supplies or services.

Right to Assurance

Whenever one party to this contract in good faith has reason to question the other party's intent to perform, the other party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of this contract.

Costs and Payments

Payments: Payments shall comply with the requirements of A.R.S. Title 35 and 41, Net 30 days. Upon receipt and acceptance of goods and services, the Vendor shall submit a complete and accurate invoice for payment.

IRS W9 Form: In order to receive payment the Vendor shall have a current IRS W9 Form on file with the County unless not required by law.

Payment of Taxes: The Vendor shall be responsible for paying all applicable taxes.

Invoicing

Each invoice shall include at a minimum:

- Description of equipment
- Vehicle Identification Number (VIN) or Serial Number
- Purchase Order Number

Original invoice shall be sent to the Gila County Accounts Payable office at 1400 E. Ash St., Globe, AZ 85501. Invoices not sent to the proper address, or not containing the necessary and required information may delay payment to the contractor. A contractor whose payments are delayed due to improper invoicing shall make no claim against the County for late or finance charges.

The County will make every effort to process payment for the purchase of the item within (30) calendar days after the requesting department has conducted the necessary reviews and inspections as described herein. DELIVERY OF THE ITEM PROVIDED TO THE DEPARTMENT DOES NOT CONSTITUTE ACCEPTANCE.

Risk and Liability

The Contractor shall bear all loss of conforming material covered under this contract until received by authorized personnel at the location designated in the purchase order or contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

Force Majeure

Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this contract if and to the extent that such party's performance of this contract is prevented by reason for force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood;

lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

Force Majeure shall not include the following occurrences:

- Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market.
- Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or
- Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this contract.

Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

Overcharges by Antitrust Violations

The County maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Vendor hereby assigns to the County any and all claims for such overcharges as to the goods or services used to fulfill the contract.

Liens

The Supplier warrants that the materials supplied under this contract are free of liens and shall remain free of liens.

Quality

Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the County of the materials, they shall be:

- Of a quality to pass without objection in the trade under the Contract description;
- Fit for the intended purposes for which the materials are used;
- Within the variations permitted by the Contract are of even kind, quantity, and quality within each unit and among all units; and
- Conform to the written promises of affirmations of fact made by the Contractor.

Fitness

The Contractor warrants that any material supplied to the County shall fully conform to all requirements of the contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the contract.

Co-op Use of Contract – Intergovernmental Purchasing

Gila County has entered into an active purchasing agreement with other political subdivisions, cities, and towns of the State of Arizona in order to conserve resources, reduce procurement costs and improve timely acquisition and cost of supplies, equipment and services. The vendor(s) to whom this contract is awarded may be requested by other parties of said interactive purchasing agreements to extend to those parties the right to purchase supplies, equipment and services provided by the vendor under this contract, pursuant to the terms and conditions stated herein. Any such usage by other entities must be in accord with the rules and regulations of the respective entity and the approval of the Vendor.

Cancellation of County Contracts

This contract is subject to the cancellation provisions of **A.R.S. §38-511.**

Termination of Contract

The County, with or without cause, may terminate this contract at any time by mutual written consent, or by giving **thirty** (30) days written notice to you. The County at its convenience, by written notice, may terminate this contract, in whole or in part. If this contract is terminated, the County shall be liable only for payment under the payment provisions of this contract for the services rendered and accepted material received by the County before the effective date of termination.

The County reserves the right to cancel the whole or any part of this contract due to failure of the Vendor(s) to carry out any term, promise, or condition of the contract. The County will issue a written ten (10) day notice of default to Vendor for acting or failing to act as in any of the following:

1. In the opinion of the County, the Vendor fails to perform adequately the stipulations, conditions or services/specifications required in the contract.
2. In the opinion of the County, the Vendor attempts to impose on the County material products, or workmanship, which is of unacceptable quality.
3. Vendor fails to furnish the required service and/or product within the time stipulated in the contract.
4. In the opinion of the County, the Vendor fails to make progress in the performance of the requirements of the contract and/or give the County a positive indication that Vendor will not or cannot perform to the requirements of the contract.

Each payment obligation of the County created hereby is conditioned upon the availability of County, State and Federal funds, which are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the County and available for the continuance of service herein contemplated, the contract period for the service may be terminated by the County at the end of the period for which funds are available. The County shall notify the Vendor at the earliest possible time which service may be affected by a shortage of funds. No penalty shall accrue to the County in the event this provision is exercised, and the County shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

General

After receipt of all proposals, each submittal shall be screened to determine if any shall be deemed non-responsive. Unsigned proposals, unacknowledged Addenda, incomplete proposals, non-conformance with mandatory requirements, etc., may result in the determination of non-responsive.

MINIMUM SPECIFICATIONS

EXHIBIT "C" MINIMUM SPECIFICATIONS FOR: New 10 Wheel Dump Truck

Purpose: It is the intent of Gila County to establish, by this Request for Proposals, the contract to purchase a 10 Wheel Dump Truck.

This specification is intended to describe the type, size, and quality, which will best meet the demands of the using department. It is NOT intended to favor any one brand or make. The mention of brand names or components merely serves to specify the quality or general type required.

SECTION 1.0

General:

1.1 All product specifications are **minimum.** Vendor must provide product specification sheet.

1.2 Vendor should have adequate manufacturing / stock facilities to serve the needs of Gila County.

1.3 All proposals must represent the entire package.

1.4 The parties specifically understand and agree that the quantities used for bidding purposes are estimates of County needs and in no event shall the County be obligated to purchase the exact quantities of any item set forth in the proposal. The County does not guarantee any maximum or minimum amounts of purchase.

SECTION 2.0

Bid Pricing:

2.1 The Vendor shall submit the proposal in the form of a firm unit price for a **New 10 Wheel Dump Truck** during the contract period. Initial contract period is twelve (12) months. Vendor shall incorporate all freight, profit, and discount into their price. The exception will be any price reduction, which will be applied to the contract immediately upon the Vendor's or Gila County's discovery of any such price reduction.

2.2 The term of the contract shall commence upon award and shall remain in effect for the period the services are performed, canceled or extended as otherwise provided herein. Profit costs for extensions(s) may be negotiated should the Contractor provide information indicating the necessity for such price increases and must meet the Board of Supervisor's approval prior to any such extension.

SECTION 3.0

Ordering and Delivery:

3.1 ORDERING: Gila County does not warrant the order quantity of any equipment prior to actual need. Gila County's Public Works personnel may re-order equipment as it becomes necessary or based on the required needs within the County during the term of this contract.

3.2 PRODUCT DELIVERY Location: Fleet Management Department, 1400 E. Ash St., Globe, AZ 85501. The Board of Supervisors may designate other or alternate delivery sites at any time during the term of the contract.

3.3 Vendor shall retain title and control of all goods until they are delivered and the contract of coverage has been completed. All risks of transportation and all related charges shall be the responsibility of the Vendor. All claims for visible or concealed damage shall be filed by the Vendor. The County will assist the Vendor in arranging for inspection.

SECTION 4.0

Minimum Specifications

Listed below are the desired specifications for a new 10 wheel dump truck. Any exceptions to the specifications must be explained.

Set Back Axel
White Exterior: Dump body primed and painted to match
58,000 Gross Vehicle Weight (GCVW)
Air Condition
Power Steering
Air Shift Power Take Off (PTO): Tail gate controls within drivers reach
Right and Left Hand Grab Handles
Air Suspension Drivers Side Seat
AM/FM Radio
370-400 Horse Power
Jake Brake or Equivalent
Silicon Water Hoses Where Possible
Right Side Vertical Exhaust with Turnout Tip
Steel 50-75 Gallon Drivers Side Step Tank
Air Dryer
18,000 Pound Steer Axel with Wet Bearings
Steel Front Hubs
40-44,000 Pound Rear Axel
4.10-4.44 Ratio Depending on Performance Calculations
11-22.5 Michelin 14ply Rear Tires or Equivalent
315 80 22.5 20ply Michelin Front Tires or Equivalent
52” Hendrickson or Equivalent
10 Speed Eaton RTO14980LL with Low and Overdrive: Synthetic oil fill or equivalent
Hot Shift PTO Spicer/Chelsea (No Muncie): Direct mount hydraulic pump S-Cam brakes on all axels
16 Foot Crysteel Fortress or Williams Rock Body or Equivalent
Half Cab Guard
4” I Beam Cross Sills on 16” Centers or Equivalent
¼” A/R Floor and Sides or Equivalent
5 (per side) Boxed Vertical Side Bracing: Full depth corner posts or equivalent
Air Lift Tail Gate
¼” / 6” X 12” Spread Apron
Right Side Frame Mounted 36” Lockable Weather Tight Chain Box
33 Ton Pintle Hook with ¾” Plate, Trailer Wiring and Glad Hands
All Required Department of Transportation (DOT) Lighting, safety equipment and signage

Manuals

The Contractor shall furnish the following manuals, in paper or CD format, costs of these manuals are inclusive of the contracted price:

- Operators Manual
- Parts Manual
- Service & Repair Manual

The manuals and schematics supplied shall provide complete and comprehensive information on all equipment components and accessories, as supplied to comply with this Specification.

General Requirement

Item shall be complete with all equipment and accessories necessary for safe and efficient operation.

It is intended that the vendor in the selection of components will use material and design practices that are the best available in the industry for the type of operating conditions to which the item will be subjected. All parts, equipment and accessories shall conform in strength, quality of material and workmanship to recognized industry standards.

The item shall not include a major component that is of a prototype nature or has not been in production for a sufficient length of time to demonstrate reliability.

Indemnification Clause

Contractor shall indemnify, defend, save and hold harmless the County of Gila and its 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 Contractor or any of its owners, officers, directors, agents, employees or subcontractors. 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 Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the County, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the County.

Insurance Requirements

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The County in no way warrants that the minimum limits contained herein are sufficient to protect the 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 is free to purchase additional insurance as may be determined necessary.

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 and broad form contractual liability coverage.
   - General Aggregate $2,000,000
   - Products – Completed Operations Aggregate $1,000,000
   - Personal and Advertising Injury $1,000,000
   - Each Occurrence $1,000,000

   a. The policy shall be endorsed to include the following additional insured language: **"The County of Gila shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor".**

2. **Worker's Compensation and Employers' Liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	$100,000
Disease – Each Employee	$100,000
Disease – Policy Limit	$500,000

   a. Policy shall contain a **waiver of subrogation** against the County of Gila.

3. **Automobile Liability**
   Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

   Combined Single Limit (CSL) $1,000,000

   a. The policy shall be endorsed to include the following additional insured language: **"The County of Gila shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including automobiles owned, leased, hired or borrowed by the Contractor".**

B. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, the following provisions:

1. On insurance policies where the County of Gila is named as an additional insured, the County of Gila shall be an additional insured 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.
2. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.
3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

C. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, reduced in coverage or endorsed to lower limits except after thirty (30) days prior written notice has been given to the County. Such notice shall be sent directly to **Purchasing Department, 1400 E. Ash St., Globe, Arizona, 85501,** and shall be sent by certified mail, return receipt requested.

D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed or approved unlicensed companies in the state of Arizona and with an "A.M. Best" rating of not less than B+ VI. The County 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 County with certificates of insurance (ACORD form or equivalent approved by the County) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the County 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 **Purchasing Department, 1400 E. Ash St., Globe, Arizona, 85501**. The County project/contract number and project description shall be noted on the certificate of insurance. The County reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time**.**

F. **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as additional insured's under its policies **or** Contractor shall furnish to the County separate certificates and endorsements for each subcontractor. All coverage's for subcontractors shall be subject to the minimum requirements identified above.

G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by the County Attorney, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

QUALIFICATION AND CERTIFICATION FORMS

EXHIBIT "D" VENDORS QUALIFICATION AND REFERENCE LIST

PURPOSE

This exhibit shall serve as a requirement to enable the evaluation team to assess the qualifications of Vendors under consideration for final award. The information may or may not be a determining factor in award.

CONTACT NUMBER 110111-1 New 10 Wheel Dump Truck

The applicant submitting this Bid Proposal warrants the following:

1. Name, Address, and Telephone Number of Principal Vendor:
   _____
   _____
   _____

2. Had Vendor (under its present or any previous name) ever failed to complete a contract? _____ Yes _____No. If "Yes", give details including the date, the contracting agency, And the reason Vendor failed to perform in the narrative part of this Contract.

3. Has Vendor (under its present or any previous name) ever been disbarred or prohibited from competing for a contract? _____ Yes _____ No. If "Yes", give details, including the date, the contracting agency, the reasons for the Vendors disqualifications, and whether this disqualification remains in effect in the narrative part of this Contract.

4. Has a contracting agency ever terminated a contract with the Vendor prior to contract expiration (under your firm's present or any previous name) prior to end of contract period? _____ Yes _____No. If "Yes", give details including the date, the contracting agency, and the reasons offer was terminated in the narrative part of this Contract.

5. Vendor must also provide at least the following information:
   a. A Cost Proposal shall be submitted on the Price Sheet, attached hereon and made a full part of this contract by this reference.
   b. Gila County reserves the right to request additional information.

_____
Signature of Authorized Person to Sign

_____
Printed Name

_____
Title

PRICE SHEET

Complete and Return this form for the total price being proposed.

Gila County is requesting prices for Cash purchase and Lease/Purchase if available.
Attach any pertinent cost breakdowns, sub-totals of component cost, etc. to this proposal-pricing page. If the equipment does not conform to a Specification state the variance from the Specification.

Vendor Name: _____ Phone #: _____

Equipment Make & Model: _____

New 10 Wheel Dump Truck **Minimum Specifications**	**Meets Specifications**	
	YES	**NO**
Set Back Axel		
White Exterior: Dump body primed and painted to match		
58,000 Gross Vehicle Weight (GCVW)		
Air Condition		
Power Steering		
Air Shift Power Take Off (PTO): Tail gate controls within drivers reach		
Right and Left Hand Grab Handles		
Air Suspension Drivers Side Seat		
AM/FM Radio		
370-400 Horse Power		
Jake Brake or Equivalent		
Silicon Water Hoses Where Possible		
Right Side Vertical Exhaust with Turnout Tip		
Steel 50-75 Gallon Drivers Side Step Tank		
Air Dryer		
18,000 Pound Steer Axel with Wet Bearings		
Steel Front Hubs		
40-44,000 Pound Rear Axel		
4.10-4.44 Ratio Depending on Performance Calculations		
11-22.5 Michelin 14ply Rear Tires or Equivalent		
315 80 22.5 20ply Michelin Front Tires or Equivalent		
52” Hendrickson or Equivalent		
10 Speed Eaton RTO14980LL with Low and Overdrive: Synthetic oil fill or equivalent		
Hot Shift PTO Spicer/Chelsea (No Muncie): Direct mount hydraulic pump S-Cam brakes on all axels		
16 Foot Crysteel Fortress or Williams Rock Body or Equivalent		
Half Cab Guard		
4” I Beam Cross Sills on 16” Centers or Equivalent		
¼” A/R Floor and Sides or Equivalent		
5 (per side) Boxed Vertical Side Bracing: Full depth corner posts or equivalent		
Air Lift Tail Gate		

¼" / 6" X 12" Spread Apron		
Right Side Frame Mounted 36" Lockable Weather Tight Chain Box		
33 Ton Pintle Hook with ¾" Plate, Trailer Wiring and Glad Hands		
All Required Department of Transportation (DOT) Lighting, safety equipment and signage		
OTHER – PLEASE SPECIFY:		

10 Wheel Dump Truck Cost Break Down of Cash Purchase	
SUBTOTAL COST	$
TAXES	$
OTHER COSTS or DISCOUNTS (Specify)	$
TOTAL COST OF DELIVERED 10 WHEEL DUMP TRUCK for CASH	$

10 Wheel Dump Truck Cost Break Down of Lease Purchase	
SUBTOTAL COST	$
TAXES	$
MINIMUM DOWN	$
3 Years Interest at _____ percent	$
OTHER COSTS or DISCOUNTS (Specify)	$
TOTAL COST AT END OF CONTRACT	$
Is there a pre-payment penalty in the contract? No _____ Yes _____	
Please provide Lease Purchase contract copy as an attachment for our review and consideration of this bid.	

Multiple Purchase Discount Offered? IF Yes, please explain _____

_____

Estimated Date of Delivery: _____

Delivery Location: Fleet Management Department, 1400 E. Ash St., Globe, AZ

Vendor Name: _____

Individual Contact Name Providing Information: _____

AFFIDAVIT BY VENDOR
CERTIFYING THAT THERE WAS NO COLLUSION
IN BIDDING FOR CONTRACT

STATE OF ARIZONA)
)ss
COUNTY OF:)

_____
(Name of Individual) being first duly sworn, deposes and says:

That he is
_____
(Title)

of_____ and
(Name of Business)

That he is bidding on **Gila County Bid No. 110111-1 New 10 Wheel Dump Truck**,

That neither he nor anyone associated with the said _____
_____
(Name of Business)

has, directly or indirectly entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with the above mentioned project.

_____
Name of Business

_____
By

_____
Title

Subscribed and sworn to before me this _____ day of _____, 20_____.

_____ **My Commission expires:**
Notary Public

_____

LEGAL ARIZONA WORKERS ACT COMPLIANCE

Vendor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Vendor's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Vendor shall further ensure that each subcontractor who performs any work for Vendor 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 Vendor and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of Vendor'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 Vendor 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, Vendor 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, as soon as possible so as not to delay project completion.

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

_____
Signature of Authorized Representative

_____
Printed Name

_____
Title

BIDDERS CHECKLIST & ADDENDA ACKNOWLEDGEMENT

NOTICE IS HEREBY GIVEN that all Bid Documents shall be completed and/or executed and submitted with this IFB. If bidder fails to complete and/or execute any portion of the Bid Documents, this IFB will be determined to be "non-responsive" and rejected.

CHECKLIST:

REQUIRED DOCUMENT	COMPLETED / EXECUTED
QUALIFICATION & CERTIFICATION FORM	_____
PRICE SHEET	_____
NO COLLUSION AFFADAVIT	_____
LEGAL ARIZONA WORKS ACT COMPLIANCE	_____
OFFER PAGE	_____

ACKNOWLEDGMENT OF RECEIPT OF ADDENDA:

	#1	#2	#3	#4	#5
Initials	_____	_____	_____	_____	_____
Date	_____	_____	_____	_____	_____

Signed and dated this _____ day of _____, 20____

_____
VENDOR:

_____
BY:

Each proposal shall be sealed in an envelope addressed to the Gila County Procurement Group and bearing the following statement on the outside of the envelope: Invitation for Bids No. 110111-1 New 10 Wheel Dump Truck. All proposals shall be filed with the Gila County Procurement Group at 1400 E. Ash St., Globe, AZ on or before January 6, 2012, 11:00 AM.

OFFER PAGE

TO GILA COUNTY:

The undersigned hereby offers and agrees to furnish the material or service in compliance with all terms and conditions, instruction, specifications, and any amendments contained in this Invitation for bids.

Signature also certifies the Vendors bid proposal is genuine, and is not in any way collusive or a sham; that the bid proposal is not made with the intent to restrict or prohibit competition; that the Vendor submitting the bid proposal has not revealed the contents of the proposal to, or in any way colluded with, any other Vendor which may compete for the contract; and that no other Vendor which may compete for the contract has revealed the contents of a proposal to, or in any way colluded with, the Vendor submitting this proposal.

Pursuant to **A.R.S. §35-393.06(B) and 35-391.06(A)** the Contractor 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.

CONTRACT NUMBER: 110111-1 New 10 Wheel Dump Truck

Firm Submitting Proposal:

_____
Company Name

_____
Address

_____
City State Zip

For clarification of this offer, contact:

Name: _____

Phone No.: _____

Fax _____

Email: _____

_____
Signature of Authorized Person to Sign

_____
Printed Name

_____
Title

Proposal must be signed by a duly authorized officer(s) eligible to sign contract documents for the Firm.

ACCEPTANCE OF OFFER

(For Gila County use only)

The Offer is hereby Accepted:

The Vendor _____ is now bound to provide the materials or services listed in Invitation for Bid No.: 110111-1 including all terms and conditions, specifications, amendments, etc. and the Vendor's Offer as accepted by County/public entity.

The contract shall henceforth be referenced to as ***Contract No. 110111-1***. The Vendor has been cautioned not to commence any billable work or to provide any material or service under this Contract until Vendor receives written notice to proceed from Gila County.

Awarded this _____ day of _____, 2012

GILA COUNTY BOARD OF SUPERVISORS:

_____

Tommie C. Martin, Chairman, Board of Supervisors

ATTEST:

_____

Marian Sheppard, Chief Deputy Clerk of the Board

APPROVED AS TO FORM:

_____

Bryan B. Chambers, Chief Deputy County Attorney
***for* Daisy Flores, County Attorney**

ARF-877 **Regular Agenda Item 3- D**

Regular BOS Meeting

Meeting Date: 12/06/2011

Submitted For:	Steve Stratton, Public Works Division Director	Submitted By:	Valrie Bejarano, Contracts Support Specialist, Finance Department
Department:	Public Works Division	Division:	Roads
Fiscal Year:	FY 2011-2012	Budgeted?:	Yes
Contract Dates Begin & End:	1-10-2012 to 1-9-2013	Grant?:	No
Matching Requirement?:	No	Fund?:	Renewal
Presenter's Name:	Steve Stratton		

Information

Request/Subject

Request to Advertise Invitation for Bids No. 092111-1 to Purchase CRS-2 Chip Seal Oil

Background Information

The current contract for a supplier to provide CRS-2 chip seal oil expired on October 8, 2011.

Evaluation

The Consolidated Roads Department requires CRS-2 chip seal oil in order to provide maintenance and repair of roads in Gila County. The request to advertise will allow the Roads Department the ability to contract a supplier to provide the CRS-2 product.

Conclusion

Invitation for Bids No. 092111-1 will allow suppliers the opportunity to provide the County with a proposal in order to supply CRS-2 chip seal oil for road repair and maintenace.

The IFB will advertise on December 14th and 21st and the bid due date will be December 29, 2011.

Recommendation

The Public Works Director recommends that the Board of Supervisors approve the request to advertise on Invitation for Bids No. 092111-1 for CRS-2 chip seal oil.

Suggested Motion

Information/Discussion/Action to authorize the advertisement of Invitation for Bids No. 092111-1 for the purchase of CRS-2 chip seal oil for Gila County road repair and maintenance. **(Steve Stratton)**

Attachments

Request to Advertise Bid No. 092111-1

Invitation for Bid No. 092111-1 CRS-2 Chip Seal Oil

GILA COUNTY DEPARTMENTAL REQUEST TO ADVERTISE FOR BIDS

SEE GC2-7-111 (ART.1) OF PROCUREMENT PROCEDURES FOR INSTRUCTIONS TO PREPARE THIS FORM

All departments procuring purchases in excess of $50,000.00 that requires advertising for bids must follow the Procurement Procedure and must complete item "I" of this form prior to such a purchase. **The requesting Department is responsible for writing the necessary specifications and routing them, including this form, accompanied by a Bid Request Form to the Procurement Department.** THIS FORM MUST BE COMPLETE, ACCURATE, AND HAVE A COPY OF THE SPECIFICATIONS ATTACHED BEFORE ROUTING BEGINS. ALL CALLS FOR BID/PROPOSALS AND SPECIFICATIONS WILL BE IN ACCORDANCE WITH THE AZ. REVISED STATUTES AND THE GILA COUNTY PURCHASING CODE AND PROCEDURES.

I. IS THIS A CALL FOR BID: X PROPOSAL: _____ DEPARTMENT NAME: **Public Works Division**

FUNDING SOURCE: FUND NO.: **6500** DEPT NO.: **341** PROGRAM NO.: **514** LOCATION NO.: **000** ACCOUNT NO.: **4130.71** PJCT: _____

I. DESCRIPTION: List item(s) to be purchased, Purpose, Spec. Summary, Estimated Cost and Funding Source. It is the intent of this solicitation to establish a contract with a supplier for the purchase of CRS-2 Chip Seal Oil for county road repair and maintenance.

Signed: Steve Stratton Date: 11-7-11 Signature indicates material specifications are approved as written.
Elected Officials or Department Head

II. DEPARTMENTAL INFORMATION ONLY BID NO.: **092111-1**
(For Procurement Use Only)

Action Dates:

Department Receipt: ___/___/___ Placed on Agenda: **12 / 06 / 11**

Presented to Board: ___/___/___ Approved to Call: ___/___/___

Delivered to Paper: ___/___/___ Paper Name: **Arizona Silver Belt**

Advertised Dates: From: **12 / 14 / 11** To: **12 / 21 / 11**

Closing Date: **12 / 29 / 11** Bid Award Date: ___/___/___

Awarded to: _____ P.O. No.: _____

Proposed Delivery Date: ___/___/___

III. OTHER APPROVAL (only as necessary)

Public Works: Dept. Head Sign: Steve Stratton Date: 11/7/11

Community Action: Dept. Head Sign: _____ Date: ___/___/___

MIS Department: Dept. Head Sign: _____ Date: ___/___/___

IV. APPROVED FUNDING

Finance Director Signature: _____ Date: ___/___/___

V. LEGAL AND ADMINISTRATIVE APPROVAL (Bid packet must be completed and attached)

Signed: _____ Date: ___/___/___
Bryan B. Chambers, Chief Deputy County Attorney (Approved as to form)
for Daisy Flores County Attorney

Signed: _____ Date: ___/___/___
Tommie C. Martin, Chairman, Board of Supervisors (Approved as to specifications and information)

VI. AWARD APPROVAL

Signed: _____ Date: ___/___/___
(Declaration that the Board of Supervisors approved the award as stated in Section V. of this page)
Tommie C. Martin, Chairman of the Board of Supervisors, Gila County

GILA COUNTY

NOTICE OF

INVITATION FOR BID

SOLICITATION NUMBER

092111-1

CRS-2 CHIP SEAL OIL

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GILA COUNTY
PROCUREMENT GROUP
NOTICE OF INVITATION FOR BID

1400 East Ash Street
Globe, Arizona
85501

SOLICITATION NUMBER
061311-1

BID DUE DATE: December 29, 2011 **TIME:** 11:00 AM MST

DESCRIPTION: CRS-2 CHIP SEAL OIL

PRE-BID CONFERENCE: "Not Applicable"

Bid Opening and Submittal Location: Gila County Procurement
Board Conference Room #257, 2nd Floor
1400 E. Ash Street, Globe, AZ 85501

In accordance with A.R.S. §41-2533, Invitation For Bid for the materials or services specified will be received by the Gila County Procurement Group at the above specified location until the time and date cited.

Request for submittals after the specified date and time to the Procurement Group shall not be considered. To receive bid documents contact the Procurement Group at (928)402-8612.

Additional instructions for preparing a bid are provided in Section 3, page 10, and Section 4, page 16, of the bid documents to Offerors as contained within this solicitation.

The Board of Supervisors reserves the right to reject any or all bids, or to accept any bid, or to waive any informality in any bid, or to withhold the award if deemed in the best interest of Gila County. All procurement activities conducted by Gila County are in conformance with the rules and regulations of the Gila County procurement code. A copy of the Code is available for review in the office of the Clerk of the Board, Gila County Courthouse, 1400 E. Ash St., Globe, AZ.

Advertisement Dates: December 14 and 21, 2011

BIDDERS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE SOLICITATION.

Designated Department:	Gila County Public Works Division Consolidated Roads
Type of Contract:	Term
Term of Contract:	Twelve months with two one year renewal options
Phone Number:	928-402-8612

Signed: _____ Date: ____/____/____
Tommie C. Martin, Chairman, Board of Supervisors

Signed: _____ Date: ____/____/____
Bryan B. Chambers, Chief Deputy County Attorney
for Daisy Flores, County Attorney

SECTION 1
SPECIFICATIONS

1. Purpose

It is the intent of Gila County, herein referred to as the County, to establish a term contract for the purchase of CRS-2 Chip Seal Oil, Plant Pick-Up and Delivery to various Locations throughout the County, in all accordance with the specifications and general requirements identified below.

The specifications are intended to describe the type, size, quality, which will best meet the demands of the using department. It is not intended to favor any one brand or make. The mention of brand names or components merely serves to specify the quality or general type required.

2. Product Specifications

CRS-2 PRODUCT SPECIFICATIONS			
Test Description	**Method (AASHTO)**	**Required Minimum**	**Required Maximum**
Tests on Emulsion			
Viscosity, Saybolt Furol @ 122°F, sec.	T-59	75	400
Storage Stability 1 day, %	T-59		1
Particle Charge test	T-59	Positive	Positive
Uncoated Particles, %	AZ 502	55	
Residue, % of emulsion by distillation	T-59	65	
Tests on Residue from Distillation Test	T-59		
Penetration @ 77°F, 100g / 5 sec, dmm	T-49	40	90

3. Bituminous Material

A certificate of analysis conforming to the requirements of Section 106.05 of the Arizona Department of Transportation 2008 Standard Specifications for Road and Bridge Construction shall be submitted for bituminous material utilized.

4. Sampling and Testing

Sampling and testing of the materials or mixture for quality control purposes shall be the contractor's responsibility. The County reserves the right to sample and test the material and mixture when necessary to determine that the material and mixture reasonably conform to the requirements specified herein.

5. General Requirements

Materials shall be tested for gradation compliance, at the County's discretion.

All materials supplied shall comply with the Arizona Department of Transportation 2008 Standard Specifications for Road and Bridge Construction, including but not limited to:

a. Pit Clearance from ADOT Environmental Services at (602) 712-7767 (http://www.ADOTenvironmental.com)
b. Material approval from ADOT Materials Specification Group at (602)712-8930. (http://www.azdot.gov/Highways/materials/index.asp)
c. Section 104.12, Environmental Analysis
d. Section 1001, Material Sources

All sources of mineral aggregate (i.e. stone, gravel, cinders, sand, etc.) must be approved in accordance with section 1001 of Arizona Department of Transportation 2008 Standard Specifications for Road and Bridge Construction. This includes the submission and approval of an environmental analysis prepared in accordance with Subsection 104.12.

If the County determines that the proposed use will have major adverse impact on cultural or historic resources, the County will not allow the use of the source.

All references to the Standard Specifications shall mean: The Department of Transportation 2008 Standard Specifications for Road and Bridge Construction.

Copies of 2008 Standard Specifications for Road and Bridge Construction may be purchased by contacting the Arizona Department of Transportation Engineering Records, 1655 W. Jackson Street, Room 112F, Phoenix, AZ, 85007, (602)712-7498.

6. Equipment

The Contractor shall provide and maintain during the entire period of this contract, the equipment sufficient in number, operational condition and capacity to efficiently perform the work and render the services required by this contract.

The Contractor's vehicles and mobile equipment shall be clearly marked with company name and/or logo and an identification number.

7. Material Measures

The product shall be measured by the ton and shall be weighed on approved scales furnished by the material vendor or certified public scales at the Contractor's expense. Quantities of material will be determined by the collected weight tickets at the scales at the Contractor's expense. Quantities of material will be determined by the collected weight tickets at the source or at the selected delivery location.

Contractor shall provide certified weight tickets for all delivered quantities. It is the responsibility of the successful bidder to notify the County if any oil remains within a truck at the end of the day or upon completion of the work in order to determine pay quantities.

Any material returned (other than rejected material) by the County, shall be credited to the County at the same rate period. The successful bidder shall supply the County with a weight back ticket documenting the quantity of unused non-diluted product. No credit will be issued for any unused diluted product.

8. Cancellation

The County retains the right to cancel orders at any time in the event of inclement weather or other emergency, and other unforeseen work stoppages beyond the control of the Contractor or the County. The standby rate shall only apply to time at the project site and until such time as the

equipment is directed to leave due to inclement weather or other unforeseen conditions. The Contractor shall deliver the specified materials at proper temperatures to the County at a new time at no additional charge.

SECTION 2
GENERAL TERMS AND CONDITIONS

Award Contract

1. The Gila County Board of Supervisors reserves the right to award any Bid by individual line item, by group of line items or as total, or any part thereof, whichever is deemed to be in the best interest, most advantageous of the County of Gila.
    a. Notwithstanding any or other provisions of the IFB, the County reserves the right to:
        1. Waive any immaterial defects or informalities; or
        2. Reject any or all offers; or portions thereof; or
        3. Reissue a Invitation for Bid.

2. It is the responsibility of the Gila County Board of Supervisors to let the County contracts to the lowest responsive and responsible bidder(s). To ensure that all Contractors are experienced, reasonably equipped and adequately financed to meet their contractual obligations, a determination of responsibility shall be made by the Gila County Board of Supervisors prior to contract award.

3. Further, the County reserves the right to reject the Offers of any bidder(s) who has previously failed to perform adequately after having once been awarded a prior Bid for furnishing and installing materials similar in nature.

4. All submitted forms provided in this Invitation for Bid will be reviewed by the Gila County Board of Supervisors.

5. Those Offeror(s) who, in the opinion of the Gila County Board of Supervisors, are best qualified and whose offers are most advantageous of the County <u>may</u> be invited to appear before the Board for an oral review.

6. The apparent successful offeror(s) shall sign and file with the County, within ten (10) days after Notice of Intent to Award, all documents necessary to successfully execute the contract.

Protests

Only other bidders who have submitted a bid have the right to protest. A protest of a proposed award or of an award must be filed within ten (10) days after the award by the Board of Supervisors. A protest must be in writing and must include:

A. The name, address and telephone number of the protester.
B. The signature of the protester or its representative, and evidence of authority to sign.
C. Identification of the contract and the solicitation or contract number.
D. A detailed statement of the legal and factual grounds of protest including copies of relevant documents.
E. The form of relief requested.
F. All Protest shall be sent to the attention of the Gila County Board of Supervisors, 1400 East Ash Street, Globe, Arizona 85501.

Laws and Ordinances

This agreement shall be enforced under the laws of the State of Arizona and Gila County. Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Contractor. The Contractor shall comply with the applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the act.

OFFERORS AWARD AGREEMENT

This exhibit shall serve as an example of the contract agreement to any Contractor, their agents, subcontractors and/or representatives, awarded this or any portion of this contract by the County, by submitting bids to this or any other solicitation requiring sealed bids, does hereby agree to the following provisions. Proof of acceptance of these provisions will be the Contractor's signature(s) appearing on Attachment "A", Offer and Contract Award, and Attachment "B", Contractors Qualification and Certification Form.

Overcharges by Antitrust Violations

The County maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the County any and all claims for such overcharges as to the goods or services used to fulfill the contract.

Authority to Contract

This contract shall be based upon the Invitation for Bid issued by the County and the offer submitted by the Contractor in response to the RFP. The offer shall substantially conform to the terms, conditions, specifications and other requirements set forth within the text of the IFB. The county reserves the right to clarify any contractual terms with the concurrence of the Contractor; however, any substantial non-conformity in the offer, as determined by the County's Procurement Manager, shall be deemed non-responsive and the offer rejected. The contract shall contain the entire agreement between Gila County and the Contractor relating to these requirements and shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders, or master agreement in any form. The contract activity is issued under the authority of the Gila County Manager, after the Gila County Board of Supervisors approves the award. No alteration of any portion of the contract, any items or services awarded, or any other agreement that is based upon this contract may be made without express written approval of the Gila County Board of Supervisors in the form of an official contract amendment.

Any attempt to alter any documents on the part of the Contractor or any agency is a violation of the County Procurement Code. Any such action is subject to the legal and contractual remedies available to the County inclusive, but not limited to, contract cancellation, suspension and/or debarment of the Contractor.

Contract Amendments

The contract shall be modified only by a written contract amendment signed by the Gila County Board of Supervisors and persons duly authorized to enter into contracts on behalf of the Contractor.

Contract Default

A. The County, by written notice of default to the Contractor, may terminate the whole or any part of this contract in any one of the following circumstances:

1. If the Contractor fails to make delivery of the supplies or to perform the services within the times specified; or
2. If the Contractor fails to perform any of the other provisions of this contract; and fails to remedy the situation within a period of ten (10) days after receipt of notice.

B. In the event the County terminates this contract in whole or part, because of Contractor default as explained in (A)(1) and (A)(2) in the previous paragraph, the County may procure supplies or services similar to those terminated, and the Contractor shall be liable to the County for any excess costs for such similar supplies or services.

Right to Assurance

Whenever one party to this contract in good faith has reason to question the other party's intent to perform, the other party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of this contract.

Co-op Use of Contract – Intergovernmental Purchasing

Gila County has entered into an active purchasing agreement with other political subdivisions, cities, and towns of the State of Arizona in order to conserve resources, reduce procurement costs and improve timely acquisition and cost of supplies, equipment and services. The vendor(s) to whom this contract is awarded may be requested by other parties of said interactive purchasing agreements to extend to those parties the right to purchase supplies, equipment and services provided by the vendor under this contract, pursuant to the terms and conditions stated herein. Any such usage by other entities must be in accord with the rules and regulations of the respective entity and the approval of the Contractor.

Cancellation of County Contracts

This contract is subject to the cancellation provisions of **A.R.S. §38-511.**

Termination of Contract

The County, with or without cause, may terminate this contract at any time by mutual written consent, or by giving **thirty (30)** days written notice to you. The County at its convenience, by written notice, may terminate this contract, in whole or in part. If this contract is terminated, the County shall be liable only for payment under the payment provisions of this contract for the services rendered and accepted material received by the County before the effective date of termination.

The County reserves the right to cancel the whole or any part of this contract due to failure of Contractor to carry out any term, promise, or condition of the contract. The County will issue a written ten (10) day notice of default to Contractor for acting or failing to act as in any of the following:

1. In the opinion of the County, Contractor fails to perform adequately the stipulations, conditions or services/specifications required in the contract.

3. Contractor fails to furnish the required service and/or product within the time stipulated in the contract.
4. In the opinion of the County, Contractor fails to make progress in the performance of the requirements of the contract and/or give the County a positive indication that Contractor will not or cannot perform to the requirements of the contract.

Each payment obligation of the County created hereby is conditioned upon the availability of County, State and Federal funds, which are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the County and available for the continuance of service herein contemplated, the contract period for the service may be terminated by the County at the end of the period for which funds are available. The County shall notify the Contractor at the earliest possible time which service may be affected by a shortage of funds. No penalty shall accrue to the County in the event this provision is exercised, and the County shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

Compensation and Method of Payment

Gila County will pay the Contractor following the submission of itemized invoices for the materials requested. The County will not pay by Statement. No payment shall be issued prior to receipt of material or service. Each invoice must show the contract number, purchase order number, date of delivery, name and mailing address of Contractor.

Payment of Taxes

The Contractor shall be responsible for paying all applicable taxes.

1. State and Local Transaction Privilege Taxes: The County is subject to all applicable state and local transaction privilege taxes. Transaction Privilege taxes applying to the sale are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve he seller from its obligation to remit taxes.
2. Tax Indemnification: Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the County harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

IRS W-9 Form

In order to receive payment the Contractor shall have a current I.R.S. W-9 Form on file with the County, unless not required by law.

Purchase Orders

The Contractor shall, in accordance with all terms and conditions of the contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the County, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this contract.

Force Majeure

Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by governmental authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

Force Majeure shall not include the following occurrences:

- Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market.
- Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or
- Inability of either the contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.
- If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by contract amendment for a period of time equal to the time that results or effects such delay prevent the delayed party from performing in accordance with the contract.
- Any delay or failure in performance by either party hereto shall not constitute default hereunder or given rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

Warranties

The Contractor warrants that the materials supplied under this contract are free of liens and shall remain free of liens.

General

After receipt of all bids, each submittal shall be screened to determine if any shall be deemed non-responsive. Unsigned offers, unacknowledged Addenda, incomplete bids, non-conformance with mandatory requirements, etc., may result in the determination of non-responsive.

Subsequent to the initial review, all remaining offers shall be reviewed by the Gila County Public Works Fiscal Manager to evaluate the information submitted, perform tests when necessary and make comparisons in order to approve or reject the Request. If rejected, the purchasing department shall give written notice to the Bidder submitting this request.

SECTION 3
SPECIAL TERMS AND CONDITIONS

1. Term of Contract
The term of the contract shall commence upon award and shall remain in effect for a period of twelve (12) months unless terminated, canceled or extended as otherwise provided herein.

2. Contract Extension
The Contractor agrees that the County shall have the right, at its sole option, to renew the contract for two (2) additional one (1) year periods. In the event the County exercises such a right, all terms, conditions and provisions of the original contract shall remain the same and apply during the renewal period.

3. Changes
The County reserves the right to revise the delivery schedule and make other changes within the general Scope of Work as may be deemed necessary to best serve the County. All changes shall be documented by formal amendments to the contract.

4. Bid Evaluation
In accordance with A.R.S. §41-2533, Competitive Sealed Bidding, awards shall be made to the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and criteria set forth in this Invitation of Bid.

5. Invoicing
Separate invoices are required for each shipment of product. The contractor shall submit invoices to the Bill to Address listed on each purchase order document.

Each separate invoice shall include at a minimum.

- Description and listing of quantities
- Date the items were purchased or delivered to the requested location
- Purchase Order and Contract Number
- Price per unit and total per unit
- Freight Charge (not combined with unit cost)
- Applicable taxes
- Total of invoice

Invoices not sent to the proper address, or not containing the necessary and required information may delay payment to the Contractor. A Contractor whose payments are delayed due to improper invoicing shall make no claim against the County for late or finance charges.

The County will make every effort to process payment for the purchase of product within thirty (30) calendar days after receipt by the Accounts Payable department. Delivery of the product to the County does not constitute acceptance, therefore, only the County invoice receipt date will be a valid date for starting the thirty (30) day payment period.

6. Prompt Payment Discount
Prompt payment discounts of thirty (30) days or more set forth in the Offer shall be deducted from the Offer for the purpose of evaluating that price. Refer to, Price Sheet, Attachment "C".

7. Quantities
Contractors specifically understand and agree that the quantities used for bidding purpose are estimates of County needs and in no event shall the County be obligated to purchase the exact quantities of any item set forth in the Bid. The County does not guarantee any maximum or minimum amounts of purchase. No commitment of any kind is made concerning quantities and that fact should be taken into consideration by each potential contractor.

8. Price Reduction
A price adjustment may be offered at any time during the term of a contract and shall become effective upon notice.

9. Price Adjustment
Prices shall be in effect for the duration of the contract at the unit prices bid, with a price adjustment based upon the ADOT Price Adjustment for Bituminous Material Index.

- The term "bituminous material" as used herein shall include asphalt cement, liquid asphalt and emulsified asphalt.
- "Initial Cost" of bituminous materials as used herein shall mean the cost as determined by the ADOT Price Adjustment for Bituminous Material for the month bids are opened (See http://www.azdot.gov/highway/cns/bitmat/asp).

The contract unit price for each item that contains bituminous material will be considered to include all costs of materials as required, including the "initial cost" of bituminous material.

- Compensation shall be adjusted (either increase or decrease) based on the dollar amount change in the ADOT Monthly Index from the month in which the contract was bid compared to the month in which the material was used, on a calendar month basis. This adjustment will apply only to the amount of bituminous material used in the bid item and not to the overall unit cost. The amount of bituminous material in each bid item will be as follows: MC's and liquid asphalt 100%, Terminal blend asphalt rubber 93%, Emulsions, Concentrate 60% (diluted 2:1 40%, diluted 1:1 30%).
- Additionally, the adjustment for compensation of bituminous materials will be based on the tons of bituminous material prior to dilution. This adjustment will apply to bituminous material only.
- Bid price per ton shall be adjusted up or down by an amount equal to the percent of bituminous material multiplied by the dollar amount change in the ADOT Index from the month the bid was opened until the month material was used. (Adjustment per ton = dollar amount change in ADOT Index X percentage of bituminous material.) For example, assuming bids for terminal blend asphalt rubber were opened April 2008 when the ADOT Index for Bituminous Material was $395.00 per English ton, the terminal blend was actually used in June 2008, and that the ADOT Index in June is $415.00 per English ton, then the adjustment per ton would be calculated by taking the dollar amount change in

the ADOT Index ($20.00) and multiplying it by the percentage of bituminous material of terminal blend asphalt rubber (%93). Thus, the bid price per ton would be adjusted up $18.60.

The Contractor certifies in signing the Bid that the price will be no higher than the lowest price the bidder charges other buyers for similar quantities under similar conditions.

The Contractor shall provide the RACK price to the County upon request.

10. Ordering

Gila County does not warrant the order quantity of any materials or services prior to actual need. Gila County's Public Works personnel may re-order materials as it becomes necessary or based on the required needs within the county during the term of this contract.

Material Vendor shall be given a 72 hour advance notice of material order as needed by Gila County. The Vendor shall make materials available for pick-up and/or arrange delivery within this timeframe as directed by the County.

SAMPLES: Contractor may be requested to furnish samples of products for examination by the County. Any items so requested shall be furnished within five (5) working days from the date of request and furnished at no cost to the County and sent to the address designated in the Invitation for Bid. Unless otherwise specified, materials purchased will be inspected by the Using Agency to ensure the product meets the quality and quantity requirements of the Specifications. Material may be sampled for compliance, as deemed necessary by the County. Any material not meeting the specifications of the contract will be rejected.

TESTING: The awarded Material Vendor is responsible for all laboratory or other appropriate agency for analysis and testing as to whether the product conforms in all respects to the Specifications. It is the responsibility of the material vendor to furnish the product material certifications at the time of pick-up. Testing shall be done in accordance with ADOT Standard Specifications Section 1005.

11. Delivery

Delivery Sites, as designed on Attachment "C", Price Sheet, delivered price per ton in place for material delivery and return will be stated by the Contractor by region on the attached pricing sheet of this Invitation for Bid. The Board of Supervisors may designate other or alternate delivery sites at any time during the term of the Contract. These needs may be based on, but not limited to, seasonal emergency, historical usage data.

Contractor may be required to deliver material on a twenty-four (24) hour notice to any region of Gila County.

Distributor trucks shall comply with ADOT Standard Specifications for Road and Bridge Constructions, Section 404, latest edition and revision, and must have a computerized distribution system. If in the opinion of the Public Works director or his designee, the CRS-2 Chip Seal Oil product is placed utilizing equipment which is not capable of accurately measuring and/or applying the liquid asphalt product at a uniform rate as specified, shall be cause for the liquid asphalt product to be applied at no additional cost to Gila County.

Transport Standby time shall apply only to time at the project site and only after 1.5 hours of unloading.

12. Warranty
The Contractor warrants:

- That all services performed hereunder shall conform to the requirements of this contract and shall be performed by qualified personnel in accordance with the highest professional standards.
- That all items furnished hereunder shall conform to the requirements of this contract and shall be free from defects in design, materials and workmanship.

13. Multiple Award
The County has ongoing requirements for the commodities specified in this solicitation. To provide adequate contract coverage for various locations, multiple awards may be made.

14. Vendor Registration
Prior to issuance of a Purchase Order and subsequent payment, the Contractor shall have a completed W-9, Attachment "D" of Bid document, on file with the County Procurement Group. No payments shall be made until the form is on file.

15. Contract Administration
For information regarding the General and Special Terms and Conditions referenced in the solicitation contact, Valrie Bejarano, (928)402-8612, for Product Specifications contact, Brent Cline, (928)402-8526.

16. Indemnification
The Contractor agrees to indemnify and save harmless the County of Gila, its officers, agents and employees, and any jurisdiction or agency issuing permits for any work included in the project, their officers, agents and employees, hereinafter referred to as indemnitee, from all suits and claims, including attorney's fees and cost of litigation, actions, loss, damage, expense, cost or claims of any character or any nature arising out of the work done in fulfillment of the terms of this Contract or on account of any act, claim or amount arising or recovered under workers' compensation law or arising out of the failure of the Contractor to conform to any statutes, ordinances, regulation, law or court decree. It is agreed that the Contractor will be responsible for primary loss investigation, defense and judgment costs where this contract of indemnity applies. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the County, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the County.

17. Insurance Requirements
The Contractor shall furnish Certificate(s) of Insurance to the County within five (5) calendar days of notification of award and prior to all contract extensions.

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract.

The County in no way warrants that the minimum limits contained herein are sufficient to protect the 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. Contractor is free to purchase such additional insurance as may be determined necessary.

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, broad form contractual liability and XCU coverage.

- General Aggregate $2,000,000
- Products – Completed Operations Aggregate $1,000,000
- Personal and Advertising Injury $1,000,000
- Each Occurrence $1,000,000

The policy shall be endorsed to include the following additional insured language: **"The County of Gila shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor".**

2. **Automobile Liability**

Bodily injury and property damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) $1,000,000

a. The policy shall be endorsed to include the following additional insured language: **"The County of Gila shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including automobiles owned, leased, hired or borrowed by the Contractor".**

3. **Worker's Compensation and Employers' Liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	$100,000
Disease – Each Employee	$100,000
Disease – Policy Limit	$500,000

a. Policy shall contain a **waiver of subrogation** against the County of Gila.

B. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, the following provisions:

1. On insurance policies where the County of Gila is named as an additional insured, the County of Gila shall be an additional insured 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.
2. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.
3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

C. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, reduced in coverage or endorsed to lower limits except after thirty (30) days prior written notice has been given to the County. Such notice shall be sent directly to **Purchasing Department, 1400 E. Ash St., Globe, AZ,** and shall be sent by certified mail, return receipt requested.

D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed or approved unlicensed companies in the state of Arizona and with an "A.M. Best" rating of not less than B+ VI. The County 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 County with certificates of insurance (ACORD form or equivalent approved by the County) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the County 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 **Purchasing Department, 1400 E. Ash St., Globe, AZ**. The County project/contract number and project description shall be noted on the certificate of insurance. The County reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

F. **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as additional insured's under its policies **or** Contractor shall furnish to the County separate certificates and endorsements for each subcontractor. All coverage's for subcontractors shall be subject to the minimum requirements identified above.

G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by the County Attorney, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

SECTION 4
INSTRUCTIONS TO SUBMITTERS

IMPORTANT: SECTION 4, INSTRUCTIONS TO CONTRACTORS AND SECTION 2, CONTRACTORS AWARD AGREEMENT ARE BASIC CONTENT TO GILA COUNTY BID PACKAGES. INDIVIDUAL BIDS MAY REQUIRE DIFFERENT LANGUAGE FOR INSTRUCTIONS AND AWARD AGREEMENTS. WHERE APPLICABLE, SUCH CHANGES WILL APPEAR IN SECTION 1, PRODUCT SPECIFICATIONS AND INFORMATION AND TAKE PRECEDENCE OVER THE LANGUAGE APPEARING IN SECTIONS 4 AND 2.

Preparation of Bid

A. Sealed Bids will be received by the County of Gila Public Works Division, from individuals and Contractors to deliver the product(s), goods and services contained to establish a contract for specified locations within Gila County. The County seeks sealed offers only from qualified, experienced Contractors able to provide service which is, in all respects, responsive to the specifications. All offers shall be on the forms provided in this Invitation for Bid package. It is permissible to copy these forms if required.

B. Before submitting its Bid each Contractor shall familiarize itself with the Scope of Work, and laws, regulations and other factors affecting performance of work. It shall carefully correlate its observations with requirements of the Contract and otherwise satisfy itself of the expense and difficulties attending the performance of the work. The submission of an Offer will constitute a representation of compliance by the Contractor. There will be no subsequent financial adjustment, other than that provided for by the Contract, for lack of such familiarization.

C. Contractors must complete the Attached Forms provided in this Invitation for Bid package in full, **original signature** in ink, by the person(s) authorized to sign the forms and to be submitted at the time of Bid opening, and made a part of this contract. The County will use the Attached Forms in evaluating the capacity of contractors to perform the Scope of Services as set forth in the Contract. Failure of any contractor to complete and submit the Price Sheet and the Offer and Contract Award Pages at time and place of opening shall be grounds for automatic disqualification of contractor from further consideration.

D. The names of all persons authorized to sign the bid must also be legibly printed below the signature. Evidence of the authority of the person signing shall be furnished.

E. The full name of each person or company interested in the Bid shall be listed on the offer.

F. No alterations in Bids, or in the printed forms therefore, by erasures, interpolations, or otherwise will be acceptable unless each such alteration is signed or initialed by the Contractor; if initialed, the County may require the Contractor to identify any alteration so initialed.

Amendments

Any addendum issued as a result of any change in this Invitation for Bid must be acknowledged on the Contractor Check List and Addenda Acknowledgment Form, Attachment "G".

Failure to indicate receipt of addenda in one of the above manners may result in a Bid being rejected as non-responsive.

Inquires

A. Any questions related to this Invitation for Bid must be directed to those whose names appear on the Notice. Questions should be submitted in writing when time permits. The Gila County Supervisors, at their sole discretion, may require all questions be submitted in writing. Any correspondence related to the Invitation for Bid should refer to the appropriate page and paragraph number. However, the Contractor(s) must not place the Invitation for Bid number on the outside of an envelope containing questions since such an envelope may be identified as a Sealed Bid and may not be opened until after the official Invitation for Bid due date and time. Questions received less than three (3) working days prior to the date for opening Bids will be answered only if time permits. Only questions answered by formal written addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

B. Bid results ARE NOT provided in response to telephone inquires'. Bidder must be present at bid opening for results. A tabulation of offers received is on file in the Gila County Board of Supervisors and Procurement offices and available for review after contract award.

Late Offers

Any Bid received later than the date and time specified on notice for Sealed Bid will be returned unopened. Late offers shall not be considered. Any Contractor submitting a late Bid shall be so notified.

Submittal Bid Format

It is requested that One (1) Original and One (1) copies (2 TOTAL), ORIGINAL SIGNATURES ON ALL COPIES, of the Attached Forms, shall be submitted in the format specified in the Invitation for Bid. The County will not be liable for any cost incident to the preparation of offers, materials, reproductions, presentations, copy-right infringements, etc. It is permissible to copy these forms if required. Facsimiles or mailgrams shall not be considered.

1. By signature in the Offer Section of the Offer and Contract Award Form, contractor certifies:
   A. The submission of the offer did not involve collusion or other anti-competitive practices.
   B. The contractor has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer.

   C. In order to conserve resources, reduce procurement costs, improve timely acquisition and cost of supplies and to improve efficiency and economy of procurement, any political subdivision, Stated, County, City, Town, etc., of the State of Arizona, will be allowed by Contractor awarded the contract to purchase the same products, goods and services, at the same prices stated in the Bid. Delivery charges may differentiate depending on geographical location.

2. Offers submitted early may be modified or withdrawn by notice to the party receiving offers at the place and prior to the time designated for receipts of offers.

3. The County is not responsible for any Contractor's errors or omissions. Negligence in preparing an offer confers no right to the Contractor unless the Contractor discovers and corrects such errors prior to Bid deadline.

REQUIRED ATTACHMENTS:

Offer and Contract Award
Complete and submit all information requested on Attachment "A".

Arizona State Transaction Privilege Tax License Number: Please indicate your Arizona State Transaction Privilege Tax License Number on the Offer and Contract Award, Attachment "A".

- If you have indicated an Arizona State Transaction Privilege Tax License Number, you are authorized to do business in the State of Arizona and are responsible to pay taxes directly to the Department of Revenue (DOR).
- If you do not indicate an Arizona State Transaction Privilege Tax License Number, you will be considered an out-of-state vendor with no presence in the State of Arizona.

Qualification and Certification
Complete and submit all information requested on Attachment "B".

Price Sheet
Complete and submit all information requested on Attachment "C".

Do not add additional comments to the price sheet. Any additional comments may deem the bidder non-responsive.

References
Complete and submit all information requested on Attachment "D".

I.R.S. W-9
Complete and submit all information requested on Attachment "E".

In order to receive payment vendors must have a current W-9 form filed with Gila County, unless not required by law.

Non-Collusion Affidavit
Complete and submit all information requested on Attachment "F".

Intentions Concerning Subcontracting
Complete and submit all information requested on Attachment "G".

Legal Arizona Workers Act Compliance
Complete and submit Attachment "H".

Checklist and Addenda Acknowledgment
Complete and submit all information requested on Attachment "I".

All addendum(s) received concerning the solicitation must be acknowledged on this form.

Bid Submission

- Offers shall be submitted in a sealed envelope, a *minimum of* ***Two (2) copies, all with original signatures*** shall be provided by the Contractor.

- The words "INVITATION FOR BID" with bid title "CRS-2 CHIP SEAL OIL", bid number, "092111-1", date, "DECEMBER 29, 2011", and time, "11:00 AM" of bid opening shall be written on the envelope.

- The Contractor shall assume full responsibility for timely delivery at the location designated in the Notice.

ATTACHMENT "A"

OFFER AND CONTRACT AWARD

Gila County
1400 E. Ash Street
Globe, Arizona 85501
(928)424-3236

Board of Supervisors

Tommie C. Martin, District I
Michael A. Pastor, District II
Shirley L. Dawson, District III

SOLICITATION NO. 092111-1

OFFER

TO GILA COUNTY:

The bidder hereby offers and agrees to perform in compliance with all terms, conditions, specifications, and amendments of this solicitation and any written exceptions in the offer. Signature also acknowledges receipt of all pages indicated in the Table of Contents.

Arizona State Transaction Privilege Tax License Number
No.: _____

Federal Employer Identification
No.: _____

For clarification of this offer, contact:

_____
Printed Name

_____
Offeror's (Company) Name

_____
Email Address

_____
Address

_____
Company Email Address

_____
City State Zip

_____
Signature of Person Authorized to Sign Offer

_____
Phone

_____
Printed Name Date

_____
Facsimile

_____
Title

In accordance with A.R.S. §35-397, the offeror hereby certifies that the offeror does not have scrutinized business operations in Iran and Sudan and are in compliance with the Export Administration Act and not on the Excluded Parties List.

ACCEPTANCE OF OFFER AND CONTRACT AWARD (FOR COUNTY USE ONLY)

Your bid is hereby accepted.

The contractor is now bound to perform based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the contractor's bid as accepted by the county.

This contract shall henceforth be referred to as Contract No. 092111-1

The contractor is hereby cautioned not to commence any billable work or provide any material, service or construction under this contract until contractor receives a purchase order document.

GILA COUNTY BOARD OF SUPERVISORS:

Date: _____

_____
Tommie C. Martin, Chairman, Board of Supervisors

ATTEST:

_____
Marian Sheppard, Chief Deputy Clerk of the Board

APPROVED AS TO FORM:

_____
Bryan B. Chambers, Chief Deputy County Attorney
for Daisy Flores, County Attorney

ATTACHMENT "B"

QUALIFICATION & CERTIFICATION FORM

Gila County
1400 East Ash Street
Globe, Arizona 85501

SOLICITATION NO. 092111-1

Purpose

This exhibit shall serve as a requirement to enable the evaluation team to assess the qualifications of Contractors under consideration for final award. The information may or may not be a determining factor in award.

CRS-2 CHIP SEAL OIL

The Contractor submitting this Bid warrants the following:

1. Name, Address, and Telephone Number of Principal Contractor:

   _____
   _____
   _____

2. Had Contractor (under its present or any previous name) ever failed to complete a contract? _____Yes _____No. If "Yes, give details, including the date, the contracting agency, and the reasons Contractor failed to perform in the narrative part of this Contract.

3. Has Contractor (under its present or any previous name) ever been disbarred or prohibited from competing for a contract? _____Yes _____No. If "Yes", give details, including the date, the contracting agency, the reasons for the Contractors disqualification, and whether this disqualification remains in effect in the narrative part of this Contract.

4. Has a contracting agency ever terminated a contract with the Contractor prior to contract expiration (under your firm's present or any previous name)? _____Yes _____No. If "Yes", give details including the date, the contracting agency, and the reasons Contractor was terminated in the narrative part of this Contract.

5. **Contractor Experience Modifier (e-mod) Rating in Arizona:** _____
   A method the National Council on Compensation Insurance (NCCI) uses to measure a business' computed loss ratio and determine a factor, which when multiplied by premium, can reward policyholders with lower losses. E-mod rate may be a determining factor in bid award.

6. **Current Arizona Contractor License Number:** _____

_____
Signature of Authorized Representative

_____
Printed Name

_____
Title

ATTACHMENT "C"

PRICE SHEET

Gila County
1400 East Ash Street
Globe, Arizona 85501

SOLICITATION NO. 061311-1

CRS-2 Chip Seal Oil: Plant Pick-Up and Delivery to Various Locations Throughout Gila County

Estimated Quantity: 150 Tons

Location	Unit Price Per Ton	Freight Charge Per Ton	Delivered in Place with Boot Truck
Copper Region (South of Roosevelt Lake Bridge)	$ _____	$ _____	$ _____
Timber Region (North of Roosevelt Lake Bridge)	$ _____	$ _____	$ _____

Additional Charges	Cost Amount
Additional charge per hour after three hours of spread time if County is responsible for delay.	$.
Transport truck rental after two hours pumping time due to County delay.	$.
Amount each occurrence for product returned and disposed.	$.

Do not include sales tax in the above figures. Taxes will not be used in the evaluation of bids.

Sales Tax, State of: _____ & City of: _____
Written Name of State Written Name of City

Please indicate your tax status below, if applicable:

☐ Out-of-State vendor with a presence in Arizona
☐ Out-of-Sate vendor without a presence in Arizona

_____ _____
Company Name Company Representative

If payment is made within _____ days after receipt of goods or services, the above quoted price can be discounted by _____%.

ATTACHMENT "D"

REFERENCES
Gila County 1400 East Ash Street Globe, Arizona 85501 **SOLICITATION NO. 092111-1**

These references are required to enable the evaluation team to assess the qualifications of the Contractor under consideration for final award. The information may be a determining factor in award.

Please list a minimum of three (3) organizations for which your company has provided services of similar size and scope within the past 12 months.

1. **Company:** _____
   Contact: _____
   Phone: _____
   Address: _____

2. **Company:** _____
   Contact: _____
   Phone: _____
   Address: _____

3. **Company:** _____
   Contact: _____
   Phone: _____
   Address: _____

_____
Company Name

_____
Signature of Authorized Representative

_____
Title

ATTACHMENT "E"

Form **W-9**
(Rev. October 2007)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give form to the requester. Do not send to the IRS.

Print or type
See Specific Instructions on page 2.

Name (as shown on your income tax return)

Business name, if different from above

Check appropriate box: ☐ Individual/Sole proprietor ☐ Corporation ☐ Partnership
☐ Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ .....
☐ Other (see instructions) ▶

☐ Exempt payee

Address (number, street, and apt. or suite no.)

Requester's name and address (optional)

City, state, and ZIP code

List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number

or

Employer identification number

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here **Signature of U.S. person ▶** **Date ▶**

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),

2. Certify that you are not subject to backup withholding, or

3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

ATTACHMENT "F"

NON-COLLUSION AFFIDAVIT

Gila County
1400 East Ash Street
Globe, Arizona 85501

SOLICITATION NO. 092111-1

NON-COLLUSION AFFIDAVIT

STATE OF ARIZONA)
)ss
COUNTY OF:)

_____
(Affiant)

the _____
(Title)

of_____ and
(Contractor)

the persons, corporation, or company who makes the accompanying Proposal, having first been duly sworn, deposes and says:

That such Proposal is genuine and not a sham or collusive, not made in the interest or behalf of any person not herein named, and that the Bidder, has not directly or indirectly induced or solicited any other Bidder to put in a sham bid, or any other person, firm, or corporation to refrain from bidding, and that the Bidder has not in any manner sought by collusion to secure for itself an advantage over any other Bidder.

_____
(Signature)

_____
(Title)

Subscribed and sworn before me this

_____Day of _____, 20_____

_____
Signature of Notary Public in and for

the County of _____

State of _____

ATTACHMENT "G"

INTENTIONS CONCERNING SUBCONTRACTING

Gila County
1400 East Ash Street
Globe, Arizona 85501

SOLICITATION NO. 092111-1

At the time of submission of bids for Invitation for Bid No. 092111-1 CRS-2 Chip Seal Oil, my intention concerning subcontracting a portion of the work is as indicated below.

In indicating that it is my intention to subcontract a portion of the work, this will acknowledge that such subcontractors will be identified and approved by the County prior to award of the contract; and that documentation, such as copies of letters, requests for quotations, quotations, etc., substantiating the actions taken and the responses to such actions is on file and available for review.

A list of any subcontractors (if applicable) to be used in performing the service must accompany the Bid. The list must include the subcontractors name, address, phone number, and ROC number.

Any subcontractor not listed with the bid must be approved by the County prior to providing any work pursuant to this contract. Further, contractor warrants that all subcontractors will comply with all terms and conditions of this contract. The County reserves the right to terminate the contract if the contractor fails to comply with the provisions of this certification.

☐ It is my intention to subcontract a portion of the work.

☐ It is not my intention to subcontract a portion of the work.

_____
Name of Firm

_____
By: (Signature)

_____
Title

ATTACHMENT "H"

LEGAL ARIZONA WORKERS ACT COMPLIANCE

Gila County
1400 East Ash Street
Globe, Arizona 85501

SOLICITATION NO. 092111-1

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.

Gila 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 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.

_____
Signature of Authorized Representative

_____
Printed Name

_____
Title

ATTACHMENT "I"

CHECKLIST AND ADDENDA ACKNOWLEDGEMENT

Gila County
1400 East Ash Street
Globe, Arizona 85501

SOLICITATION NO. 092111-1

NOTICE IS HEREBY GIVEN that all Bid Documents shall be completed and/or executed and submitted with this Invitation for Bid. If Contractor fails to complete and/or execute any portion of the Bid Documents, this IFB will be determined to be "non-responsive" and rejected.

CHECKLIST:

REQUIRED DOCUMENT	COMPLETED / EXECUTED
Offer & Contract Award (attachment A)	_____
Qualification & Certification Form (attachment B)	_____
Price Sheet (attachment C)	_____
References (attachment D)	_____
IRS W-9 Form (attachment E)	_____
Non-Collusion Affidavit (attachment F)	_____
Intentions Concerning Subcontractors (attachment G)	_____
Legal Arizona Works Act Compliance (attachment H)	_____

ACKNOWLEDGMENT OF RECEIPT OF ADDENDA:

	#1	#2	#3	#4	#5
Initials	_____	_____	_____	_____	_____
Date	_____	_____	_____	_____	_____

Signed and dated this _____ day of _____, 20_____

_____
CONTRACTOR:

_____
BY:

Each proposal shall be sealed in an envelope addressed to the Gila County Procurement Group and bear the following statement on the outside of the envelope: Invitation for Bid: Bid No. 092111-1 CRS-2 Chip Seal Oil. All bids shall be filed with the Gila County Procurement Group at 1400 E. Ash St., Globe, AZ on or before December 29, 2011, 11:00 AM MST.

ARF-964 **Regular Agenda Item 3- E**

Regular BOS Meeting

Meeting Date: 12/06/2011

Submitted For:	Steve Stratton, Public Works Division Director	Submitted By:	Valrie Bejarano, Contracts Support Specialist, Finance Department
Department:	Public Works Division	Division:	Administration
Fiscal Year:	FY 2011-2012	Budgeted?:	Yes
Contract Dates Begin & End:	11-1-2011 to 10-31-2031	Grant?:	No
Matching Requirement?:	No	Fund?:	Renewal
Presenter's Name:	Steve Stratton		

Information

Request/Subject

Solar Power Purchase Agreement with Tioga Solar Gila, LLC to generate and sell electricity to Gila County for the County's Central Heights Complex

Background Information

Gila County currently has a Power Purchase Agreement in place with Tioga Solar Gila, LLC for the Gila County Courthouse for solar carport structures. The new Power Purchase Agreement with Tioga will be for the County's Central Heights Complex.

Evaluation

In the agreement all costs associated with the construction and long-term maintenance will be paid for by Tioga until such time as the contract ends in 20 years or is terminated for any other cause. The solar panels will be set on top of the carport structures and will benefit the public as well as County employees. Energy purchase rate will be $0.077 per kWh.

Conclusion

The Central Heights Complex will benefit from solar energy savings from this Power Purchase Agreement as well as enjoy covered parking. By adding Central Heights along with the Courthouse, the Courthouse energy purchase rate will be lowered from $0.080 to $0.077, the same as Central Heights.

Recommendation

The Public Works Director recommends that the Board of Supervisors approve the Power Purchase Agreement with Tioga Solar Gila, LLC. The term of the contract will be 20 years.

Suggested Motion

Information/Discussion/Action to approve a Power Purchase Agreement between Tioga Solar Gila, LLC and Gila County at the Central Heights Complex whereby Tioga will provide for privately owned solar photo-voltaic energy generating systems to Gila County in the amount of $0.077 per kWh for a 20 year term. **(Steve Stratton)**

Attachments

Tioga Power Purchase Agreement for Central Heights

Legal Explanation

CONFIDENTIAL

POWER PURCHASE AGREEMENT

Dated as of

November __, 2011

between

Gila County, Arizona

and

Tioga Solar Gila, LLC

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GLOSSARY OF TERMS

EXHIBIT A – ENERGY PURCHASE RATES
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POWER PURCHASE AGREEMENT

This Power Purchase Agreement ("Agreement") is entered into as of November __, 2011, by and between Tioga Solar Gila, LLC, a Delaware limited liability company, and Gila County, an Arizona county.

WHEREAS, Gila County is the owner of the property located at 5515 Apache Ave, Globe, AZ 85501 and desires to make a portion of such property available to Tioga Solar Gila, LLC for the construction, operation and maintenance of a solar powered electric generating project, and to purchase from Provider the electric energy produced by the project.

WHEREAS, Tioga Solar Gila, LLC desires to develop, design, construct, own and operate the project located on Host's property, and sell to Gila County the electric energy produced by the project.

NOW, THEREFORE, in consideration of the premises, the covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

1. DEFINITIONS. Certain capitalized terms used in this Agreement have the meanings set forth in the attached GLOSSARY OF TERMS.

2. TERM.

(a) Term. This Agreement shall consist of an Initial Period and an Operations Period. As used herein, "Term" shall mean all of the Initial Period and the Operations Period, unless the Provider or Host terminates the Agreement prior to the end of the Initial Period pursuant to the terms of this Agreement.

(b) Initial Period. The Initial Period will begin on the date set forth above and will terminate on the earlier of (i) the Commercial Operation Date or (ii) the date the Agreement is terminated pursuant to the provisions of Section 4(b) or 4(d).

(c) Operations Period. If applicable, the Operations Period will commence on the Commercial Operation Date and will terminate at 11:59 p.m. on the last day of the month in which the twentieth (20th) anniversary of the Commercial Operation Date occurs.

(d) Extensions. Twenty-four months prior to the end of the Operations Period, the Parties will meet to discuss the extension of this Agreement on terms and conditions reflecting the then current market for solar generated electricity and with such other amendments and additional terms and conditions as the Parties may agree. Neither Party shall be obligated to agree to an extension of this Agreement.

3. ACCESS RIGHTS.

(a) Access Specifications. Host hereby grants Provider and its designees (including Installer, persons responsible for implementing the Applicable Solar Program, and Financing Party) access to the Premises, for the Term, at reasonable times and upon reasonable notice, for the purposes of designing, installing, inspecting, operating, maintaining, repairing and removing the Project, and any other purpose set forth in this Agreement, and otherwise in accordance with the provisions of this Agreement. Access Rights with respect to the Site include without limitation:

(i) Vehicular & Pedestrian Access. Reasonable vehicular and pedestrian access across the Site to the Premises as designated on Exhibit D for purposes of designing, installing, operating, maintaining, repairing and removing the Project. In exercising such access Provider shall reasonably attempt to minimize any disruption to activities occurring on the Site.

(ii) Transmission Lines & Communication Cables. The right to locate transmission lines and communications cables across the Site as designated on Exhibit D. The location of any such transmission lines and communications cables outside the areas designated on Exhibit D shall be subject to Host's approval and shall be at locations that minimize any disruption to Host's activities occurring on the Site.

(iii) Storage. Adequate storage space on the Site convenient to the Premises for materials and tools used during construction, installation, and maintenance of the Project. Provider shall be responsible for providing shelter and security for stored items during construction and installation.

(iv) Utilities. Water, drainage, electrical, and ethernet connections on the Premises for use by Provider in installing, operating and maintaining the Project.

(b) Easement Rights. Upon request by Provider, the Parties shall execute and record with the appropriate Land Registry easements and other instruments documenting the Access Rights granted by Host to Provider in this Agreement, and which shall be in form and substance indicated on Exhibit G or other form agreed by the Parties. The cost of preparation and recording shall be borne by the Provider.

(c) Remote Monitoring. Host will provide an internet portal or equivalent access by means of which Provider will communicate data from the revenue grade performance monitoring system. Provider will be responsible for connecting monitoring equipment for the Project to the internet so that it is possible for Provider and Host to remotely monitor the Project.

4. PLANNING, INSTALLATION AND OPERATION OF PROJECT.

(a) Site Assessment and Planning. During the Initial Period, Provider shall have the right, at its own expense, to assess the suitability of the Premises for the Project and shall act diligently in conducting such assessment. The assessment shall include the right to inspect the physical condition of the structures on which the Project will be located; to apply for any building permits or other governmental authorizations necessary for the construction of the Project; to arrange interconnections with the Local Electric Utility; to make any applications to the appropriate Public Utilities Commission or other agencies for receipt of payments for the Project under the Applicable Solar Program; to apply to any other governmental agencies or other persons for grants or other determinations necessary for the construction of or receipt of revenues from the Project; or to make any other investigation or determination necessary for the financing, construction, operation or maintenance of the Project.

(b) Termination of Development Activities. At any time during the Initial Period, Provider shall have the right to cease development of the Project on the Premises, for any reason, in its sole discretion. If Provider gives Host notice of such determination, this Agreement shall terminate effective as of the delivery of such notice without any further liability of the Parties to each other, provided that (i) Provider shall remove any equipment or materials which Provider has placed on the Site; (ii) Provider shall restore any portions of the Site disturbed by Provider to its pre-existing condition; (iii) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to the delivery of the notice; and (iv) the confidentiality provisions of Section 14, the indemnity obligations under Section 15 hereof, and the dispute resolution provisions of Section 23 hereof shall continue to apply notwithstanding the termination of this Agreement.

(c) Commencement of Construction, Modification of Design. At any time during the Initial Period, upon at least ten (10) Business Days notice to Host, Provider shall have the right to commence installing the Project on the Premises.

(i) As of the date hereof, Provider anticipates that the Project shall consist of the components and shall have the designs set forth in Exhibit E attached hereto.

(ii) Notwithstanding subsection (i) above, Provider has the right to modify the design of the Project, including the selection of the components in the Project, as Provider, in its sole discretion, may determine, provided, however, that such changes shall not result in the Project exceeding the nameplate capacity, building footprint, location and height set forth in Exhibits D and E, without Host's approval.

(d) Construction Commencement Deadline. If within 365 days following the date of this Agreement (not including any days in which a Force Majeure Event existed), Provider has not commenced the installation of the Project on the Premises, Host may terminate this Agreement by delivering notice to Provider of its intention to terminate this Agreement, and the Agreement shall terminate twenty-one (21) days after Provider's receipt of such notice; provided, that if Provider commences installation of the Project within such twenty-one (21) day period, this Agreement shall not terminate. Upon any termination in accordance with this Section 4(d) neither Party shall have

any further liability to the other with respect to the Project, provided that (i) Provider shall remove any equipment or materials that Provider has placed on the Site; (ii) Provider shall restore any portions of the Site disturbed by Provider to their condition prior to the commencement of construction; (iii) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to the delivery of the notice; and (iv) the confidentiality provisions of Section 14, the indemnity obligations under Section 15 hereof, and the dispute resolution provisions of Section 23 hereof shall continue to apply notwithstanding the termination of this Agreement.

(e) Contractors. Provider shall use licensed contractors to perform the work of installing, operating, and maintaining the Project. Provider intends to use Installer to perform such work, but may use other contractors, for all or a portion of such work, subject to the reasonable approval of Host. Provider shall advise Host of the Installer prior to commencement of the work on the Site. Provider shall be responsible for the conduct of Installer and its subcontractors, and Host shall have no contractual relationship with Installer or its subcontractors in connection with the work on the Project. Provider shall ensure that Installer maintains insurance applicable to the Installer's activities that satisfy the requirements in Exhibit F.

(f) Status Reports; Notice of Commercial Operation Date. Provider shall give Host regular updates, on a reasonable schedule requested by Host, on the progress of installation of the Project and shall notify Host of when Provider will commence testing of the Project. Host shall have the right to have its representatives present during the testing process, but subject to reasonable written rules and procedures as may be established by Provider and Installer. After Provider has determined, in its reasonable judgment, that the Project meets the requirements of the Local Electric Utility, has been installed in accordance with all Applicable Laws, and is capable of producing electricity on a continuous basis, Provider shall notify Host that installation of the Project is complete and shall specify the Commercial Operation Date for the Project, which may be immediately upon delivery of such notice to Host. All electricity produced by the Project prior to the Commercial Operation Date shall be delivered to Host and Host shall pay for such electricity at the rate applicable to the first Operations Year but in no event greater than the rate otherwise payable by Host to the Electric Service Provider.

(g) Standard of Operation. Provider shall design, obtain permits, install, operate, and maintain the Project so as to keep it in good condition and repair, in compliance with all Applicable Laws and in accordance with the generally accepted practices of the electric industry, in general, and the solar generation industry, in particular. Such work shall be at Provider's sole expense. Except for emergency situations or unplanned outages, Provider shall cause the work to be performed between the hours of 7:00 am and 7:00 pm, Monday through Saturday, in a manner that minimizes interference with Host and Host's employees, visitors, tenants and licensees and their customers to the extent commercially practical. Provider shall, and shall cause its contractors to, keep the Site reasonably clear of debris, waste material and rubbish, and to comply with reasonable safety procedures established by Host for conduct of business on the Site.

(h) Hazardous Materials. Provider and Installer are not responsible for any Hazardous Materials encountered at the Site except to the extent introduced by Provider. Upon encountering any Hazardous Materials, Provider and Installer will stop work in the affected area and duly notify Host and, if required by Applicable Law, any Governmental Authority with jurisdiction over the Site. Upon receiving notice of the presence of suspected Hazardous Materials at the Site, Host shall take all measures required by Applicable Law to address the Hazardous Materials discovered at the Site. Host may opt to remediate the Site so that the Project may be installed on the Site, or determine that it is not economically justifiable or is otherwise impractical to remediate the Site, in which case Host and Provider may agree upon a different location for the Project whereupon such replacement location shall be the Site for purposes of this Agreement. Provider and Installer shall be obligated to resume work at the affected area(s) of the Site only after Host notifies Provider and Installer that Host has complied with all Applicable Laws, and a qualified independent expert provides written certification that (i) remediation has been accomplished as required by Applicable Law and (ii) all necessary approvals have been obtained from any Governmental Authority having jurisdiction over the Project or the Site. Host shall reimburse Provider for all additional costs incurred by Provider or Installer in the installation of the Project resulting from the presence of and/or the remediation of Hazardous Materials, including demobilization and remobilization expenses. Notwithstanding the preceding provisions, Host is not responsible for any Hazardous Materials introduced to the Site by Provider or Installer, nor is Host required to remediate an affected area if such remediation is deemed to be economically unjustifiable or otherwise impractical.

(i) Site Security. Host will provide security for the Project to the extent of its normal security procedures, practices, and policies that apply to all Host Premises, including the Project. Host will advise Provider immediately upon observing any damage to the Project. Upon request by Provider, such as Provider receiving data

indicating irregularities or interruptions in the operation of the Project, Host shall, as quickly as reasonably practicable, send a person to observe the condition of the Project and report back to Provider on such observations.

(j) System Shut Down. Provider may shut down the Project at any time in order to perform required emergency repairs to the Project. At other times, Provider shall give Host notice of the shutdown as may be reasonable in the circumstances. Provider shall not have any obligation to reimburse Host for costs of purchasing electricity that would have been produced by the Project but for such shutdown. Provider shall not schedule shutdowns during peak periods of electric generation and periods when peak energy and demand prices are charged by the Electric Service Provider, except as may be required in accordance with prudent electric industry safety practices in the event of equipment malfunction.

(k) Applicable Solar Program Requirements. Exhibit H identifies certain requirements of the Applicable Solar Program. The Parties shall comply with the obligations identified in Exhibit H or subsequently adopted by the Applicable Solar Program. In the event of any inconsistency between the obligations of the Parties under this Agreement or any of the requirements of the Applicable Solar Program, the more stringent obligation shall govern, and if such cannot be determined, the requirements of the Applicable Solar Program shall govern.

(l) Minimum Standard of Operation. Provider shall operate the Project in a manner which achieves the weather-adjusted Minimum Standard of Operation. To the extent that after the Commercial Operation Date, the Project's output falls below the weather-adjusted Minimum Standard of Operation in any year, and Provider fails to operate the Project in a manner which achieves the Minimum Standard of Operation for a period of sixty (60) days which failure is not due to damage to the Project, act of governmental authority, or exercise of Provider's rights under this Agreement, or otherwise excused by a Force Majeure Event; and Provider fails to resume operation within thirty (30) days after receipt of notice from Host stating that, in Host's determination, Provider has ceased to achieve the Minimum Standard of Operation of the Project, Provider shall pay Host damages in an amount equal to the daily difference between the cost of electricity it would have paid Provider under this Agreement and the cost of electricity Host pays its Local Electric Utility for the same amount of electricity.

5. SALE OF ELECTRIC ENERGY.

(a) Sale of Electricity. Throughout the Operations Period, subject to the terms and conditions of this Agreement, Provider shall sell to Host and Host shall buy from Provider all electric energy produced by the Project, whether or not Host is able to use all such electric energy. The Point of Delivery of the electric energy shall be as indicated in Exhibit E. Title to and risk of loss with respect to the energy shall transfer from Provider to Host at the Point of Delivery.

(b) Delivery of Electricity. The electric energy from the Project shall be delivered from Provider to Host at the specifications set forth in Exhibit E and otherwise in compliance with all requirements of the Local Electric Utility.

(c) Limits on Obligation to Deliver. Except as provided in Section 4(l), Provider does not warrant or guarantee the amount of electric energy to be produced by the limits on Project for any hourly, daily, monthly, annual or other period. Provider is not a utility or public service company and does not assume any obligations of a utility or public service company to supply Host's electric requirements. Provider is not subject to rate review by governmental authorities.

(d) Meter Testing. Provider shall install one or more meter(s) at the Project, as Provider deems appropriate, to measure the output of the Project at the Point of Delivery. Provider shall install an Interval Data Recorder (IDR) with industry standard telemetry at the Project. Provider shall conduct tests of the meters at such times as it deems appropriate in accordance with industry standards, but not less than once in any two year period. Host shall pay for any independent testing of the meter(s) in excess of such minimum testing schedule that Host deems necessary, except if, after such testing, the meter is shown to be in error in Provider's favor by more than 2%, Provider shall pay for the cost of such test and shall make corresponding adjustments to the records of the amount of electrical energy provided by the Project delivered based on the period that is half-way in between the date of this testing and the last testing date of the meter. If there is an error of less than or equal to 2% no billing adjustments will be made. In the event there is an error of greater than 2%, Provider shall adjust the next invoice to be provided to Host under Section 6(b) hereof, to either charge the Host additional amounts for energy produced over the stated meter amount during the applicable period at the applicable rate or provide Host a credit against future billing for

energy produced under the stated meter amount during the applicable period, provided, however, that any deficiencies or credits not theretofore applied or satisfied at the expiration or earlier termination of the Operations Period shall be settled in cash.

6. PAYMENT AND BILLING.

(a) Rates. Host shall pay Provider for electricity produced by the Project at the rates set forth in Exhibit A attached hereto.

(b) Billing. Host shall pay for the electricity produced by the Project monthly in arrears. Promptly after the end of each calendar month, Provider shall provide Host with an invoice setting forth the quantity of electricity produced by the Project in such month, the applicable rates for such, and the total amount due, which shall be the product of the quantities and the applicable rates.

(c) Invoice Delivery. Invoices shall be in writing and shall be either (i) delivered by hand; (ii) mailed by first-class, registered or certified mail, return receipt requested, postage prepaid; (iii) delivered by a recognized overnight or personal delivery service; (iv) transmitted by facsimile (such transmission to be effective on the day of receipt if received prior to 5:00 pm local time on a Business Day or in any other case as of the next Business Day following the day of transmittal); or (v) transmitted by email if receipt of such transmission by email is specifically acknowledged by the recipient (automatic responses not being sufficient for acknowledgement), addressed as follows:

Gila County Finance Department
ATTN: Accounts Payable
1400 E. Ash Street
Globe, AZ 85501
accountspayable@gilacountyaz.gov

(d) Payment. Host shall pay each invoice within thirty (30) days of receipt of the invoice. Payments shall be made by electronic funds transfer to an account designated by Provider in the invoice or in a written notice delivered to Host. Any amounts not paid when due, including any amounts properly disputed and later determined to be owing, shall accrue interest on the unpaid amount at the rate equal to the lesser of (i) 1% per month, compounded monthly or (ii) the highest rate allowed by applicable law.

(e) Disputed Invoices. If Host objects to all or a portion of an invoice, Host shall, on or before the date payment of the invoice is due, (i) pay the undisputed portion of the invoice, and (ii) provide an itemized statement of its objections setting forth in reasonable detail the basis for its objections. If Host does not object prior to the date payment of any invoice is due, Host shall be obligated to pay the full amount of such invoices but Host may subsequently object to such invoice and, if such objection proves to be correct, receive a refund of the disputed amount; provided, however, that Host may not object to any invoice more than eighteen (18) months after the date on which such invoice is rendered. The right to dispute or object to an invoice, shall, subject to the time limitation provided in this Section 6(e), survive the expiration or termination of this Agreement.

7. SUPPLEMENTAL POWER, NET METERING AND RECS.

(a) Back-up and Supplemental Electricity. Except as otherwise provided herein, throughout the Term, Host shall be responsible for obtaining all of its requirements for electric energy in excess of the amounts produced by the Project and pay for such service pursuant to contracts with or applicable tariffs of the Local Electric Utility or other Electric Service Provider. Provider shall have no obligation to obtain or pay for such supplemental or back-up electricity.

(b) Net Metering & Utility Credits. At any time that electric production from the Project is greater than Host's requirements at such time, Host shall nevertheless pay Provider for all of the electricity produced by the Project at the rates and in the manner provided in this Agreement. Host may make arrangements with the Local Electric Utility so that power in excess of Host's requirements may be delivered to the Local Electric Utility through the Point of Delivery and Host shall receive any credits or payments from the Local Electric Utility may be available under net metering or similar programs. If Applicable Law or the practice of the Local Electric Utility restricts the ability of

the Host to deliver electricity produced by the Project to the Local Electric Utility, then the Parties shall agree on alternate arrangements to enable Host, insofar as possible, to receive benefits from the Local Electric Utility comparable to those available under net metering programs, provided that the economic benefits to Provider remain as provided in this Section 7(b).

(c) Interconnection. Provider shall be responsible for arranging the interconnection of the Project with Host's Local Electric Utility in a manner which includes bi-directional or "net metering".

(d) Applicable Solar Program Incentives. Except as provided in Section 7(b), Provider shall receive all payments available under the Applicable Solar Program. Host shall provide reasonable assistance to Provider in preparing all applications and other documents necessary for Provider to receive such payments, including designating Provider as the customer for purposes of the Applicable Solar Program or assigning payments from the Applicable Solar Program to Provider. If Host receives any payments under the Applicable Solar Program or other programs in respect of the Project, it shall promptly pay them over to Provider. Host's obligation to make any payments to Provider under this paragraph (d) is limited to any payments actually received by Host.

(e) Ownership of Tax Attributes. Provider (and/or Financing Party) shall be the owner of any Tax Attributes that may arise as a result of the operation of the Project and shall be entitled to transfer such Tax Attributes to any person. Host shall provide reasonable assistance to Provider in preparing all documents necessary for Provider to receive such Tax Attributes, and if Host is deemed to be the owner of any such Tax Attributes, Host shall assign the same (or the proceeds thereof) to Provider. If Host receives any payments in respect of such Tax Attributes, it shall promptly pay them over to Provider.

(f) Environmental Attributes.

(i) For the first fifteen (15) Operations Years, Host shall be the owner of any Environmental Attributes which may arise as a result of the operation of the Project; provided however, Host shall transfer such Environmental Attributes pursuant to the terms of the Credit Purchase Agreement. Provider shall provide reasonable assistance to Host in preparing all documents necessary for Provider to receive such Environmental Attributes. Host hereby acknowledges that all payments by under the Credit Purchase Agreement have been assigned to Provider pursuant to Section 11 of the Credit Purchase Agreement.

(ii) Host shall make best efforts to assign the Credit Purchase Agreement to Provider. Upon the effectiveness of such assignment, and after the end of the fifteenth (15th) Operations Year, Provider shall become the owner of any Environmental Attributes which may arise as a result of the operation of the Project. Upon Provider becoming the owner of Environmental Attributes pursuant to this subsection (ii), if Host is deemed to be the owner of any such Environmental Attributes, Host shall assign the same (or the proceeds thereof) to Provider If Host receives any payments in respect of such Environmental Attributes, it shall promptly pay them over to Provider.

(g) Capacity & Ancillary Services. Provider shall be entitled to receive any payments for electric capacity or ancillary services that may become available as a result of the construction or operation of the Project. Host shall provide reasonable assistance to Provider in preparing all documents necessary for Provider to receive such payments, and if Host is deemed to be the owner or provider of such capacity or services, Host shall assign the same to Provider. If Host receives any payments in respect of capacity or such services it shall promptly pay them over to Provider.

(h) No Resale of Electricity. Except as contemplated by the provisions of Section 7(b), the electricity purchased by Host from Provider under this Agreement shall not be resold, assigned or otherwise transferred to any other person without prior approval of the Provider, which approval shall not be unreasonably withheld, and Host shall not take any action which would cause Host or Provider to become a utility or public service company.

(i) Provider Is Not A Utility. Neither Party shall assert that Provider is an electric utility or public service company or similar entity that has a duty to provide service, is subject to rate regulation, or is otherwise subject to regulation by any governmental authority as a result of Provider's obligations or performance under this Agreement.

8. PERMITS, OWNERSHIP OF PROJECT, LIENS, MORTGAGES

(a) Permits. Provider shall pay for and obtain all approvals from governmental entities necessary for the construction and operation of the Project, including land use permits, building permits, demolition and waste disposal permits and approval.

(b) System Ownership. Except as provided in Section 9, Provider or Financing Party shall be the legal and beneficial owner of the Project at all times. The Project is personal property and shall not attach to or be deemed a part of, or fixture to, the Site. The Project shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code. Host covenants that it will place all persons having an interest in or lien upon the real property comprising the Premises, on notice of the ownership of the Project and the legal status or classification of the Project as personal property. Host and/or Provider shall make any necessary filings to disclaim the Project as a fixture of its respective Premises and Site in the appropriate Land Registry to place all interested parties on notice of the ownership of the Project by Provider.

(c) Liens. To the extent permitted by Applicable Law, each Party shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien, (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim of any nature, including claims by governmental authorities for taxes (collectively referred to as "Liens" and each, individually, a "Lien") on or with respect to the interests of the other in the Site, the Premises, and the Project, and in the Access Rights granted hereunder. Provider shall, to the extent allowed under Applicable Law, have Installer and its subcontractors execute lien waivers with respect to any mechanic's or materialman's lien against Host's interest in the Site. If permitted under Applicable Law, Host will post notices of non-responsibility to notify Installer and others that Host is not responsible for work performed on the Project. Each Party shall promptly notify the other of the imposition of a Lien on the property interests of the other Party, and shall promptly discharge such lien, provided however, that a Party may seek to contest the amount or validity of any Lien affecting the property of the other Party, provided it timely complies with all procedures for contesting such Lien, posts any bond or other security necessary under such procedures, and if such procedures do not require the posting of security, the Party establishes for the benefit of the other Party a deposit, letter of credit, or other security acceptable to the other Party to indemnify the other Party against any Loss which could reasonably be expected to arise if such Lien is not removed or discharged.

(d) Non Disturbance Agreements. Host shall pay for and obtain all consents required for it to enter into and perform its obligations under this Agreement from its lenders, landlord, tenants, and any other persons with interests in the Site. If there is any mortgage or fixture filing against the Premises which could reasonably be construed as prospectively attaching to the Project, Host shall promptly upon request of Provider, provide an acknowledgement and consent from such lienholder, in form and substance reasonably acceptable to Financing Party, stating that the ownership of the Project remains in Provider and further acknowledging that the Project is personal property of Provider and agreeing not to disturb the rights of Provider in the Project and under this Agreement. If Host is the fee owner of the Premises, Host consents to the filing of a disclaimer of the Project as a fixture of the Premises in the Land Registry. If Host is not the fee owner, Host will obtain such consent from such owner of the Premises. Such acknowledgment and consents, or acceptable notices thereof, shall be recorded, at Host's expense, in the appropriate Land Registry. Host may in the future mortgage, pledge, and grant security interests in all or a portion of the Site and the improvements thereon, provided the mortgagee or other grantee of the encumbrance acknowledges this Agreement, the Project, the Access Rights granted hereunder, and the priority of Provider's (and/or Financing Party's) rights in the Project and the Access Rights.

9. PURCHASE OPTIONS; REMOVAL AT END OF TERM.

(a) Early Purchase Options. On the seventh (7th), tenth (10th) and fifteenth (15th) anniversary of the Commercial Operation Date, provided no Host Event of Default has occurred and is continuing, the Host shall have the option to purchase the Project from Provider at a price which will be the greater of (i) the Fair Market Value of the Project at such anniversary date or (ii) the Early Termination Amount, plus, if applicable, repayment or recapture of Applicable Solar Program or other governmental payments occasioned by the exercise of such option. If Host desires to exercise this option, it shall no later than ninety (90) days prior to the applicable anniversary date notify Provider of its election to exercise the option, and on or before ninety (90) days after such anniversary date shall pay the purchase price to Provider by electronic transfer in immediately available funds to an account designated by Provider. At any time following receipt of the notice from Host, but no later than thirty (30) days after the date Host gives notice of its election to exercise the option, Provider may notify Host if it believes the Fair Market Value of the

Project exceeds the Early Termination Amount, and, in the same notice, Provider shall provide Host an appraisal of the Fair Market Value. If Host agrees with the appraisal of the Fair Market Value it shall pay such sum to Provider. If Host disagrees with the appraisal's estimate of the Fair Market Value of the Project, Host may request that the Parties meet to discuss the appraisal. If the Parties cannot agree within ten (10) days of the Host's receipt of the appraisal of the Fair Market Value, the Parties will be deemed to enter into a Dispute for purposes of Section 23(a) and shall follow the procedures in Section 23(c) for resolution of the Dispute. Notwithstanding the foregoing, in the event that Provider enters into a sale/leaseback transaction in connection with funding the installation of the Project, the process of determining the Fair Market Value of the Project in this Agreement shall be undertaken by a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry acting reasonably and in good faith to determine the Fair Market Value of the Project and shall be undertaken consistently with the terms of such transaction so that the process for determining Fair Market Value under this Agreement shall be the same as provided in the agreements for such sale/leaseback transaction.

(b) End of Term Purchase Option. Host shall have the right to purchase the Project from Provider at the expiration of the Operations Period at the then Fair Market Value of the Project. No earlier than twelve months prior to the expiration of such Operations Period and no later than nine (9) months prior to the expiration of the Operations Period, Host shall notify Provider of its intent to exercise the option. Within ninety-one (91) days of its receipt of such notice, Provider shall give Host its appraisal of the Fair Market Value of the Project at the end of the Term. Host may, but is not obligated to, accept such appraisal. If Host does not accept such appraisal within ten (10) days of receiving the appraisal from Provider, the Parties shall meet to discuss the appraisal. If they are unable to reach agreement within twenty (20) days of the Host's receipt of the appraisal from Provider, the Parties will be deemed to enter into a dispute for purposes of Section 23(a) and shall follow the procedures in Section 23 for resolution of the dispute. Notwithstanding the foregoing, in the event that Provider enters into a sale/leaseback transaction in connection with funding the installation of the Project, the process of determining the Fair Market Value of the Project in this Agreement shall be undertaken by a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry acting reasonably and in good faith to determine the Fair Market Value of the Project and shall be undertaken consistently with the terms of such transaction so that the process for determining Fair Market Value under this Agreement shall be the same as provided in the agreements for such sale/leaseback transaction.

(c) Transfer of Ownership. Upon Host's notice that it elects to exercise the option set forth in either Section 9(a) or 9(b) above, Provider shall prepare and deliver to Host a set of records on the operation and maintenance history of the Project, including a summary of known defects. Upon payment of the purchase price, Provider shall deliver, or cause to be delivered, to Host a bill of sale conveying the Project to Host. Such bill of sale shall not contain any warranties other than a warranty against any defects in title arising through Provider. Provider shall use all reasonable efforts to transfer any remaining manufacturer's warranties on the Project, or portions thereof, to Host.

(d) Operation & Maintenance After Sale. Prior to the effective date of Host's purchase of the Project under Section 9(a) or 9(b), Host and Provider shall discuss entering into an operation and maintenance agreement under which Provider shall perform all or a portion of the operation and maintenance requirements of the Project following Host's purchase of the Project. However, neither Party shall be under an obligation to enter into such an agreement.

(e) Decommissioning. If Host does not exercise the option set forth in Section 9(b) above, then Provider, at its expense, shall promptly decommission and remove the Project following the expiration of the Operations Period. Provider shall not be obligated, however, to remove any support structures for the Project which are affixed to Host's structures or any below grade structures, including foundations and conduits, or any roads. Host grants Provider and its representatives reasonable vehicular and pedestrian access across the Site to the Premises for purposes of decommissioning the Project. In exercising such access and performing the decommissioning, Provider shall reasonably attempt to minimize any disruption to activities occurring on the Site. Host will provide Provider adequate storage space on the Site convenient to the Premises for materials and tools used during decommissioning. Provider shall be responsible for providing shelter and security for stored items during de-commissioning and removal. Host further agrees that its normal security measures, practices, and policies which apply to its own Premises shall also apply to the Project. During decommissioning, Provider will comply with all Applicable Laws.

(f) No Survival of Purchase Option. The options for Host to purchase the Project under Sections 9(a) and 9(b) shall not survive the termination of this Agreement.

10. SHUTDOWNS, RELOCATION; CLOSURE OR SALE OF SITE.

(a) Host Requested Shutdown. Host from time to time may request Provider to temporarily stop operation of the Project for a period no longer than thirty (30) days, such request to be reasonably related to Host's activities in maintaining and improving the Site. During any such shutdown period (but not including periods of Force Majeure), Host will pay Provider an amount equal to the sum of (i) payments that Host would have made to Provider hereunder for electric energy that would have been produced by the Project during the period of the shutdown; (ii) revenues that Provider would have received with respect to the Project under the Applicable Solar Program and any other assistance program with respect to electric energy that would have been produced during the period of the shutdown; and (iii) revenues from Environmental Attributes and Tax Attributes that Provider would have received with respect to electric energy that would have been produced by the Project during the period of the shutdown. Determination of the amount of energy that would have been produced during the period of the shutdown shall be based, during the first Operations Year, on estimated levels of production and, after the first Operations Year, based on actual operation of the Project during the same period in the previous Operations Year, unless Provider and Host mutually agree to an alternative methodology.

(b) Provider Safety Shutdown. In addition to the right of Provider to shut down the Project for maintenance as provided in Section 4(j), Provider may shutdown the Project if Provider, in the exercise of reasonable judgment, believes Site conditions or activities of persons on a Site, which are not under the control of Provider, whether or not under the control of Host, may interfere with the safe operation of the Project. Provider shall give Host notice of a shutdown immediately upon becoming aware of the potential for such conditions or activities. Provider and Host shall cooperate and coordinate their respective efforts to restore Site conditions so as to not interfere with the safe operation of the Project and to reduce, to the greatest extent practicable, the duration of the shutdown. In the event of such a shutdown, Host shall be deemed to have acted under Section 10(a) to shut down the Project, and shall pay Provider the amounts described in Section 10(a) with respect to the period of the shutdown, except that Host shall not be required to pay such amounts relative to any time period prior to Provider's notice of the shutdown or during any Force Majeure Event. If a shutdown pursuant to this Section 10(b) continues for one hundred and eighty (180) days or longer, Provider may terminate this Agreement and require Host to pay the Early Termination Amount.

(c) Project Relocation. Host may request to move the Project to another location on the Site or to another site owned by Host, but any such relocation shall be subject to the approval of Provider and Financing Party in each of their sole discretion. In connection with such relocation, Host shall execute an amendment to this Agreement reflecting the new location of the Project but otherwise continuing all the terms and conditions of this Agreement for the remaining term of this Agreement. Host shall also provide any consents or releases required by Provider in connection with the new location. Host shall pay all costs associated with the removal and relocation of the Project, including installation and testing costs and interconnection costs. In addition, during the Relocation Event, Host will pay Provider an amount equal to the sum of (i) payments that Host would have made to Provider hereunder for electric energy that would have been produced by the Project following the Relocation Event; (ii) revenues that Provider would have received with respect to the Project under the Applicable Solar Program and any other assistance program with respect to electric energy that would have been produced following the Relocation Event; and (iii) revenues from Environmental Attributes and Tax Attributes that Provider would have received with respect to electric energy that would have been produced by the Project following the Relocation Event. Determination of the amount of energy that would have been produced following the Relocation Event shall be based, during the first Operations Year, on the estimated levels of production and, after the first Operations Year, based on actual operation of the Project in the same period in the previous Operations Year, unless Provider and Host mutually agree to an alternative methodology.

(d) Premises Shutdown; Interconnection Deactivated. In the event Premises are closed as a result of an event that is not (i) a Force Majeure Event or (ii) caused by or related to any unexcused action or inaction of Provider, Host shall nevertheless continue to pay Provider for all electricity produced by the Project on the Premises and delivered to the Point of Delivery. If an interconnection with the Local Electric Utility becomes deactivated for reasons that are not (i) a Force Majeure Event or (ii) caused by or related to any unexcused action or inaction of Provider such that the Project is no longer able to produce electricity or transfer electricity to its respective Premises or to the Local Electric Utility, Host will pay Provider an amount equal to the sum of (A) payments that Host would have made to Provider hereunder for electric energy that would have been produced by the Project following such closure; (B) revenues that Provider would have received with respect to the Project under the Applicable Solar Program and any other assistance program with respect to electric energy that would have been produced following such closure; and (C) revenues from Environmental Attributes that Provider would have received with respect to

electric energy that would have been produced by the Project following such closure. Determination of the amount of energy that would have been produced following such closure shall be based, during the first Operations Year, on the estimated levels of production and, after the first Operations Year, based on actual operation of the Project in the same period in the previous Operations Year, unless Provider and Host mutually agree to an alternative methodology. If a shutdown pursuant to this Section 10(d) continues for one hundred and eighty (180) days or longer, Provider may terminate this Agreement and require Host to pay the Early Termination Amount.

(e) Sale of Site. In the event Host transfers (by sale, lease or otherwise) all or a portion of its interest in the Site, Host shall remain primarily liable to Provider for the performance of the obligations of Host hereunder notwithstanding such transfer. However, if no Host Event of Default has occurred and is continuing and the transferee is acceptable to Provider and Financing Party in their sole discretion and executes agreements assuming this Agreement in form and substance satisfactory to Provider and Financing Party in their sole discretion, Host may be released from further obligations under this Agreement.

11. TAXES.

(a) Income Taxes. Provider shall be responsible for any and all income taxes associated with payments from Host to Provider for electric energy from the Project. Provider (and/or Financing Party), as owner of the Project, shall be entitled to all Tax Attributes with respect to the Project.

(b) Sales Taxes. Host shall be responsible for all taxes, fees, and charges, including sales, use, and gross receipts taxes, imposed or authorized by any Governmental Authority on the sale of electric energy by Provider to Host. Host shall timely report, make filings for, and pay any and all such taxes assessed directly against it and shall reimburse Provider for any and all such taxes assessed against and paid by Provider.

(c) Property Taxes. Host shall be responsible for all ad valorem personal property or real property taxes levied against the Site, improvements thereto and personal property located thereon, except that Provider shall be responsible for ad valorem personal property or real property taxes levied against the Project. If Host is assessed any taxes related to the existence of the Project on the Premises, Host shall immediately notify Provider. Host and Provider shall cooperate in contesting any such assessment; provided, however, that Host shall pay such taxes to avoid any penalties or interest on such Taxes, subject to reimbursement by Provider. If after resolution of the matter, such tax is imposed upon Host related to the improvement of real property by the existence of the Project on the Site, Provider shall reimburse Host for such tax.

(d) Tax Contests. Each Party has the right to contest taxes in accordance with Applicable Law and the terms of encumbrances against the Site. Each Party shall use all reasonable efforts to cooperate with the other in any such contests of tax assessments or payments. In no event shall either Party postpone during the pendency of an appeal of a tax assessment the payment of taxes otherwise due except to the extent such postponement in payment has been bonded or otherwise secured in accordance with Applicable Law.

(e) Payment of Delinquent Taxes. In the event either Party fails to pay any taxes that may become a lien upon the other Party's property, such Party may pay such amounts and in such event shall be entitled to recover such paid amount from the other Party, together with interest thereon at the rate of one percent (1%) per month, compounded monthly.

(f) Reimbursement Deadline. Any reimbursement of taxes owing pursuant to this Section 11 shall be paid within twenty (20) Business Days of receiving an invoice therefor from the Party who paid the taxes.

12. INSURANCE.

(a) Coverage. Host and Provider shall each maintain the insurance coverage set forth in Exhibit F in full force and effect throughout the Term.

(b) Applicable Solar Program Requirements. Host and Provider will also maintain the additional insurance requirements (if any) specified in Exhibit H to satisfy the requirements of the Applicable Solar Program.

(c) Insurance Certificates. Each Party shall furnish current certificates indicating that the insurance required under this Section 12 is being maintained. Each Party's insurance policy provided hereunder shall contain a provision whereby the insurer agrees to give the other Party thirty (30) days written notice before the insurance is cancelled or materially altered.

(d) Certain Insurance Provisions. Each Party's insurance policy shall be written on an occurrence basis and shall include the other Party as an additional insured as its interest may appear. A cross liability clause shall be made part of the policy. Each Party's insurer shall waive all rights of subrogation against the other Party except in the case of such Party's negligence or willful misconduct.

(e) Insurance Providers. All insurance maintained hereunder shall be maintained with companies rated no less than A- as to Policy Holder's Rating in the current edition of Best's Insurance Guide (or with an association of companies each of the members of which are so rated).

13. COOPERATION; SOLAR ACCESS; FUTURE IMPROVEMENTS.

(a) Cooperation. The Parties acknowledge that the performance of each Party's obligations under this Agreement will frequently require the assistance and cooperation of the other Party. Each Party therefore agrees, in addition to those provisions in this Agreement specifically providing for assistance from one Party to the other, that it will at all times during the Term cooperate with the other Party and provide all reasonable assistance to the other Party to help the other Party perform its obligations hereunder.

(b) Host to Not Restrict Solar Access. Host, or any lessee, grantee or licensee of Host, shall not erect any structures on, or make other modifications to, or plantings on, the Site which will interfere with the construction, operation or maintenance of, or solar access of, the Project.

(c) Adjoining Properties. If Applicable Law and existing easements do not ensure that structures or plantings on adjoining property will not interfere with the solar access for the Project, then Host and Provider shall work together to obtain from owners of adjoining properties any easements reasonably necessary to protect the solar access of the Project. Such easements shall run for the benefit of both Host and Provider. Provider shall pay for the expense of obtaining such easements, including payments to property owners and legal costs, but the rates payable by Host for electric energy from the Project shall be increased by an amount sufficient for Provider to fully amortize such costs, over a period equal to the lesser of (i) ten years and (ii) the remaining term of this Agreement without regard to Host's option to purchase the Project.

14. PRESS RELEASES AND CONFIDENTIALITY.

(a) Press Releases. Subject to Section 14(b), the Parties acknowledge that they each desire to publicize information about this Agreement and the Project. The Parties therefore agree that each may make independent press releases about entering into this Agreement, the size and location of the Project, and the identity of the other Party, without the prior written consent of the other Party. Notwithstanding the foregoing, Provider has the exclusive right to (i) claim that electric energy provided to Host was generated by the Project, (ii) Provider is responsible for the reductions in emissions of pollution and greenhouse gases resulting from the generation of such electric energy and (iii) Provider is entitled to all credits, certificates, registrations, etc., evidencing or representing any of the foregoing except as otherwise expressly provided in this Agreement. Buyer shall not make any claims with respect to (i) through (iii) in any such independent press release.

(b) Limits on Disclosure of Confidential Information. Subject to the exceptions set forth below in Section 14(c), Provider (the "Disclosing Party) and Buyer ("Receiving Party") agree that, (i) pursuant to A.R.S. § 30-808, without the consent of the Disclosing Party, Receiving Party shall not to disclose any Confidential Information received from Disclosing Party to any other person and (ii) Receiving Party shall use any Confidential Information received from Disclosing Party only for the purpose of fulfilling its obligations under this Agreement. Notwithstanding the foregoing, the Parties may, and shall, disclose any information required to be disclosed under rules, regulations and contracts implementing the Applicable Solar Program or Tax Attributes required to be disclosed by any Governmental Authority under Applicable Law or pursuant to a validly issued subpoena or required filing.

(c) Permissible Disclosures. Provider may provide this Agreement, and any correspondence, notices and other information related to this Agreement to any person who has provided or who is interested in providing construction or permanent financing, or any refinancing thereof, to Provider in connection with the Project. In addition, if the Receiving Party is required by Applicable Law, validly issued subpoena, required filing, or the rules of any stock exchange, to disclose any Confidential Information provided by the Disclosing Party, the Receiving Party may make disclosure as required by law, but the Receiving Party shall prior to making any disclosure notify the Disclosing Party of the requested disclosure and shall use its reasonable efforts to cooperate with the Disclosing Party, but at the expense of the Disclosing Party, in any efforts by the Disclosing Party to minimize the extent of the Confidential Information disclosed and the persons to whom disclosed.

(d) Enforcement of Confidentiality Provisions. Each Party acknowledges that it may be impossible to measure the damages which may result from a breach of this Section 14 and agrees that the provisions of this Section 14 may be required to be specifically performed and each Party shall have the right to obtain preliminary and permanent injunctive relief to secure specific performance of the terms of this Section 14. The provisions of this Section 14 shall survive until three years after the effective date of any termination of this Agreement.

15. INDEMNIFICATION.

(a) Provider Indemnification. Provider shall indemnify, defend and hold Host and its directors, officers, employees, agents, volunteers, and invitees ("Host's Indemnified Parties"), harmless from and against all Losses incurred by the Host Indemnified Parties to the extent arising from or out of the following: (i) any claim for or arising out of any injury to or death of any Person or loss or damage to property to the extent arising out of Provider's (or its contractor's) negligence or willful misconduct; (ii) Provider's violation of Applicable Law; (iii) any failure to properly interconnect or comply with the procedures of the Local Electric Utility; or (iv) any failure to properly handle or dispose of any Hazardous Materials brought onto the Site by Provider or by any of Provider's employees, agents, volunteers, and invitees. Such duty to indemnify with respect to any injuries to persons or damage to property arising from the generation of electricity from the Project shall not extend to incidents occurring on Host's side of the Point of Delivery except to the extent caused by incidents on Provider's side of the Point of Delivery. Such duty to indemnify shall not apply to any action or claim, whether in tort (including negligence and strict liability), contract or otherwise for any loss, injury, or costs resulting from interruptions in service. Provider shall not be obligated to indemnify Host or any Host Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of Host or any Host Indemnified Party.

(b) Host Indemnification. Host shall indemnify, defend and hold Provider, its contractors, subcontractors, shareholders, directors, officers, employees, agents, and invitees, and Financing Party ("Provider's Indemnified Parties"), harmless from and against all Losses incurred by the Provider's Indemnified Parties to the extent arising from or out of (i) any claim for or injury to or death of any Person or loss or damage to property to the extent arising out of the negligence or willful misconduct of any of Host's Indemnified Parties; (ii) Host's violation of Applicable Law; or (iii) the presence, removal or remediation of any Hazardous Materials on the Site (other than any Hazardous Materials brought on to the Site by Provider's Indemnified Parties). Host shall not be obligated to indemnify Provider or any Provider Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of Provider or any Provider Indemnified Party.

(c) Notice of Claims. Whenever any claim arises for indemnification under this Agreement, the Indemnified Person shall notify the Indemnifying Party in writing as soon as possible (but in any event prior to the time by which the interest of the Indemnifying Party will be materially prejudiced as a result of its failure to have received such notice) after the Indemnified Person has knowledge of the facts constituting the basis for such claim (the "Notice of Claim"). Such Notice of Claim shall specify all facts known to the Indemnified Person giving rise to the indemnification right and the amount or an assessment of the amount of the liability arising therefrom.

(d) Defense of Claims. The Indemnifying Party has the right, but not the obligation to assume the defense or the matter for which indemnification is sought hereunder. If the Indemnifying Party does not assume the defense, it shall timely pay all costs of counsel and case expenses incurred by Indemnified Person in connection with the defense, when and as incurred. If the Indemnifying Party assumes the defense, the Indemnified Person has the right to hire its own counsel to defend it, but the Indemnified Person shall be responsible for the reasonable costs of such counsel. The Indemnifying Party shall not consent to the entry of any judgment or enter into any settlement with respect to the matter for which indemnification is sought without the prior written consent of the Indemnified Person

(which consent shall not be unreasonably withheld) unless the judgment or settlement involves the payment of money damages only and does not require the acknowledgement of the validity of any claim.

(e) Payments. At the time that the Indemnifying Party makes any indemnity payments under this Agreement, the indemnification payment shall be adjusted such that the payment will result in the Indemnified Person receiving an indemnity payment equal to the Loss after taking into account (i) all federal, state, and local income taxes that are actually payable to the Indemnified Person with respect to the receipt of such payment and (ii) all national, state, and local tax deductions allowable to the Indemnified Person for any items of loss and deduction for which the Indemnified Party is being indemnified.

(f) Survival of Indemnification. The obligations of indemnification hereunder shall survive termination of this Agreement.

16. REPRESENTATIONS AND WARRANTIES.

(a) Mutual Representations. Each Party hereby represents and warrants to the other, as of date hereof, that:

(i) Organization. It is duly organized, validly existing and in good standing under the laws of its state of organization and of the state in which the Premises are located, respectively, and has the power and authority to enter into this Agreement and to perform its obligations hereunder.

(ii) No Conflict. The execution and delivery of this Agreement and the performance of and compliance with the provisions of this Agreement will not conflict with or constitute a breach of or a default under (A) its organizational documents; (B) any agreement or other obligation by which it is bound; (B) any law or regulation.

(iii) Enforceability. (A) All actions required to be taken by or on the part of such Party necessary to make this Agreement effective have been duly and validly taken; (B) this Agreement has been duly and validly authorized, executed and delivered on behalf of such Party; and (B) this Agreement constitutes a legal, valid and binding obligation of such Party, enforceable in accordance with its terms, subject to laws of bankruptcy, insolvency, reorganization, moratorium or other similar laws.

(iv) No Material Litigation. There are no court orders, actions, suits or proceedings at law or in equity by or before any governmental authority, arbitral tribunal or other body, or threatened against or affecting it or brought or asserted by it in any court or before any arbitrator of any kind or before or by any governmental authority that could reasonably be expected to have a material adverse effect on it or its ability to perform its obligations under this Agreement, or the validity or enforceability of this Agreement.

(b) Host Representations. In addition to the representations and warranties in Section 16(a), Host hereby represents and warrants to Provider, as of date hereof, that:

(i) Electric Usage. Host has provided to Provider complete and correct records of its electric usage at the Site for the preceding one (1) year.

(ii) Condition of Premises. Host has provided to Provider Host's complete and correct records of the physical condition of the Premises. If it is discovered that the actual site conditions on part of, or on the entire Premises upon which all or part of the Project is to be installed, are materially different from the information presented by Host, then if practicable the rates payable by Host hereunder shall be adjusted to compensate Provider for the cost of design and construction changes and delays incurred to adapt the Project to the unknown conditions. If such adjustment is not practicable, Provider shall have other rights under this Agreement.

(iii) Financial Information. The financial statements Host has provided to Provider present fairly in all material respects the financial condition and results of operations of Host.

(iv) Credit Purchase Agreement. The Host has assigned all payments under the Credit Purchase Agreement to the Provider, pursuant to the Credit Purchase Agreement.

17. FORCE MAJEURE.

(a) Excuse for Force Majeure Event. Except as provided in Section 17(b) or otherwise specifically provided in this Agreement, neither Party shall be considered in breach of this Agreement or liable for any delay or failure to comply with this Agreement, if and to the extent that such delay or failure is attributable to the occurrence of a Force Majeure Event; provided that the Party claiming relief as a result of the Force Majeure Event shall promptly (i) notify the other Party in writing of the existence and details of the Force Majeure Event; (ii) exercise all reasonable efforts to minimize delay caused by such Force Majeure Event; (iii) notify the other Party in writing of the cessation of such Force Majeure Event; and (iv) resume performance of its obligations hereunder as soon as practicable thereafter.

(b) No Excuse for Payment for Prior Services. Obligations to make payments for services already provided shall not be excused by a Force Majeure Event.

(c) Restoration. In the event of a casualty event, to the extent that such casualty event is attributable to the occurrence of a Force Majeure Event, which destroys all or a substantial portion of the Premises, Host shall elect, within ninety (90) days of such event, whether it will restore the Premises, which restoration will be at the sole expense of Host. If Host does not elect to restore the Premises, then Provider shall not restore the Project and this Agreement will terminate. If Host does elect to restore the Premises, Host shall provide notice of such election to Provider and Provider shall then elect, within ninety (90) days of receipt of such notice, whether or not to restore the Project, subject to the Parties agreeing on a schedule for the restoration of the Premises and an equitable extension to the Term of this Agreement. If the Parties are not able to so agree or if Provider does not elect to restore the Project, Provider shall promptly remove any portions of the Project remaining on the Premises, and this Agreement shall terminate. If Provider does elect to restore the Project, it shall do so at its sole expense. In the event of termination of this Agreement pursuant to this Section 17(c), (i) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to the casualty event; and (ii) the confidentiality provisions of Section 14, the indemnity obligations under Section 15 hereof, and the dispute resolution provisions of Section 23 hereof shall continue to apply notwithstanding the termination of this Agreement.

(d) Termination for Force Majeure Event. Notwithstanding anything to the contrary in this Section 17, if nonperformance on account of a Force Majeure Event continues beyond a continuous period of three hundred and sixty-five (365) days, then either Party shall have the right to terminate this Agreement upon thirty (30) days notice to the other. Upon such termination, Provider shall be required to decommission and remove the Project from the applicable Site in accordance with the provisions of Section 9(e) (unless there has been a casualty event, in which case the provisions of clause (c) above shall apply to the removal of the Project). In the event of such a termination of this Agreement with respect to the Project, the Parties shall not be released from any payment or other obligation arising under this Agreement which accrued prior to the shutdown of the Project or the Premises, and the indemnity, confidentiality and dispute resolution provisions of this Agreement shall survive the termination of this Agreement.

18. CHANGE IN LAW.

In the event there is a Change in Law that is applicable to the operation of the Project, the sale of electric energy produced by the Project, or any other obligation of the Provider hereunder, and compliance with the Change in Law results in an increase in Provider's costs to operate and/or maintain the Project, Provider will promptly submit to Host a written notice setting forth (i) the applicable Change in Law; (ii) the manner in which such Change in Law increases Provider's costs; and (iii) Provider's proposed adjustment to the then applicable and future rates for electric energy in this Agreement to reflect such increases in costs. Host agrees to an adjustment in the then applicable and future rates such that the new rates compensate Provider for the total cost increase arising from the Change in Law and said adjustment will remain in effect for as long as the costs arising from the Change in Law continue to be incurred by the Provider; provided, however any such increase shall be no greater than ten percent (10%) of the rates set forth in Exhibit A.

19. PROVIDER DEFAULT AND HOST REMEDIES.

(a) Provider Events of Default. Provider shall be in default of this Agreement if any of the following ("Provider Events of Default") shall occur:

(i) Misrepresentation. Any representation or warranty by Provider under Section 16 hereof, is incorrect or incomplete in any material way, or omits to include any information necessary to make such representation or warranty not materially misleading, and such defect is not cured within fifteen (15) days after receipt of notice from Host identifying the defect.

(ii) Abandonment During Installation. After commencement of installation of the Project, Provider abandons installation of the Project for thirty (30) days and fails to resume installation within thirty (30) days after receipt of notice from Host stating that, in Host's reasonable determination, Provider has abandoned installation of the Project.

(iii) Failure to Operate. After the Commercial Operation Date, Provider fails to operate the Project for a period of 90 days which failure is not due to equipment failure, or damage to the Project, act of governmental authority, or exercise of Provider's rights under this Agreement, or otherwise excused by the provisions of Section 17(b) (relating to Force Majeure Events); and Provider fails to resume operation within thirty (30) days after receipt of notice from Host stating that, in Host's reasonable determination, Provider has ceased operation of the Project , provided, however, that the cure period shall be extended by the number of calendar days during which Provider is prevented from taking curative action if Provider had begun curative action and was proceeding diligently, using commercially reasonable efforts, to complete such curative action.

(iv) Obligation Failure. Provider fails to perform any obligation hereunder, such failure is material, such failure is not excused by the provisions of Section 17(b) (relating to Force Majeure Events), and such failure is not cured within: (A) ten (10) days if the failure involves a failure to make payment when due or maintain required insurance; or (B) sixty (60) days if the failure involves an obligation other than payment or the maintenance of insurance, after receipt of notice from Host identifying the failure.

(v) Insolvency. Provider (A) applies for or consents to the appointment, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or a substantial portion of its property; (B) admits in writing its inability, or is generally unable, to pay its debts as such debts become due; (C) makes a general assignment for the benefit of its creditors; (D) commences a voluntary case under any bankruptcy law; (E) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (F) acquiesces in, or fails to contest in a timely manner, any petition filed against Provider in an involuntary case under bankruptcy law or seeking to dissolve Provider under other Applicable Law; or (G) takes any action authorizing its dissolution.

(b) Financing Party Opportunity to Cure; Host Remedies. Upon an Event of Default by Provider, provided that Host complies with its obligations under Section 21 and Financing Party does not cure such Event of Default by Provider, Host may terminate this Agreement, seek to recover damages for costs of replacement electricity and pursue other remedies available at law or equity.

20. HOST DEFAULT AND PROVIDER REMEDIES.

(a) Host Events of Default. Host shall be in default of this Agreement if any of the following ("Host Events of Default") shall occur:

(i) Misrepresentation. Any representation or warranty by Host under Section 16 hereof, is incorrect or incomplete in any material way, or omits to include any information necessary to make such representation or warranty not materially misleading, and such defect is not cured within fifteen (15) days after receipt of notice from Provider identifying the defect.

(ii) Obstruction. Host obstructs commencement of installation of the Project or fails to take any actions necessary for the interconnection of the Project, or fails to take electric energy produced by the Project, and fails to correct such action within ten (10) days of when such payment was due.

(iii) Payment Failure. Host fails to make any payment due under the terms of this Agreement, and fails to make such payment within ten (10) days after receipt of notice thereof from Provider.

(iv) Obligation Failure. Host fails to perform any obligation hereunder, such failure is material, such failure is not excused by the provisions of Section 17(b) (relating to Force Majeure Events), and such failure is not cured within: (A) ten (10) days if the failure involves a failure to maintain required insurance; or (B) sixty (60) days if the failure involves an obligation other than payment or the maintenance of insurance, after receipt of notice from Provider identifying the failure.

(v) Insolvency. Host (A) applies for or consents to the appointment, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or a substantial portion of its property; (B) admits in writing its inability, or be generally unable, to pay its debts as such debts become due; (C) makes a general assignment for the benefit of its creditors; (D) commences a voluntary case under any bankruptcy law; (E) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (F) acquiesces in, or fails to contest in a timely manner, any petition filed against Host in an involuntary case under bankruptcy law or seeking to dissolve Host under other Applicable Law; or (G) takes any action authorizing its dissolution.

(b) Default Damages. Upon an Event of Default by Host, Provider may require Host to pay to Provider the Early Termination Amount, sell electricity produced by the Project to persons other than Host, and recover from Host any loss in revenues resulting from such sales; and/or pursue other remedies available at law or in equity. After Provider's receipt of such Early Termination Amount pursuant to this Section 20(b), Provider shall collect no additional damages resulting from lost revenues from sales of electricity from the Project.

21. COLLATERAL ASSIGNMENT, FINANCING PROVISIONS.

(a) Financing Arrangements. Provider may mortgage, pledge, grant security interests, assign, or otherwise encumber its interests in this Agreement to any persons providing financing for the Project. Host acknowledges that Provider will obtain construction financing for the Project from third party and that Provider may either obtain term financing secured by the Project or sell or assign the Project to a Financing Party or may arrange other financing accommodations from one or more financial institutions and may from time to time refinance, or exercise purchase options under, such transactions. Host acknowledges that in connection with such transactions Provider may secure Provider's obligations by, among other collateral, an assignment of this Agreement and a first security interest in the Project. In order to facilitate such necessary sale, conveyance, or financing, and with respect to any lender or lessor, as applicable, Host agrees as follows:

(i) Consent to Collateral Assignment. Host hereby consents to both of the sale of the Project to a Financing Party and the collateral assignment to the Financing of the Provider's right, title and interest in and to this Agreement.

(ii) Rights of Financing Party. Notwithstanding any contrary term of this Agreement:

(A) Step-In Rights. The Financing Party, as owner of the Project, or as collateral assignee of this Agreement, shall be entitled to exercise, in the place and stead of Provider, any and all rights and remedies of Provider under this Agreement in accordance with the terms of this Agreement. The Financing Party shall also be entitled to exercise all rights and remedies of owners or secured parties, respectively, generally with respect to this Agreement and the Project;

(B) Opportunity to Cure Default. The Financing Party shall have the right, but not the obligation, to pay all sums due under this Agreement and to perform any other act, duty or obligation required of Provider thereunder or cause to be cured any default of Provider thereunder in the time and manner provided by the terms of this Agreement. Nothing herein requires the Financing Party to cure any default of Provider under this Agreement or (unless the Financing Party has succeeded to Provider's interests under this Agreement) to perform any act, duty or obligation of Provider under this Agreement, but Host hereby gives it the option to do so;

(C) Exercise of Remedies. Upon the exercise of remedies, including any sale of the Project by the Financing Party, whether by judicial proceeding or under any power of sale contained therein, or any conveyance from Provider to the Financing Party (or any assignee of the Financing Party as defined below) in lieu thereof, the Financing Party shall give notice to Host of the transferee or assignee of this Agreement. Any such exercise of remedies shall not constitute a default under this Agreement;

(D) Cure of Bankruptcy Rejection. Upon any rejection or other termination of this Agreement pursuant to any process undertaken with respect to Provider under the United States Bankruptcy Code, at the request of Financing Party made within ninety (90) days of such termination or rejection, Host shall enter into a new agreement with Financing Party or its assignee having substantially the same terms and conditions as this Agreement.

(iii) Right to Cure.

(A) Cure Period. Host will not exercise any right to terminate or suspend this Agreement unless it shall have given the Financing Party prior written notice of its intent to terminate or suspend this Agreement, as required by this Agreement, specifying the condition giving rise to such right, and the Financing Party shall not have caused to be cured the condition giving rise to the right of termination or suspension within thirty (30) days after such notice or (if longer) the periods provided for in this Agreement; provided that if such Provider default reasonably cannot be cured by the Financing Party within such period and the Financing Party commences and continuously pursues cure of such default within such period, such period for cure will be extended for a reasonable period of time under the circumstances, such period not to exceed an additional ninety (90) days. The Parties' respective obligations will otherwise remain in effect during any cure period.

(B) Continuation of Agreement. If the Financing Party or its assignee (including any purchaser or transferee), pursuant to an exercise of remedies by the Financing Party, shall acquire title to or control of Provider's assets and shall, within the time periods described in Section 21(a)(iii)(A) above, cure all defaults under this Agreement existing as of the date of such change in title or control in the manner required by this Agreement and which are capable of cure by a third person or entity, then such Person shall no longer be in default under this Agreement, and this Agreement shall continue in full force and effect.

(b) Financing Party a Third Party Beneficiary. Host agrees and acknowledges that Financing Party is a third party beneficiary of the provisions of this Section 21.

(c) Entry to Consent to Assignment. Host agrees to (i) execute any consents to assignment or acknowledgements and (ii) provide such opinions of counsel as may be reasonably requested by Provider and/or Financing Party in connection with such financing or sale of the Project.

22. LIMITATIONS ON DAMAGES.

EXCEPT AS EXPLICITLY PROVIDED IN THIS AGREEMENT (including, without limitation, in Sections 10 and 20(b)), NEITHER PARTY NOR ANY OF ITS INDEMNIFIED PERSONS SHALL BE LIABLE TO THE OTHER PARTY OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

23. DISPUTE RESOLUTION.

(a) Negotiation Period. The Parties shall negotiate in good faith and attempt to resolve any dispute, controversy or claim arising out of or relating to this Agreement (a "Dispute") within 30 days after the date that a Party gives written notice of such Dispute to the other Party.

(b) Mediation. If, after such negotiation in accordance with Section 23(a), the Dispute remains unresolved, either Party may require that a non-binding mediation take place. In such mediation, representatives of

the Parties with authority to resolve the dispute shall meet for at least three (iii) hours with a mediator whom they choose together. If the Parties are unable to agree on a mediator, then either Party is hereby empowered to request the American Arbitration Association to appoint a mediator. The mediator's fee and expenses shall be paid one-half by each Party.

(c) Arbitration of Disputes.

(i) Rules of Arbitration. Any Dispute that is not settled to the mutual satisfaction of the Parties pursuant to Sections 23(a) or 23(b) shall (except as provided in Section 23(d)) be settled by binding arbitration between the Parties conducted in Phoenix, Arizona, or such other location mutually agreeable to the Parties, and in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the "AAA") in effect on the date that a Party gives notice of its demand for arbitration.

(ii) Dispute Submission. The Party initiating the Arbitration (the "Submitting Party") shall submit such Dispute to arbitration by providing a written demand for arbitration to the other Party (the "Responding Party"), which demand must include statements of the facts and circumstances surrounding the dispute, the legal obligation breached by the other Party, the amount in controversy and the requested relief, accompanied by all relevant documents supporting the Demand.

(iii) Arbitrator Selection. The arbitrator(s) selected shall have contract resolution experience and experience in the electric power business and shall not have any current or past substantial business or financial relationships with the Parties or their Affiliates. Arbitrators must agree to be bound by the confidentiality provisions of this Agreement. If the amount in controversy is less than $250,000, the Dispute will be determined by a single neutral arbitrator, who will be chosen by the Parties within forty-five (45) days of submission of the demand on the Responding Party. If the Parties cannot agree on a single neutral arbitrator within such period, the arbitrator shall be chosen by the AAA. If the amount in controversy is $250,000 or greater, the Dispute will be determined by a Panel of three (3) arbitrators. Each Party shall select one arbitrator, but if a Party fails to select an arbitrator within forty-five (45) days of the submission of the demand on the Responding Party, the arbitrator will be chosen by the AAA. The two arbitrators so selected will select the third arbitrator, who shall act as the chairman of the panel. If the two arbitrators cannot select the third arbitrator within thirty (30) days (or such additional time as the Parties may agree) of the selection of both of the first two arbitrators, the third arbitrator shall be chosen by the AAA. As used herein, "Panel" means either a single arbitrator or a group of three arbitrators selected as provided herein.

(iv) Discovery. Within fifteen days (15) of the selection of the third arbitrator, the Parties shall submit statements to the Panel summarizing the issues in the case and including recommendations for discovery. Within twenty (20) days of receipt of the statements from the Parties, the Panel will meet with the Parties and issue orders on the scheduling of the case and any discovery to be permitted.

(v) Decision. Upon ten (10) days of completion of the hearing conducted by the Panel, each Party shall submit to the Panel its proposal for resolution of the dispute. The Panel in its award shall be limited to selecting only one of the two proposals submitted by the Parties. The award shall be in writing (stating the amount and reasons therefore) and shall be final and binding upon the Parties, and shall be the sole and exclusive remedy between the Parties regarding any claims and counterclaims presented to the Panel. The Panel shall be permitted, in its discretion, to add pre-award and post-award interest at commercial rates. Judgment upon any award may be entered in any court having jurisdiction.

(vi) Expenses. Unless otherwise ordered by the Panel, each Party shall bear its own expenses and one-half of the cost of the Panel. Payments of the Panel's costs shall be made on a monthly basis prior to the Award.

(d) Exceptions to Arbitration. The obligation to arbitrate shall not be binding upon any Party with respect to (i) requests for preliminary injunctions, temporary restraining orders, specific performance, or other procedures in a court of competent jurisdiction to obtain interim relief deemed necessary by such court to preserve the status quo or prevent irreparable injury pending resolution by arbitration of the actual Dispute; (ii) actions to enforce an award of a Panel or otherwise to collect payments not subject to bonafide dispute; or (iii) claims involving third parties who have not agreed to participate in the arbitration of the Dispute.

(e) Survival of Arbitration Provisions. The provisions of this Section 23 shall survive any termination of this Agreement and shall apply (except as provided herein) to any disputes arising out of this Agreement.

24. NOTICES.

Delivery of Notices. All notices or other communications which may be or are required to be given by any party to any other party pursuant to this Agreement shall be in writing and shall be either (i) delivered by hand; (ii) mailed by first-class, registered or certified mail, return receipt requested, postage prepaid; (iii) delivered by a recognized overnight or personal delivery service; (iv) transmitted by facsimile (such transmission to be effective on the day of receipt if received prior to 5:00 pm local time on a business day or in any other case as of the next business day following the day of transmittal); or (v) transmitted by email if receipt of such transmission by email is specifically acknowledged by the recipient (automatic responses not being sufficient for acknowledgement), addressed as follows:

If to Host:

Gila County - Finance Department
1400 E. Ash St.
Globe, AZ 85501
Attention: Valrie Bejarano

If to Provider:

Tioga Solar Gila, LLC
c/o Tioga Energy, Inc.
123 Mission Street, 9th Floor
San Francisco, CA 94105
Attention: Paul Detering
Email: paul@tiogaenergy.com

Notices shall be effective when delivered (or in the case of email, when acknowledged by the recipient) in accordance with the foregoing provisions, whether or not (except in the case of email transmission) accepted by, or on behalf of, the Party to whom the notice is sent.

Each Party may designate by Notice in accordance with this section to the other Party a new address to which any notice may thereafter be given.

25. MISCELLANEOUS.

(a) Governing Law. This Agreement shall be governed by the laws of the State of Arizona, including principles of good faith and fair dealing that will apply to all dealings under this Agreement.

(b) Rules of Interpretation. Section headings are for convenience only and shall not affect the interpretation of this Agreement. References to sections are, unless the context otherwise requires, references to sections of this Agreement. The words "hereto", "hereof" and "hereunder" shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The word "person" shall include individuals; partnerships; corporate bodies (including but not limited to corporations, limited partnerships and limited liability companies); non-profit corporations or associations; governmental bodies and agencies; and regulated utilities. The word "including" shall be deemed to be followed by the words "without limitation". In the event of any conflict between the text of this Agreement and the contents of an Exhibit hereto, the text of this Agreement shall govern.

(c) Severability. If any term, covenant or condition in the Agreement shall, to any extent, be invalid or unenforceable in any respect under Applicable Law, the remainder of the Agreement shall not be affected thereby, and each term, covenant or condition of the Agreement shall be valid and enforceable to the fullest extent permitted by Applicable Law. If a material provision is determined to be unenforceable, then the Parties shall negotiate in good faith to amend the Agreement to restore to the Party that was the beneficiary of such unenforceable provision the benefits of such provision. If the Parties are unable to agree upon an amendment that restores the Party's benefits,

the matter shall be resolved under Section 23(c) in order to restore to the Party that was the beneficiary of the unenforceable provision the economic benefits of such provision.

(d) Amendment and Waiver. This Agreement may only be amended by a writing signed by both Parties. Any waiver of any of the terms hereof shall be enforceable only to the extent it is waived in a writing signed by the Party against whom the waiver is sought to be enforced. Any waiver shall be effective only for the particular event for which it is issued and shall not constitute a waiver of a subsequent occurrence of the waived event nor constitute a waiver of any other provision hereof, at the same time or subsequently.

(e) Assignment. Neither Party may assign, sell, transfer or in any other way convey its rights, duties or obligations under this Agreement, either in whole or in part, without the prior written consent of the other Party which consent shall not be unreasonably withheld or delayed, except that without consent of Host, Provider (i) may assign its rights and obligations hereunder to an Affiliate of Provider and (ii) may sell or collaterally assign this Agreement in accordance with Section 21. For purposes of this Section 25(e), transfer does not include any sale of all or substantially all of the assets of Provider or Host or any merger of Provider or Host with another person, whether or not Provider or Host is the surviving entity from such merger, or any other change in control of Provider or Host, provided any such surviving entity assumes all obligations of Provider or Host, as appropriate, under this Agreement; provided however, with respect to Host, such surviving entity is acceptable to Financing Party in its sole discretion.

(f) Immigration Law Compliance. The Provider warrants compliance with the Federal Immigration and Nationality Act (FINA) and all other federal and state immigration laws and regulations related to the immigration status of its employees. Provider shall obtain statements from its subcontractors of every tier certifying compliance and shall furnish the statements to the Host upon request. These warranties shall remain in effect through the term of the Agreement, and the Provider and its subcontractors of every tier shall also maintain Employment Eligibility Verification forms (I-9) as required by the U.S. Department of Labor's Immigration and Control Act for all employees performing work pursuant to this Agreement. I-9 forms are available for download at USCIS.GOV. The Host may request, and the Provider agrees to furnish, verification of compliance from the Provider or its subcontractors of any tier performing work pursuant to this Agreement. Should the Host reasonably believe or discover that the Provider or its subcontractors of any tier are not in compliance, the Host may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Agreement for default, and suspension and/or debarment of the Provider and its subcontractors. All costs necessary to verify compliance are the responsibility of the Provider.

(g) OSHA Compliance. Provider shall require that all employees, contractors, subcontractors and any agents and other representatives of Provider adhere to all applicable OSHA requirements and safety laws or codes in the performance of this Agreement.

(h) Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, as applicable, the provisions which are incorporated herein by this reference, this Agreement is subject to cancellation if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement is, at any time while this Agreement is in effect, an employee or agent of any other party to this Agreement in any capacity or a consultant to any other party of this Agreement with respect to the subject matter of this Agreement.

(i) Retention and Inspection of Records. Provider shall retain, and shall contractually require each contractor and subcontractor to retain, all books, accounts, reports, files and other records relating to the performance of this Agreement for a period of five (5) years after the completion of this Agreement and to make such documents open for Host's inspection and audit at reasonable times as requested by Host.

(j) Nondiscrimination. Provider agrees not to discriminate against any employee or applicant for employment because of sex, race, religion, color, national origin, age or disability in violation of federal or state law. The parties shall comply with Section 202 of Executive Order 11246, 41 CFR 60-1.4, 41 CFR 60-250.4 and 41 CFR 60-741.5(a) and Arizona Executive Order 99-4 prohibiting discrimination in employment, to the extent applicable to this Agreement.

(k) Compliance with A.R.S. §§ 35-391.06 and 35-393.06. Pursuant to A.R.S. §§ 35-391.06 and 35-393.06, Provider shall certify that it does not have a scrutinized business operation in either Sudan or Iran.

(l) Service Contract. This Agreement is a service contract pursuant to Section 7701(e)(3) of the Internal Revenue Code.

(m) No Joint Venture. This Agreement does not create a joint venture, partnership or other form of business association between the Parties.

(n) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of signature by fax, or scan delivered by email, receipt acknowledged, or electronic signature are effective to bind a Party hereto.

(rest of page left blank intentionally – signatures appear on next page)

IN WITNESS WHEREOF, intending to be legally bound hereby, Provider and Host have executed this Power Purchase Agreement as of the date first set forth above.

TIOGA SOLAR GILA, LLC
By: Tioga Energy, Inc., sole member

By: _____

Name: Marc Roper

Title: Vice President, Sales & Marketing

GILA COUNTY, ARIZONA

BOARD OF SUPERVISORS

By:_____

Name: Tommie C. Martin

Title: Chairman of the Board of Supervisors

ATTEST

By:_____

Name: Marian Sheppard

Title: Chief Deputy Clerk, Gila County

APPROVED AS TO FORM

By: _____

Name: Bryan B. Chambers

Title: Chief Deputy County Attorney for
Daisy Flores, Gila County Attorney

GLOSSARY OF TERMS

"Access Rights" means the rights provided in this Agreement for Provider and its designees, including Installer, to enter upon and cross the Site to install, operate, maintain, repair and remove the Project, and to interconnect the Project with the Local Electric Utility and to provide water, electric and other services to the Project.

"Affiliate" means, as to any Person, any other Person which, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" of a Person means the power, directly or indirectly, to direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

"Agreement" means this Power Purchase Agreement, including all exhibits attached hereto, as the same may be amended from time to time in accordance with the provisions hereof.

"Applicable Law" means any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, or guideline issued by a Governmental Authority that is applicable to a Party to this Agreement or the transaction described herein. Applicable Law also includes any approval, consent or requirement of any Governmental Authority having jurisdiction over such Party or its property, enforceable at law or in equity.

"Applicable Solar Program" means the program indicated on Exhibit H.

"Business Day" means a day other than Saturday, Sunday, or other day on which commercial banks in New York City are authorized or required by law to be closed.

"Change in Law" means that after the date of this Agreement, an Applicable Law is amended, modified, nullified, suspended, repealed, found unconstitutional or unlawful, or changed or affected in any material respect by any Applicable Law. Change in Law does not include changes in federal or state income tax laws. Change in Law does include material changes in the interpretation of an Applicable Law.

"Commercial Operation Date" means the date, which shall be specified by Provider to Host pursuant to Section 4(f), when the Project is physically complete and has successfully completed all performance tests and satisfies the interconnection requirements of the Local Electric Utility.

"Confidential Information" means information of a confidential or proprietary nature, whether or not specifically marked as confidential. Such information shall include, but not be limited to, the material terms of this Agreement, including Exhibit A and Exhibit B, any documentation, records, listing, notes, data, computer disks, files or records, memoranda, designs, financial models, accounts, reference materials, trade-secrets, prices, strategic partners, marketing plans, strategic or other plans, financial analyses, customer names or lists, project opportunities and the like, provided however that Confidential Information does not include information which (i) was in the possession of the receiving Party before receipt from the disclosing Party; (ii) is or becomes publicly available other than as a result of unauthorized disclosure by the receiving Party; (iii) is received by the receiving Party from a third party not known by the receiving Party with the exercise of reasonable diligence to be under an obligation of confidentiality respecting the information; or (iv) is independently developed by the receiving Party without reference to information provided by the disclosing Party.

"Credit Purchase Agreement" means that Credit Purchase Agreement, dated as of June 28, 2011 between Host and Arizona Public Service.

"Dispute" means a controversy or claim arising out of or relating to this Agreement.

"Early Termination Amount" means an amount determined in accordance with Exhibit B, as of the applicable anniversary date set forth thereon, which includes all lost revenues from the sale or utilization of electrical energy, Environmental Attributes, or Tax Attributes.

"Electric Service Provider" means any person, including the Local Electric Utility, authorized by the State of Arizona to provide electric energy and related services to retail users of electricity in the area in which the Site is located.

"Environmental Attributes" means Renewable Energy Certificates, carbon trading credits, emissions reductions credits, emissions allowances, green tags, Green-e certifications, or other entitlements, certificates, products, or valuations attributed to the Project and its displacement of conventional energy generation, or any other entitlement pursuant to any federal, state, or local program applicable to renewable energy sources, whether legislative or regulatory in origin, as amended from time to time, and excluding, for the avoidance of doubt, any Tax Attributes.

"Fair Market Value" means the price that would be paid in an arm's length, free market transaction, in cash, between an informed, willing seller and an informed, willing buyer (who is neither a lessee in possession nor a used equipment or scrap dealer), neither of whom is under compulsion to complete the transaction, taking into account, among other things, the age and performance of the Project and advances in solar technology, provided that installed equipment shall be valued on an installed basis and costs of removal from a current location shall not be a deduction from the valuation.

"Financing Party" means a Project Lessor or Lender.

"Force Majeure Event" means any act or event that prevents the affected Party from performing it obligations in accordance with this Agreement, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party and such Party had been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Subject to the foregoing, Force Majeure Event may include but are not limited to the following acts or events: (i) natural phenomena, such as storms, hurricanes, floods, lightning and earthquakes; (ii) explosions or fires arising from lightning or other causes unrelated to the acts or omissions of the Party seeking to be excused from performance; (iii) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, terrorist acts, or rebellion; and (iv) strikes or labor disputes. Force Majeure Events shall not include equipment failures or acts or omissions of agents, suppliers or subcontractors, except to the extent such acts or omissions arise from a Force Majeure Event. Changes in prices for electricity shall not constitute Force Majeure Events.

"Governmental Authority" means any international, national, federal, provincial, state, municipal, county, regional or local government, administrative, judicial or regulatory entity operating under any Applicable Laws and includes any department, commission, bureau, board, administrative agency or regulatory body of any government.

"Hazardous Materials" means all hazardous or toxic substances, wastes or other pollutants, including petroleum, petroleum hydrocarbons or petroleum products, petroleum by-products, radioactive materials, asbestos or asbestos-containing materials, gasoline, diesel fuel, pesticides, radon, urea formaldehyde, lead or lead-containing materials, polychlorinated biphenyls; and any other chemicals, materials, substances or wastes in any amount or concentration which are now included in the definition of "hazardous substances," "hazardous materials," "hazardous wastes," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollutants," "regulated substances," "solid wastes," or "contaminants" or words of similar import, under any Applicable Law.

"Host" means Gila County, Arizona, an Arizona county, and all successors and assigns.

"Indemnified Person" means the person who asserts a right to indemnification under Section 15.

"Indemnifying Party" means the Party who has the indemnification obligation under Section 15 to the Indemnified Person.

"Initial Period" has the meaning provided in Section 2.

"Installer" means the person designated by Provider to install the Project on the Premises.

"Land Registry" means the office where real estate records for the Site are customarily filed.

"Lender" means persons providing construction or permanent financing to Provider in connection with installation of the Project.

"Liens" has the meaning provided in Section 8(c).

"Local Electric Utility" means the entity authorized and required under Applicable Law to provide electric distribution service to Host at the Site.

"Losses" means any and all losses, liabilities, claims, demands, suits, causes of action, judgments, awards, damages, cleanup and remedial obligations, interest, fines, fees, penalties, costs, and expenses (including all attorney's fees and other costs and expenses incurred in defending any such claims or matters or in asserting or enforcing any indemnity obligation).

"Minimum Standard of Operation" has the meaning provided in Exhibit I.

"Operations Period" has the meaning provided in Section 2.

"Operations Year" means a twelve month period beginning at 12:00 am on an anniversary of the Commercial Operations Date and ending at 11:59 pm on the day immediately preceding the next anniversary of the Commercial Operations Date, provided that the first Operations Year shall begin on the Commercial Operations Date.

"Party" means either Host or Provider, as the context shall indicate, and "Parties" means both Host and Provider.

"Point of Delivery" has the meaning set forth in Section 5(a) and Exhibit E.

"Premises" means the portions of the Site described on Exhibit D.

"Project" means an integrated system for the generation of electricity from solar energy consisting of the photovoltaic panels and associated equipment to be installed on each of the Premises in accordance with this Agreement.

"Project Lessor" means, if applicable, any Person to whom Provider transferred the ownership interest in the Project, subject to a leaseback of the Project from such Person.

"Provider" means Tioga Solar Gila, LLC, a Delaware limited liability company, and all successors and assigns.

"Relocation Event" means the relocation of the Project, starting at the shutdown of the Project pursuant to such relocation, and ending at the commercial operation of the Project when such relocated Project is reinstalled at a new location, as determined by the Provider in its reasonable discretion.

"Renewable Energy Certificate" or "REC" means a certificate, credit, allowance, green tag, or other transferable indicia, howsoever entitled, created by an applicable program or certification authority indicating generation of a particular quantity of energy, or product associated with the generation of a megawatt-hour (MWh) from a renewable energy source by a renewable energy project.

"Site" means the real property described on Exhibit C attached hereto.

"Tax Attributes" means the investment tax credits (including any grants or payments in lieu thereof) and any tax deductions or other benefits under the Internal Revenue Code or applicable federal, state, or local law available as a result of the ownership and operation of the Project or the output generated by the Project (including, without limitation, tax credits (including any grants or payments in lieu thereof) and accelerated and/or bonus depreciation.)

"Term" shall have the meaning provided in Section 2 hereof.

EXHIBIT A

ENERGY PURCHASE RATES

Operations Year	Price per kWh
1	$0.077
2	$0.077
3	$0.077
4	$0.077
5	$0.077
6	$0.077
7	$0.077
8	$0.077
9	$0.077
10	$0.077
11	$0.077
12	$0.077
13	$0.077
14	$0.077
15	$0.077
16	$0.077
17	$0.077
18	$0.077
19	$0.077
20	$0.077

EXHIBIT B

EARLY TERMINATION AMOUNTS

Operations Year	Early Termination Amount
1	$902,880
2	$826,665
3	$741,186
4	$649,028
5	$551,901
6	$533,753
7	$523,017
8	$509,974
9	$494,274
10	$475,537
11	$453,608
12	$428,535
13	$399,883
14	$367,167
15	$329,858
16	$287,358
17	$239,000
18	$218,060
19	$200,615
20	$178,413
After Year 20	Fair Market Value

EXHIBIT C

DESCRIPTION OF SITE

The property located at 5515 Apache Ave, Globe, AZ 85501

Legal Description of Host's property to be provided

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EXHIBIT D

DESCRIPTION OF PREMISES

Aerial Photograph of the Premises

Premises includes all Access Rights pursuant to
Section 3 of the Power Purchase Agreement

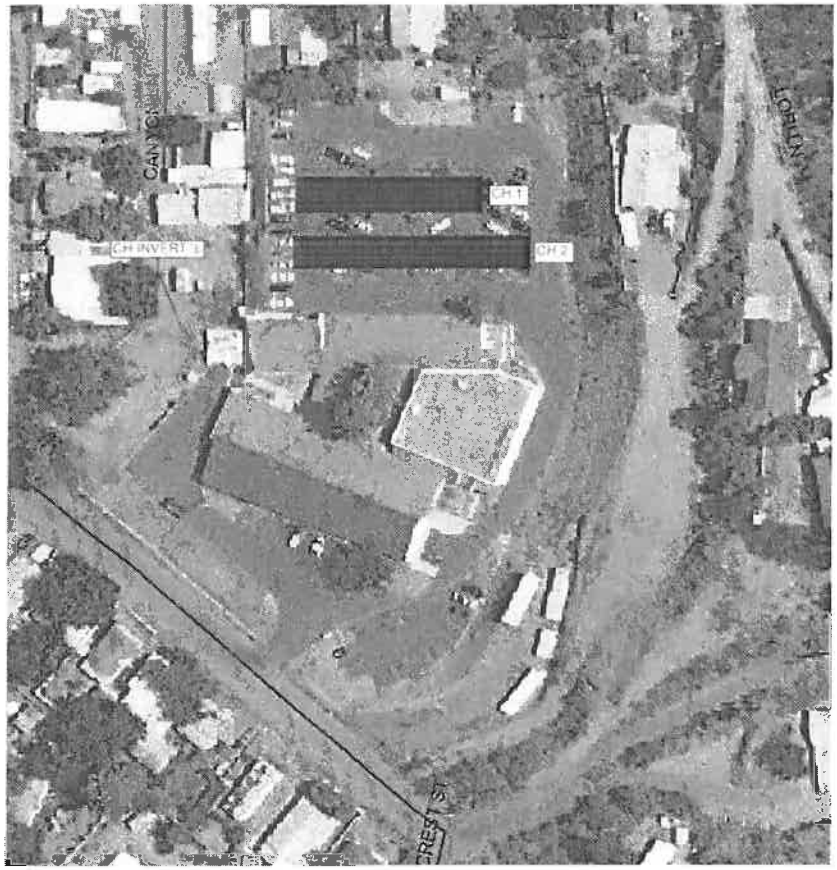

EXHIBIT E

DESCRIPTION OF PROJECT

Nameplate capacity (kW DC STC):	184.24 kW DC
Array Footprint:	Approx. 13,200 sq. ft.
Output Criteria:	60 cycle 120 hertz 3 phase
System CEC-AC rated Capacity (kW AC CEC):	658ea x 250.7 W PTC x 97%
Quantity and type of Photovoltaic Modules:	160.012 kW AC CEC
Quantity and type of Inverters:	658 x Trina TSM-280PA 14 (or approved equal)
Type of Mounting Structure:	(1) PVP 100kW; (1) PVP 75kW (or approved equal)
Other Balance-of-System items:	Covered Parking Canopy
Data	
Perimeter Fencing:	Power-One MYPVDATA

EXHIBIT F

INSURANCE REQUIREMENTS

1. General Liability

(a) Both Host and Provider will have a minimum level of commercial general liability insurance for the term of the Power Purchase Agreement of two million dollars ($2,000,000) for each occurrence, and four million dollars ($4,000,000) in the aggregate. Insurance coverage shall be at least as broad as the Insurance Services Office (ISO) Commercial General Liability Coverage "occurrence" form, with no coverage deletions.

(b) Both the Host and Provider general liability insurance coverage shall be endorsed to specify that the Provider's and Host's insurance is primary and that any insurance or self-insurance maintained by the Local Electric Utility shall not contribute with it.

2. Workers' Compensation

Both Host and Provider will have Workers' Compensation insur
codes, acts, laws or statutes, state or federal, at the Site where the work is performed. Employers' Liability insurance shall not be less than $1,000,000 for injury or death each accident.

3. Business Auto

(a) not less than one million dollars ($1,000,000) each accident for bodily injury and property damage, and two million dollars ($2,000,000) in the aggregate.

(b) not less than one million dollars ($1,000,000) each accident for bodily injury and property damage, and two million dollars ($2,000,000) in the aggregate.

4. Additional Insurance Requirements

Additional insurance requirements and terms are included in the Applicable Solar Program contract.

5. Additional Insurance Provisions

Host sh
reasonably requested, including for purposes of compliance with Applicable State Solar rebate program. The documentation required for the Applicable S
thirty (30) days prior written notice has been given to the Local Electric Utility. The documentation must be signed by a person authorized by the insurer to bind coverage on its bel

6. Additional Installation Contractor Requirements

Installation contractors will have valid commercial general liability, workers compensation, and business auto insurance as follows:

- Commercial general liability insurance will be in the followi
  $4,000,000 aggregate.
- Workers compensation insurance or self-insurance indicating compliance with any applicable labor codes, laws or statutes, state or federal, where Installer performs work.

- Auto cover[illegible] not less than one million dollars ($1,000,000) each accident for bodily injury and property damage, and two million dollars ($2,000,000) in the aggregate.

- Excess liability insurance on an occurrence basis covering claims (on at least a following form basis) in excess of the underlying insurance for Commercial General Liability, Auto Liability and Employers' Liability with a minimum limit per occurrence of four million dollars ($4,000,000) and six million dollars ($6,000,000) in the aggregate. The amounts of insurance required for Commercial General Liability, Auto Liability, Employers' Liability and Excess Liability may be satisfied by Installer purchasing coverage in the amounts specified or by any combination of primary and excess insurance, so long as the total amount of insurance meets the requirements specified above.

EXHIBIT G

FORM OF NOTICE OF GRANT OF INTEREST IN REALTY

Tioga Solar Gila, LLC
c/o Tioga Energy, Inc.
123 Mission St. 9th Floor
San Francisco, CA 94105

NOTICE OF GRANT OF INTEREST IN REALTY

In accordance with the provisions of Ariz. Rev. Stat. § 33-401, notice is hereby given of that Power Purchase Agreement dated as of October 3, 2011 for purchase and sale of electrical energy (the "Agreement"). This notice may be executed in counterparts by the parties to the Agreement.

Parties to the Agreement:

Host: Gila County
1400 East Ash St.
Globe, AZ 85501

Provider: Tioga Solar Gila, LLC
123 Mission St. 9th Floor
San Francisco, CA 94105

Dated as of: October 3, 2011

Description of Premises: See Exhibit D

TERM OF AGREEMENT:

The term of the Agreement shall be until the last day of the calendar month in which the twentieth (20th) anniversary of the Commercial Operations Date (as that term is defined in the Agreement) occurs, subject to any extensions or early termination pursuant to the terms of the Agreement.

(signature pages follow)

Witness the execution hereof under seal by said parties to said Agreement this [_____] day of [_____].

Provider:

TIOGA SOLAR GILA, LLC
By: Tioga Energy, Inc., sole member

By: _____

Name: _____

Title: _____

Host:

GILA COUNTY, ARIZONA

BOARD OF SUPERVISORS

By:_____

Name: Tommie C. Martin

Title: Chairman of the Board of Supervisors

ATTEST

By:_____

Name: Marian Sheppard

Title: Chief Deputy Clerk, Gila County

APPROVED AS TO FORM

By: _____

Name: Bryan B. Chambers

Title: Chief Deputy County Attorney for
Daisy Flores, Gila County Attorney

[FOR FORM PURPOSES ONLY – DO NOT EXECUTE]

STATE OF _____)
) SS.
COUNTY OF _____)

On _____ before me, _____, Notary Public, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of [___] that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____

[FOR FORM PURPOSES ONLY – DO NOT EXECUTE]

EXHIBIT H

APPLICABLE SOLAR PROGRAM

APS 2011 Schools & Government Production Based Renewable Energy Incentive Program, and all similar programs.

EXHIBIT I

MINIMUM STANDARD OF OPERATION

Minimum Standard of Operation means the average ratio of actual power output to expected power output of the Project, measured times every fifteen minutes over a period of at least three hours in which the measured solar irradiance in the plane of the array exceeds 250 W/m^2, shall be 90% or higher:

Actual power output shall be measured as kW_{AC} (true RMS) at the Point of Delivery via a revenue grade meter as described in Section 6(d). Expected power output shall be determined as follows:

$$\text{Expected power output} = kW_{DC_STC_Mod} \times \{1 + \beta_{PMP}[(\quad + T_{Amb} + \quad \Delta T) - T_{STC}]\} \times \quad \times WARR \times \eta_{Cond} \times \eta_{Inv}$$

Where:

$kW_{DC_STC_Mod}$ = Module DC rating at Standard Test Conditions (module nominal nameplate rating), in kW

β_{PMP} = Module power temperature coefficient, typically -0.005/°C for polycrystalline silicon panels at module maximum power point

$I_{Measured}$ = Measured solar irradiance in the plane of the array (unshaded), in W/m^2 (≥250W/m^2)

a = -3.56, an empirically-determined coefficient establishing the upper limit for module temperature at low wind speeds and high solar irradiance.

b = -0.075, an empirically-determined coefficient establishing the rate at which module temperature drops as wind speed increases.

WS = Measured windspeed, in m/s

T_{Amb} = Measured ambient air temperature, in °C

ΔT = 3°C, the typical temperature difference between the cell and the module back surface at an irradiance level of 1000 W/m^2.

T_{STC} = 25°C (STC reference temperature)

I_{STC} = 1000 W/m^2 (STC reference irradiance)

WARR = Percent of power output warranted by module manufacturer, inclusive of manufacturer's rating tolerance

η_{Cond} = 93.5% (Efficiency of conductors and connectors, accounts for DC and AC ohmic losses, module mismatch losses, and losses in diodes and connectors)

η_{Inv} = Inverter weighted conversion efficiency as published by the California Energy Commission (http://www.gosolarcalifornia.org/equipment/inverter.php)

GILA COUNTY ATTORNEY

Daisy Flores

Re: County Attorney's Office "approval as to form" of contract or agreement.

To whom it may concern:

The County Attorney's Office has reviewed the contract or agreement attached to this agenda item and has determined that it is in its proper form and is within the powers and authority granted under the laws of this state to the public agency requesting the County Attorney's Office review.

Explanation of the Gila County Attorney's Office "Approval as to Form" Review

The Gila County Attorney's Office is often called upon to review contracts and other agreements between public entities represented by the County Attorney and private venders, contractors, and individuals.

In performing this review, the County Attorney's Office reviews these contracts to see that they are in "proper form" prior to their execution. "Proper form" means that the contract conforms to fundamental contract law, conforms to specific legislative requirements, and is within the powers and authority granted to the public agency. It does not mean that the County Attorney's Office approves of or supports the policy objectives contained in the contract. That approval is solely the province of the public agency through its elected body.

The public agency or department submitting the contract for review has the responsibility to read and understand the contract in order to completely understand its obligations under the contract if it is ultimately approved by the public entity's board. This is because while the County Attorney's Office can approve the contract as to form, the office may not have any idea whether the public agency has the capacity to actually comply with its contractual obligations. Also, the County Attorney's Office does not monitor contract compliance. Hence the public entity or

submitting department will need to be prepared to monitor their own compliance. A thorough knowledge of the provisions of the contract will be necessary to monitor compliance.

Before signing a contract "approved as to form," the County Attorney's Office will answer any questions or concerns the public agency has about the contract. It is the responsibility of the public agency or department submitting the contract for review to ask any specific questions or address any concerns it has about the contract to the County Attorney's Office at the same time they submit the contract for review. Making such an inquiry also helps improve the County Attorney's Office review of the contract because it will help focus the review on specific issues that are of greatest concern to the public agency. Failing to make such an inquiry when the agency does have issues or concerns will decrease the ability of the County Attorney's Office to meaningfully review the agreement.

ARF-918 **Regular Agenda Item 3- F**

Regular BOS Meeting

Meeting Date: 12/06/2011

Submitted For:	Robert Hickman, Facilities Manager	Submitted By:	Valrie Bejarano, Contracts Support Specialist, Finance Department
Department:	Public Works Division	Division:	Facilities
Fiscal Year:	FY 2011-2012	Budgeted?:	Yes
Contract Dates Begin & End:	2-1-2011 to 1-31-12	Grant?:	No
Matching Requirement?:	No	Fund?:	Renewal
Presenter's Name:	Steve Stratton		

Information

Request/Subject

Amendment E to Copper Mountain Inn, Inc. Lease Agreement

Background Information

Effective February 1, 2001, Copper Mountain Inn, Inc. and Gila County entered into a Lease Agreement whereby Gila County leases office space located at 1100 Monroe Street, Globe, Arizona.

Evaluation

There have been multiple amendments made to the Lease Agreement: Item “A”, Board approved February 27, 2001, original agreement under Owner’s previous name of Mountain Professional Office Building; Item “B”, Board approved May 31, 2001, added 2,513 square foot to existing lease amount and Owner name changed to Copper Mountain Inn, Inc.; Item “C”, Board approved September 25, 2001, changed the rate per square foot charged for the office area occupied by AHCCCS.; Item “D”, Board approved February 2, 2003, extended lease through July 31, 2003, with automatic renewals every year thereafter unless either party gives a sixty (60) day notice to the other to terminate.

Amendment-Item “E” to the Lease Agreement shall reflect the correct amount charged per square foot and the square foot currently occupied by the County since the Gila County Public Fiduciary vacated the premises. The only County department currently leasing office space under this Lease Agreement is the Gila County Probation Department.

Conclusion

The amount of space being leased is 9,213 square feet. The lease rate shall be $1.32166612 per square foot and shall remain so for the term of this agreement unless written notice is received by the County from the Owner of an increase or decrease in amount and amendment to the Lease Agreement is completed reflecting such change. The monthly lease shall be $12,176.51,

Recommendation

The Public Works Director recommends that the Board of Supervisors approve Amendment "E" to the Lease Agreement with Copper Mountain Inn, Inc.

Suggested Motion

Information/Discussion/Action to approve Amendment E to the Copper Mountain Inn, Inc. Lease Agreement whereby the County leases office space at 1100 Monroe Street, Globe, Arizona, in the monthly amount of $12,176.51. **(Steve Stratton)**

Attachments

Amendment E to Copper Mtn. Lease

Amendment D to Copper Mtn. Lease

Amendment C to Copper Mtn. Lease

Amendment B to Copper Mtn. Lease

Original Copper Mtn. Lease

Legal Explanation

LEASE AGREEMENT

PROFESSIONAL OFFICE SPACE
AT
COPPER MOUNTAIN INN, INC.

AMENDMENT "E"

Effective February 1, 2001, Copper Mountain Inn, Inc. and Gila County entered into an agreement whereby Gila County leases office space located at 1100 Monroe Street, Globe, Arizona. The agreement is automatically renewed every year unless sixty (60) days written notice is received by either party to terminate.

There have been multiple amendments (items) made to the agreement as follows:

- Item "A", Board approved February 27, 2001, original agreement under Owner's previous name of Mountain Professional Office Building.
- Item "B", Board approved May 31, 2001, added 2,513 square foot to existing lease amount and Owner name changed to Copper Mountain Inn, Inc.
- Item "C", Board approved September 25, 2001, changed the rate per square foot charged for the office area occupied by AHCCCS.
- Item "D", Board approved February 2, 2003, extended lease through July 31, 2003 with automatic renewals every year thereafter unless either party gives a sixty (60) day notice to the other to terminate.

Item "E" to the lease agreement shall reflect the correct amount charged per square foot and the square foot currently occupied by the County since Gila County Public Fiduciary vacated the premises. The only county department currently leasing office space under this agreement is the Gila County Probation Department. The amount of space being leased is 9,213 square feet. The lease rate shall be $1.32166612 per square foot and shall remain so for the term of this agreement unless written notice is received by the County from the Owner of an increase or decrease in amount and amendment to the lease is completed reflecting such change. The monthly total lease shall be $12,176.51.

This lease agreement is subject to cancellation provisions pursuant to A.R.S. §38-511.

IN WITNESS THEREOF, both parties hereby execute this Agreement this _____ day of _____, 2011.

COPPER MOUNTAIN INN, INC.

Paula Mitchell
Authorized Representative

Date: 10-12-11

Paula Mitchell
Print Name

Administrator
Position

GILA COUNTY

GILA COUNTY BOARD OF SUPERVISORS

_____
Tommie C. Martin, Chairman, Board of Supervisors

Date: _____

ATTEST

_____
Marian Sheppard, Chief Deputy Clerk of the Board

APPROVED AS TO FORM:

_____
Bryan B. Chambers, Chief Deputy County Attorney
for Daisy Flores, County Attorney

"D"

After recording, please return to Marian Sheppard, BOS:

2003-003232
Page: 2 of 9
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AM
Gila County, AZ

AMENDMENT TO LEASE AGREEMENT

This Agreement is entered into by and between **Copper Mountain Inn, Inc.,** hereinafter referred to as the **OWNER** and **Gila County**, through the administrative authority of the Gila County Board of Supervisors, hereinafter referred to as **Gila County**.

THIS IS an Extension to the LEASE AGREEMENTS between Copper Mountain Inn and Gila County for the lease of office space at 1100 Monroe Street, Globe, Arizona. See attachments "A", "B", and "C".

The initial term of this Extension Agreement shall be for a period of six (6) months, commencing on the 1st day of February, 2003 and ending on the 31st day of July, 2003. **Gila County** or **Owner** may terminate this Agreement at any time by either party giving sixty (60) days notice. This Extension Agreement is automatically renewed at the end of the initial term and at the end of each renewal term thereafter with the same termination provision in effect. All other terms and rates shall stay in effect in accordance to the attached Lease Agreements. See attachments "A", "B" and "C".

Copper Mountain Inn

Paul Friedlan, President Vice
Copper Mountain Inn

Date: 2/5/03

Attest:

John F. Nelson
County Manager/Clerk

Gila County

Ron Christensen, Chairman
Gila County Board of Supervisors

Date: February 11, 2003

Approved as to Form:

Mark Gunning
Deputy Gila County Attorney

"C"

AMENDMENT TO LEASE AGREEMENT
Exhibit "A"
PROFESSIONAL OFFICE SPACE
AT
MOUNTAIN PROFESSIONAL OFFICE BUILDING
1100 Monroe Street
Globe, Arizona

THIS IS an Amendment to the LEASE AGREEMENT between Mountain Professional Office Building and Gila County signed by the Board of Supervisors on February 27, 2001.

The rate per square foot that was designated for the entire rental property will be changed. The 3,103 square feet of office space that was occupied by the AHCCCS department as shown in the map in orange on Exhibit B will be under a new negotiated price of $3500.00 per month under the Health and Human Services Department. The remainder of the square footage will remain at the current rate of $15.86 under the Lease Agreement. The initial term of this Amendment shall commence on the 1st day of October 2001 and end June 30, 2002. This Amendment will be automatically renewed at the end of the initial term unless written notice is provided by Gila County or Mountain Professional Office Building at least sixty (60) days prior to the expiration dates noted in the LEASE AGREEMENT.

Mountain Professional Office Building

Paul Friedlan, President
Mountain Professional Office Building

Date: 9/19/01

Gila County

Cruz Salas, Chairman
Gila County Board of Supervisors

Date: 9-25-01

Attest:

Steven L. Besich
County Administrator

Approved as to Form:

James Hazel Jr.
Gila County Attorney

"B"

LEASE AGREEMENT

This Agreement is entered into by and between **Copper Mountain Inn, Inc.,** hereinafter referred to as the **Owner** and **Gila County,** through the administrative authority of the Gila County Board of Supervisors, hereinafter referred to as **Gila County.**

1. **LOCATION AND DESCRIPTION OF LEASED AREA:** This Agreement is to lease 2,513 net square feet of office space, not including hallways or common areas, by the Gila County Community Services Division/REPAC Department. The office space to be leased is located in the front portion of the Copper Mountain Inn office building facing 1100 Monroe Street, Globe, Arizona. Attached to this Agreement as Exhibit A is a copy of the floor plan with the office space to be leased highlighted.

2. **TERM AND RATES:** The initial term of this Agreement shall be for a period of one year, commencing on the 1st day of July, 2001, and ending June 30, 2002. **Gila County** may terminate this Agreement at any time by giving **Owner** sixty (60) days notice. This Agreement is automatically renewed at the end of the initial term and at the end of each renewal term thereafter with the same termination provision in effect. The initial monthly rent to be paid by **Gila County** shall be the sum of $2,921.00 payable by the tenth of the current month.

3. **OWNER RESPONSIBILITIES:** **Owner** agrees to provide heating and air conditioning between the hours of 8:00 a.m. and 6:00 p.m. Monday through Friday and 9:00 a.m. to 1:00 p.m. on Saturdays of each week except holidays. **Owner** agrees to provide electricity and installed lighting to include replacement of light bulbs. **Owner** agrees to provide water for restrooms and drinking fountains. **Owner** agrees to provide and maintain automatic elevator services. **Owner** agrees to provide housekeeping services. **Owner** agrees to maintain all ingress and egress ways in a clean, safe and orderly fashion.

4. **GILA COUNTY RESPONSIBILITIES:** **Gila County** agrees to carry insurance on personal property. **Gila County** shall provide for telephone service and equipment at its own expense. **Gila County** shall provide furnishings and supplies necessary for operation in the area it occupies.

5. **LANDLORD – TENANT RELATIONSHIP:** The landlord-tenant relationship shall be governed by A.R.S. Section 33-301 to 33-381.

6. **FISCAL LIMITATIONS:** It is understood and agreed that **Gila County's** obligation pursuant to this Agreement is contingent upon adequate financial appropriation during the rental period. In the event such appropriation is inadequate, **Gila County** may discontinue occupying the office space as described herein with sixty (60) days notice.

7. **LIABILITY:** The parties hereto shall each be liable for damages to or theft of property or injuries or death to persons or any other loss or liability resulting from the negligence or intentional act or acts of their own employees or agents in operating, maintaining or occupying the facility noted herein.

8. **MODIFICATIONS AND IMPROVEMENTS:** All structural improvements or modifications desired and made to the premises by **Gila County** shall be subject to prior written approval by **Owner** through **Owner's** contact referenced herein.

9. **NOTICES:** All notices or demands upon either party by the other pursuant to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Copper Mountain Inn, Inc.
Attn: Paul R. Friedlan
1100 Monroe Street
Globe, AZ 85501

Gila County
Facilities and Land Management
4053 E. Highway 60-70
Miami, AZ 85539

In witness whereof, both parties hereby execute this Agreement.

COPPER MOUNTAIN INN, INC.

By: _____
Paul Friedlan
Administrator

Date: 5/22/01

GILA COUNTY

By: _____
Chairman Cruz Salas
Gila County Board of Supervisors

Date: 5-31-01

APPROVED AS TO FORM:

By: _____
Gila County Attorney

Date: 5/22/01

"A"

LEASE AGREEMENT

PROFESSIONAL OFFICE SPACE
AT
MOUNTAIN PROFESSIONAL OFFICE BUILDING
1100 Monroe Street
Globe, Arizona

THIS AGREEMENT is entered into by and between Mountain Professional Office Building hereinafter referred to as OFFICE BUILDING and GILA COUNTY through the administrative authority of the BOARD OF SUPERVISORS, hereinafter referred to as GILA COUNTY.

1. LEASED AREA DESCRIPTION: 18,392 net square feet of office space located at the OFFICE BUILDING located at 1100 Monroe Street not including hallways or common areas.

2. TERMS AND RATES: The term of this agreement shall be for one (1) year, with two (2) one-year options. The two (2) options will be automatically executed unless written notice is provided by GILA COUNTY or OFFICE BUILDING at least sixty (60) days prior to expiration date noted in this lease agreement.

   The following rates shall apply for the designated terms:

February 1, 2001 – July 31, 2001	$15.25 per Sq. Ft.
August 1, 2001 – January 31, 2002	$15.86 per Sq. Ft.
February 1, 2002 – January 31, 2003	$15.86 per Sq. Ft.

3. OFFICE BUILDING RESPONSIBILITIES:

   a. OFFICE BUILDING agrees to provide heating & air conditioning between the hours of 8:00AM and 6:00PM Monday through Friday, and 9:00AM to 1:00PM on Saturdays of each week except holidays.
   b. OFFICE BUILDING agrees to provide electricity and installed lighting to include replacement of lighting bulbs.
   c. OFFICE BUILDING agrees to provide water for restrooms and drinking fountains.
   d. OFFICE BUILDING agrees to provide and maintain automatic elevator services.
   e. OFFICE BUILDING agrees to maintain all ingress and egress ways in a clean, safe and orderly fashion.
   f. OFFICE BUILDING agrees to provide housekeeping services.

4. GILA COUNTY RESPONSIBILITIES:
   a. GILA COUNTY agrees to carry insurance on all personal property.
   b. GILA COUNTY agrees to carry general liability insurance of at least one million dollars ($1,000,000) on the leased property referred to in this agreement.
   c. GILA COUNTY shall provide furnishings and supplies necessary for the operation in areas it occupies.

5. LANDLORD – TENANT RELATIONSHIP: The landlord-tenant relationship shall be governed by Arizona Revised Statutes 33-301 to 33-380.

6. FISCAL LIMITATIONS: It is expressly understood and agreed that GILA COUNTY'S obligation pursuant to this agreement is contingent upon adequate financial appropriation during succeeding years. In the event that such appropriation is inadequate, GILA COUNTY may discontinue occupying any or all office space described herein, with sixty (60) days written notice.

7. INDEMNIFICATION: The parties hereto shall each be liable for damages to or theft of property, or injuries, or death to persons or any other loss or liability resulting from the neglect or intentional act or acts of their own employees or agents in operating, maintaining, or occupying the facility noted herein.

8. MODIFICATIONS & IMPROVEMENTS: All structural improvements or modifications desired and made to the premises by GILA COUNTY shall be subject to prior written approval by the LESSOR, through the LESSOR'S contract referenced herein.

9. NOTICES: All notice or demands upon either party by the other pursuant to this agreement, shall be in writing and shall be delivered in person or sent by mail addressed as follows:

COPPER MOUNTAIN INN, INC.
dba Mountain Professional Office Building
1100 Monroe Street
Globe, AZ 85501

GILA COUNTY
Facilities and Land Management
4053 East Highway 60-70
Miami, AZ 85539

10. SIGNATURES: IN WITNESS THEREOF, both parties hereby execute this agreement.

Mountain Professional Office Building

Paul Friedlan, President
Mountain Professional Office Building

Date: 2/5/01

Gila County

Cruz Salas, Acting Chairma
for Edward B. Guerrero, Chairman
Gila County Board of Supervisors

Date: 02-27-01

Attest:

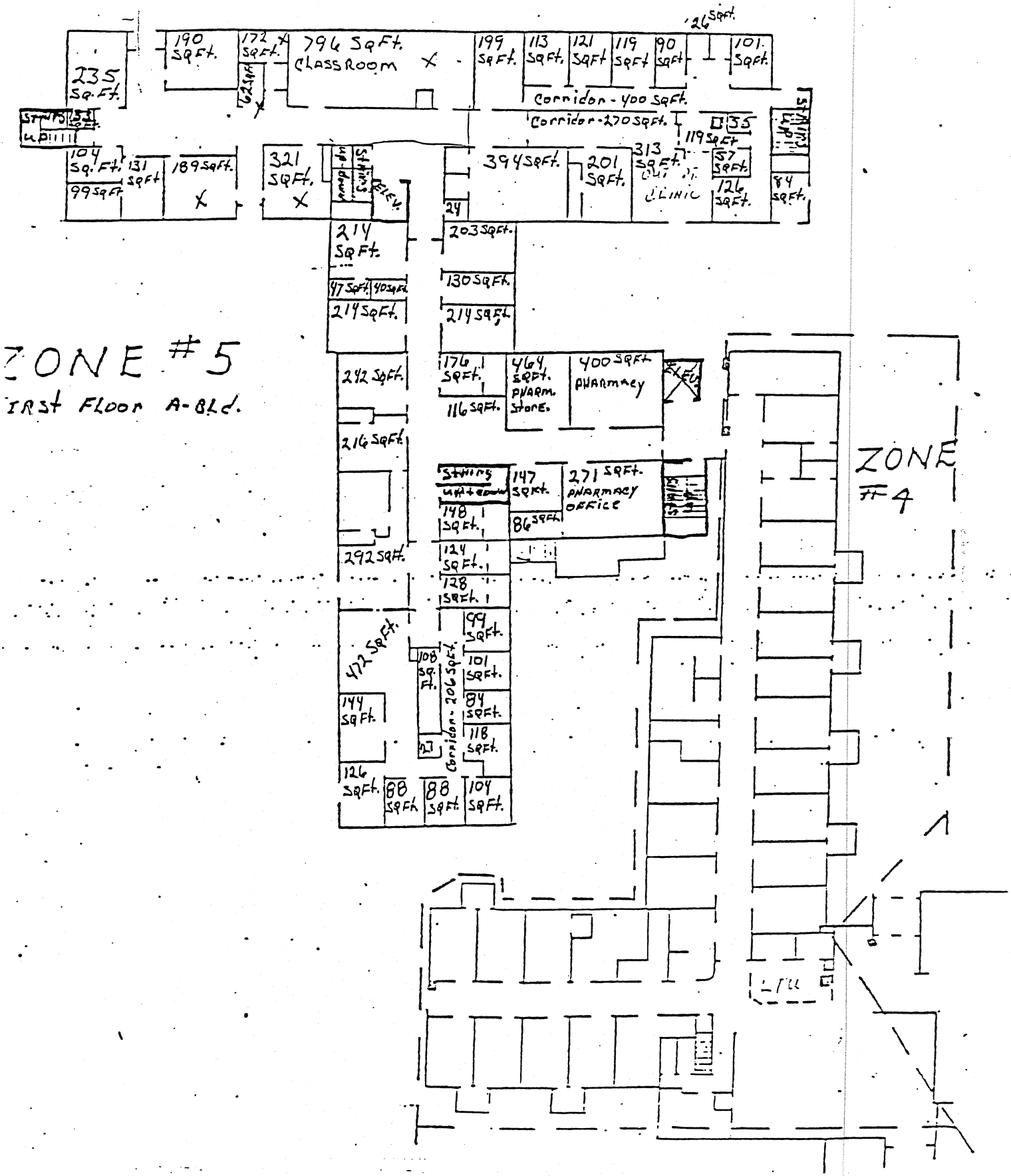
Steven L. Besich
County Administrator/Clerk of the Board

Approved as to Form:

Mark Gunning
Chief Civil Deputy County Attorney

X = common areas

EXHIBIT A



GILA COUNTY ATTORNEY

Daisy Flores

Re: County Attorney's Office "approval as to form" of contract or agreement.

To whom it may concern:

The County Attorney's Office has reviewed the contract or agreement attached to this agenda item and has determined that it is in its proper form and is within the powers and authority granted under the laws of this state to the public agency requesting the County Attorney's Office review.

Explanation of the Gila County Attorney's Office "Approval as to Form" Review

The Gila County Attorney's Office is often called upon to review contracts and other agreements between public entities represented by the County Attorney and private venders, contractors, and individuals.

In performing this review, the County Attorney's Office reviews these contracts to see that they are in "proper form" prior to their execution. "Proper form" means that the contract conforms to fundamental contract law, conforms to specific legislative requirements, and is within the powers and authority granted to the public agency. It does not mean that the County Attorney's Office approves of or supports the policy objectives contained in the contract. That approval is solely the province of the public agency through its elected body.

The public agency or department submitting the contract for review has the responsibility to read and understand the contract in order to completely understand its obligations under the contract if it is ultimately approved by the public entity's board. This is because while the County Attorney's Office can approve the contract as to form, the office may not have any idea whether the public agency has the capacity to actually comply with its contractual obligations. Also, the County Attorney's Office does not monitor contract compliance. Hence the public entity or

submitting department will need to be prepared to monitor their own compliance. A thorough knowledge of the provisions of the contract will be necessary to monitor compliance.

Before signing a contract "approved as to form," the County Attorney's Office will answer any questions or concerns the public agency has about the contract. It is the responsibility of the public agency or department submitting the contract for review to ask any specific questions or address any concerns it has about the contract to the County Attorney's Office at the same time they submit the contract for review. Making such an inquiry also helps improve the County Attorney's Office review of the contract because it will help focus the review on specific issues that are of greatest concern to the public agency. Failing to make such an inquiry when the agency does have issues or concerns will decrease the ability of the County Attorney's Office to meaningfully review the agreement.

ARF-985 **Regular Agenda Item 3- G**

Regular BOS Meeting

Meeting Date: 12/06/2011

Submitted For:	Joseph Heatherly, Finance Director	Submitted By:	Valrie Bejarano, Contracts Support Specialist, Finance Department
Department:	Finance Department		
Fiscal Year:	FY2011-2012	Budgeted?:	Yes
Contract Dates Begin & End:	12-1-11 to 11-30-12	Grant?:	No
Matching Requirement?:	No	Fund?:	Renewal
Presenter's Name:	Joseph Heatherly		

Information

Request/Subject

Reconsideration of Contract 070111-1 between Gila County and G. B. Home Cleaning for Janitorial Service of Globe County Facilities

Background Information

G. B. Home Cleaning was awarded Bid No. 070111-1 on November 15, 2011, by the Board of Supervisors in the amount of the monthly proposed cost of $6,536.43. (Total award = $78,437.16 per year + floor maintenance and incidentals at $26,562.84 for a total yearly cost of $105,000.)

Evaluation

On November 15, 2011, the contractor was mailed a letter of notification explaining what they needed to provide in order to start working under the contract. Also included in this notice was the monthly amount they would be paid for their services according to the awarded bid. On November 18, 2011, the contractor contacted the Facilities Manager by phone stating they thought the amount of $6,536.43 was what they would be paid for daily services and not monthly and that they would not be able to meet payroll with that amount.

Conclusion

Per page 17 of Contract No. 070111-1, Termination of Contract, "The County, with or without cause, may terminate this contract at any time by mutual written consent, or by giving thirty days written notice to the contractor. The County at its convenience, by written notice, may terminate this contract, in whole or in part. If this contract is terminated, the County shall be liable only for payment under the provision of this contract for the services rendered and accepted material received by the County before the effective date of termination."

Recommendation

The Finance Director recommends that the Board consider the legal issues surrounding the G. B. Home Cleaning contract and exercise the contract's 30-day termination clause.

Suggested Motion

Information/Discussion/Action to ratify the County Manager's letter of November 23 exercising the thirty-day termination clause in Contract No. 070111-1 between Gila County and G. B. Home Cleaning for janitorial services in County facilities in Globe, Arizona. Pursuant to A.R.S.§ 38-431.03(A)(3), the Board of Supervisors may vote to go into executive session to obtain legal advice from its attorney. **(Joe Heatherly)**

Attachments

11-15-11 Agenda Review Form

Contract 070111-1

Letter of Notification to G.B. Home Cleaning

Termination Letter to G.B. Home Cleaning

ARF-945 **Regular Agenda Item 2- C**
Regular BOS Meeting
Meeting Date: 11/15/2011

Submitted For:	Joseph Heatherly	Submitted By:	Valrie Bejarano, Contracts Support Specialist, Finance Department
Department:	Public Works Division	Division:	Facilities
Fiscal Year:	FY 2011-2012	Budgeted?:	Yes
Contract Dates Begin & End:	12-1-11 to 11-30-12	Grant?:	No
Matching Requirement?:	No	Fund?:	Renewal
Presenter's Name:	Joseph Heatherly		

Information

Request/Subject
Request to Award Bid No. 070111-1 for Janitorial Service

Background Information
For several years the County has hired a contractor to handle the evening custodial duties and floor maintenance of the Globe facilities. The award of bid no. 070111-1 will allow the County to move forward with the hiring of a contractor to continue this service.

Evaluation

Bid proposals were received on September 14, 2011, from contractors to perform evening janitorial services for County facilities in Globe as follows: Courthouse, Michaelson Building, Health & Community Services, WIC Building, Public Administration Building, Facilities/Sign Shop Building, Roads/Shop Offices and Guerrero Building.

The contractor will also perform other duties as requested such as carpet cleaning, and stripping and waxing of floors, which will be required several times a year as billable work.

Conclusion

The award of this contract would allow the Facilities Department to hire a contractor to provide evening janitorial service for the Globe facilities.

(Monthly Cost $6,536.43 = $78,437.16 per year + floor maintenance and incidentals at $26,562.84 for a yearly total of $105,000.00)

Recommendation

After extensive review of all submitted proposals, the Finance Director recommends that the Board of Supervisors approve the award of Request for Bids No. 070111-1 for Janitorial Services in Globe to G.B. Home Cleaning in the amount of $105,000.

Suggested Motion
Information/Discussion/Action to review all bids submitted for Request for Bids No. 070111-1 for Janitorial Service; award to the lowest, responsible and qualified bidder; and

authorize the Chairman's signature on the award contract for the winning bidder.
(Joseph Heatherly)

Attachments

Janitorial Services Bid 070111-1
Contractors Sent Bid Packet
Janitorial Service Bid Tabulation
Bid Tabulation Spreadsheet

GILA COUNTY

REQUEST FOR PROPOSALS
070111-1

JANITORIAL SERVICE
GLOBE, ARIZONA

BIDDER'S INFORMATION
CONTRACT DOCUMENTS AND SPECIFICATIONS

BOARD OF SUPERVISORS
Michael A. Pastor, Chairman
Tommie C. Martin, Vice Chairman
Shirley L. Dawson, Member

COUNTY MANAGER
Don E. McDaniel Jr.

GILA COUNTY
NOTICE OF REQUEST FOR PROPOSALS NO. 070111-1
JANITORIAL SERVICE GLOBE, ARIZONA

Notice is hereby given that the Gila County Facilities and Land Management Department is requesting proposals from qualified Contractors to provide Janitorial Services for County facilities located in Globe, Arizona.

SUBMITTAL DUE DATE: 3:00 PM, Local AZ Time, Wednesday, September 14, 2011

RETURN PROPOSAL TO: Gila County Procurement
1400 East Ash Street
Globe, AZ 85501

MANDATORY PRE-BID MEETING: 10:00 AM, Thursday, September 1, 2011,
1400 E. Ash St., Globe, AZ (2nd Floor Reception Area)

NOTICE IS HEREBY GIVEN, that sealed competitive Proposals for the material or services as specified will be received by the Gila County Procurement Department, until the time and date cited.

Interested Bidders may obtain a copy of this solicitation by calling Gila County Procurement at 928-402-8612. Bidders are strongly encouraged to carefully read the entire Request for Proposal.

Questions regarding the technical aspects of this Request for Proposals shall be directed to: Robert Hickman, Facilities Manager, PH. 928-402-8591. Questions regarding the general terms and conditions of this Request for Proposals should be directed to, Valrie Bejarano, 928-402-8612

Proposals received by the correct time and date will be publicly opened and recorded thereafter in the Board of Supervisors Conference Room, 1400 E. Ash St., Globe, AZ, or other site, which may be designated. Any proposals received later than the date and time specified above will be returned unopened. **Late proposals shall not be considered.**

The Board of Supervisors reserves the right to reject any or all proposals, or to accept any proposal, or to waive any informality in any proposal, or to withhold the award if deemed in the best interest of Gila County. All procurement activities conducted by Gila County are in conformance with the rules and regulations of the Gila County Procurement Code. A copy of the Code is available for review in the Deputy Clerk of the Board's office, Globe, AZ.

Arizona Silver Belt advertisement dates: August 17 and 24, 2011

Signed: _____ Date: 8/15/11
Bryan B. Chambers, Chief Deputy County Attorney
for Daisy Flores, County Attorney

Signed: _____ Date: 8/15/11
Michael A. Pastor, Chairman, Board of Supervisors

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SCOPE OF SERVICES

It is the intention of Gila County to award a contract to a qualified Contractor for janitorial services at several of its facilities. The Contractor shall furnish all necessary labor, supervision, equipment, transportation and all effort necessary to perform the required services at the designated locations.

Building Address	Square Footage	Floors	Bathrooms	Mop Closets	Storage Closets
Gila County Courthouse 1400 E. Ash St. Globe, AZ 85501	47,076	1st 2nd 3rd	8 7 10	1 0 1	1 0 0
Michaelson Building 149 S. Broad St. Globe, AZ 85501	7,952	1st 2nd	2 2	1 1	1 1
Health & Community Services 5515 S. Apache Ave. Globe, AZ 85501	27,581	1	6	3	1
WIC Building 5515 S. Apache Ave Globe, AZ 85501	1,792	1	1	1	0
Public Works Administration 745 N. Rose Mofford Way Globe, AZ 85501	11,000	1	2	1	0
Facilities/Sign Shop Building 725 N. Rose Mofford Way Globe, AZ 85501	2,256	1	2	1	0
Roads/Shop Office 1100 W. Besich Blvd Globe, AZ 85501	1,980	1	2	1	0
Guerrero Building 1400 E. Ash St. Globe, AZ 85501	5,976	1	2	0	0

Contract may be awarded to multiple Contractors depending on what is deemed to be in the best interest of Gila County.

Scope of Services continued...

SPECIFIC REQUIREMENTS

Building Areas and Janitorial Standards:

- Sweeping and Dust Moping (Uncarpeted Areas)
  1. Vestibules, lobbies and entries
  2. Corridors
  3. Stairwells, stars and landings (interior)
  4. Elevators and elevator vestibules
  5. Offices, Courtrooms and Conference rooms

- Sweeping and Dust Mopping Standards

  Sweeping shall leave the surfaces uniformly clean of all surface dirt including corners and places inaccessible to the mop. Surface accumulation of hardened dirt that cannot be loosened with the broom shall be loosened sufficiently to permit removal by sweeping or if necessary, shall be washed. It is intended that all dust and surface contamination except deeply embedded dirt and stains shall be removed by sweeping or mopping with a treated mop. Dirty mops are <u>not</u> acceptable for use.

- Vacuuming (Carpeted Areas)
  1. Lobbies and entries (interior)
  2. Stairwells, stairs and landings (interior)
  3. Corridors
  4. Offices, Courtroom and Conference rooms

- Dusting and Vacuuming (Low Cleaning-Under 6')
  1. All furniture and fixtures (i.e.) file cabinets, tables, etc.
  2. Window sills, ledges, etc.
  3. Vending Machines
  4. Stairwells, stairs, landings and railings (interior)

- Dusting and Vacuuming (High Cleaning-Over 6')
  1. Door casings
  2. Partitions, wood paneling, etc.

- Dusting and Vacuuming Standards

  Dusting shall be accomplished by means of vacuum cleaners supplemented by chemically treated clean cloths. Oil treatment for cloths will not be permitted. Surfaces shall be cleaned and free from dust after dusting is completed. Dust shall be removed and not scattered around the room. Low dusting includes all surfaces not over six feet from the floor. Venetian blinds shall be dusted with a treated dust cloth by hand or with a vacuum cleaner attachment especially designed for cleaning Venetian blinds. Office equipment such as typewriters, adding machines, calculators and similar instruments shall not be dusted because of possibility of damage. Tops of desks will also be excluded from dusting.

- Trash Removal
  1. Empty <u>all</u> trash containers, replace liners as needed; DO NOT place leaking trash bags on carpet.
  2. Dispose of trash in sealed and/or tied plastic bags in outside dumpsters.

Scope of Services continued...

- Trash Removal Standards

  All waste baskets shall be emptied and boxes, cans, paper, etc. marked trash which is placed near the trash cans for disposal shall be removed in a manner that will not cause dispersion of dust. Trash shall not be allowed to blow around. Any trash dropped shall be immediately retrieved by the custodian or contractor and properly placed in the trash receptacle.

- Washing

  1. Clean and sanitize urinals inside and out
  2. Clean and sanitize commodes inside and out.
  3. Clean mirrors
  4. Clean and sanitize miscellaneous restroom and toilet fixtures.
  5. Clean and sanitize restroom and toilet floors.
  6. Clean and sanitize restroom wash basin wall area and toilet wall area.
  7. Clean and sanitize shower rooms.
  8. Damp wipe all restroom and locker room ledges and sills.
  9. Spot clean walls, doors and trim.
  10. Clean and sanitize water fountains.
  11. Windows inside and outside of building

- Washing Standards

  Washed surfaces shall be clean and free from all dirt, grease and film including embedded dirt and grease. All small and narrow openings shall be cleaned to the same degree as other surfaces. Surfaces shall be dried and left clean.

  A. Washing Glass: Glass shall be washed by application of glass cleaner, rubbed with a cloth and finally polished with a clean soft dry cloth or textile disposable wipers. Use only soft cloths on Plexiglas. The washing shall not contaminate adjacent non-glass areas. Glass shall be left clean and dry, free from film or streaks and any contamination visible when looking through the glass towards natural light source. Sill and frames shall be damp wiped.

  B. Washing Non-Glass: All surfaces shall be washed with a mild neutral detergent or quaternary disinfectant-detergent solution following manufacturer's dilution ration. They shall be left clean without streaks. Scrub brush or scour pad shall be used where necessary to loosen the dirt.

  C. Washing in Restroom, Public and Patient Areas: Restroom floors, chairs, tables and mirrors shall be cleaned as specified with quaternary disinfectant-detergent. Commodes and urinals shall be washed clean with disinfectant-detergent and toilet brush then wiped dry with textile disposable wipers or clean cloths.

- Damp Wiping Standards

  Surfaces shall be left clean and free from film or streaks upon completion of damp wiping.

- Disinfecting Standards

  Urinals and commode surfaces shall be disinfected with a concentration of quaternary disinfectant-detergent. It shall be allowed to stand in the fixtures for at least ten minutes.

Bowl cleaner shall be used once weekly for lime and iron stain removal except where water conditions require more frequent applications. In these cases, bowl cleaner shall be used twice weekly.

- Wet Mopping
  All tile, wooden or hard surface floors.

- Wet Mopping Standards
  After dust mopping, all floors shall be cleaned by wet mopping using quaternary ammonium germicide and shall be free from streaks, stains and film from dirt or soap. There shall be no splashes on walls, baseboards, furniture and furnishings. Wet mopping is also required on all stairwells, stars, landings & elevator hard floors.

  There shall be no mop strings left on the floor. Surface should be dry in a reasonable amount of time. Corners and spaces inaccessible to the mop shall be carefully cleaned and dry. Dirty mops are <u>not</u> acceptable for use.

- Polishing
  Clean and polish <u>all</u> brass and stainless steel (i.e. railings, elevators, doorknobs, plumbing fixtures, kick plates, etc.).

- Polishing Metal Trim and Plumbing Hardware
  This shall be accomplished with metal polish. Chromium-plated, stainless steel and brass shall be polished with a dry cloth or textile disposable wipers. All surfaces shall be rubbed to a soft gloss with clean cloth or textile disposable wipers.

- Spray Buffing (Hard Surfaced Floors)
  Spray buff all lobbies, corridors, and conference rooms. Spray buff product to be of the same manufacturer as floor finish.

- Spot Cleaning Carpets
  A carpet adequately spot cleaned is free of all stains, deposits, or spills. (Exceptions: Any stain, contractor has made every attempt to remove by industry standards, and such stain has become permanent to the surface). Care will be taken to use a product or cleaning that will not harm or discolor the carpet fibers or backing.

Work Schedule

Cleaning services shall be provided, five (5) nights a week (excluding those weeks with an official holiday), Monday through Friday unless otherwise noted on Bid Reply Section for specific building. Cleaning services will not be required on days in which a declared State of Emergency has been made by the Governor or in the event of any other unforeseen type of emergency where County offices are closed. There are 10 County holidays, and services will not be provided on these days unless the County agency makes such request and pays for these additional services.

- **Daily Schedule**
  1. Empty all wastebaskets; transport to specified area for removal. Replace liners as needed.

2. Clean all entryways and walkways six feet outside of entry.
3. Sweep or dusts mop all entrances, entryways, and lobbies.
4. Spot clean all glass and interior partitions.
5. Clean all restrooms.
    a. Clean and disinfect all drinking fountains.
    b. Clean and disinfect all sinks, toilets, and urinals.
    c. Remove all finger marks from walls, stalls, doors, and light switches.
    d. Damp wipe all ledges and sills.
    e. Clean all mirrors and ledges of mirrors.
    f. Sweep and mop all uncarpeted floors (Including Health Department Exam Rooms)
    g. Replenish all restroom with paper towels, tissue, and soap.
    h. Empty and remove trash.
6. Clean elevators, door tracks, and lobbies.
7. Remove trash from all buildings to the Shop garbage bin.
8. Clean all kitchens by sweeping, mopping floors and removing trash only.
9. Sweep and dust stairwells, stairs, and landings (interior). Wet mop, as needed.
10. Vacuum all courtrooms and offices with vacuum cleaner.

- **Two Times Weekly – (Minimum):**
    1. Vacuum all carpeted floors (including under desks) with a vacuum cleaner.
    2. Clean stairwells, steps and tread in the Courthouse using appropriate cleaning machine. Wipe down hand rails.

- **Two Times Weekly – (Minimum):**
    1. Dust furniture in lobby areas (top, side, and lower area), fixtures, ledges, and window sills using a treated dust cloth or feather duster.
    2. Remove all finger marks from furniture, fixtures, ledges and sills.
    3. Damp mop all quarry and tile floors.

- **Monthly**
    1. Wash baseboards, doors and door handles in all buildings.
    2. Clean light switches.

- **Semi-Annually**
    1. Wash windows inside and out of each building.
    2. Clean window blinds.

Billable Work

Carpet Cleaning Per County Request

- Carpet cleaning shall be performed as directed by the County on an as need basis. Carpet cleaning shall consist of shampooing or steam cleaning (after a thorough vacuuming).

Stripping and Waxing of Floors per County Request

- Stripping and waxing of floors shall be performed as directed by the County on an as need basis. All tile floors shall be stripped, all dirt and old wax removed, doors and baseboards cleaned, and three (3) coats of non-slip floor finish added.

Custodial Personnel / Subcontractors

Contractor must provide trained qualified personnel to perform the duties required under this contract. A list of persons, and their phone numbers, performing the work shall be provided by the Contractor to the County should the need arise in case of an emergency.

All individuals working for the awarded Contractor must pass a background check prior to working on Gila County property under this project. Investigation will include criminal record, driving record, personal references, past employment/volunteer status, educational/professional status. All questionable findings of background checks will be discussed with special panel of Gila County Management and Law Enforcement. (page 34)

The Contractor shall provide a job supervisor for this contract who shall be responsible to the County for the competent performance of all custodial work. The supervisor shall make sufficient daily routine inspections to insure work is performed as specified. In addition, Contractor supervisor shall direct the cleaning activities of the custodial staff.

Contractor supervisor shall inspect the building prior to employees leaving and any deficiencies will be corrected.

The Contractor shall provide to the County the name and phone number of the supervisor and alternate(s) who shall act for the Contractor when the supervisor is absent. This information shall be designated in writing to the Gila County Facilities and Land Management Manager prior to contract start date.

GENERAL REQUIREMENTS

Temporary Work Changes

Locations and janitorial service at the locations may change from time to time pending on the needs of the County. It is possible during the period of this Contract that new locations may be added and some locations removed from the schedule. These location changes shall be processed as an amendment to the contract requiring Board approval and shall result in no penalties to the County.

The County shall have the right to require Contractor's personnel to perform other cleaning duties on the premises as the County shall deem desirable or necessary and Contractor shall promptly comply with such requirements, provided however, that only such of Contractor's personnel who are performing cleaning services of a routine cleaning nature shall be utilized and provided further that the Contractor shall not be required to perform the effected routine cleaning services during such times. No change in payment rate for routine work will be made due to temporary work changes.

Contract Performance

If at any time during the term of the contract the performance becomes unsatisfactory to the County, the Contractor will be directed to provide adequate personnel or otherwise correct the unsatisfactory performance. Any cost to the County directly related to correction of unsatisfactory performance will be deducted from Contractor's billing. Contractor shall do all the work provided in the specifications and shall do additional extra and incidental tasks as may be considered necessary from time to time to complete the work in a satisfactory manner.

Scope of Services continued...

County Furnished Supplies

Gila County reserves the right to control all janitorial products and chemicals that will be used in each designated building. Copies of Material Safety Data Sheets on each chemical shall be kept on file.

The County is responsible for ordering Janitorial Supplies and will control inventory of the paper products, chemicals and cleaning products and shall be responsible for storage of these products and chemicals.

Contractor Equipment

Contractor shall provide their own equipment to perform the scope of work under this contract.

Contractor's equipment must be in good operating condition at all times and must meet OSHA standards. The appearance, cleanliness, and suitability for the job of all equipment must be acceptable to the County at all times.

Storage Space

Contractor shall store its supplies and equipment in storage areas and custodial closets designated by the County. Contractor agrees to keep these areas neat and clean at all times in accordance with all applicable fire regulations. Basins, sinks and drains will be wiped clean daily and sanitized at least weekly.

Safety

For all operations requiring the placing and movement of the Contractor's equipment, Contractor shall observe and exercise, and compel his employees to observe and exercise, all necessary caution and discretion so as to avoid injury to persons, damage to property of any and all kinds, and annoyance to or undue interference with the movement of the public and County personnel.

All ladders, scaffolding, or other devices used to reach the surface of objects not otherwise accessible for the required cleaning operations, shall be of sound construction, firm and stable, and shall be maintained in good condition. All such equipment shall be moved onto the areas where they are required, placed, shifted where necessary, and removed from the areas in such manner as to provide maximum safety to persons and property in and around areas of cleaning operations.

ADOSH Guidelines

Contractor will be familiar with and operate within guidelines set forth by the Arizona Division of Occupational Safety and Health which affects custodial and housekeeping operations. Contractor will insure that all employees assigned to this contract are knowledgeable of the current ADOSH guidelines affecting custodial and housekeeping operations.

INFORMATION REQUEST

Requests for additional information relating the ***Scope of Services*** should be directed to Robert Hickman, (928)402-8591, rhickman@co.gila.az.us.

Requests for additional information relating to the instruction or general conditions of this bid should be directed to Valrie Bejarano (928)402-8612, vbejarano@co.gila.az.us.

MANDATORY PRE-BID MEETING

There will be a mandatory pre-bid meeting held Thursday, September 1, 2011, 10:00 AM. The meeting will begin at the Globe Courthouse, 1400 E. Ash St., Globe, AZ, 2nd floor, and continue to the locations on page 3 of RFP packet.

INSTRUCTIONS TO BIDDERS

IMPORTANT: EXHIBIT "A", INSTRUCTIONS TO BIDDERS AND EXHIBIT "B", BIDDERS AWARD AGREEMENT ARE BASIC CONTENT TO GILA COUNTY BID PACKAGES. INDIVIDUAL BIDS MAY REQUIRE DIFFERENT LANGUAGE FOR INSTRUCTIONS AND AWARD AGREEMENTS. WHERE APPLICABLE, SUCH CHANGES WILL APPEAR IN EXHIBIT "C", MINIMUM PRODUCT SPECIFICATIONS AND INFORMATION AND TAKE PRECEDENCE OVER THE LANGUAGE APPEARING IN EXHIBITS "A" & "B".

EXHIBIT "A" INSTRUCTIONS TO BIDDERS

Preparation of Sealed Proposal

A. Sealed Proposals will be received by the Gila County Public Works Division, from individuals and Contractors to deliver the product(s), goods and services contained to establish a contract for specified locations within Gila County. The County seeks sealed Proposals only from qualified, experienced Contractors able to provide services which are, in all respects, responsive to the specifications. All Proposals shall be on the forms provided in this Request for Sealed Proposal package. It is permissible to copy these forms if required but copies must have original signatures.

B. Before submitting its Proposal and Qualification Form each Contractor shall familiarize itself with the Scope of Work, laws, regulations and other factors affecting performance of work. It shall carefully correlate its observations with requirements of the Contract and otherwise satisfy itself of the expense and difficulties attending the performance of the work. The submission of a Proposal will constitute a representation of compliance by the Contractor. There will be no subsequent financial adjustment, other than that provided for by the Contract, for lack of such familiarization.

C. Contractors must complete the Proposal and Qualifications Forms provided in this Request for Proposal package in full, original signature in ink, by the person(s) authorized to sign the Proposal and to be submitted at the time of bid, and made a part of this contract. The County will use the Proposal and Qualifications Form in evaluating the capacity of Contractor(s) to perform the Scope of Services as set forth in the Contract. Failure of any Contractor to complete and submit the Price Sheet and Signature/Offer Page at time and place of opening shall be grounds for automatic disqualification of the Contractor(s) from further consideration.

D. The names of all persons authorized to sign the Proposal must also be legibly printed below the signature. Evidence of the authority of the person signing shall be furnished.

E. The full name of each person or company interested in the Request for Proposal shall be listed on the Proposal.

F. No alterations in Proposals, or in the printed forms therefore, by erasures, interpolations, or otherwise will be acceptable unless each such alteration is signed or initialed by the Contractor; if initialed, the County may require the Contractor to identify any alteration so initialed.

Amendments

Any addendum issued as a result of any change in this Request for Sealed Proposal must be acknowledged by all Contractors in the following manner:

1. Completion of the Bidder Checklist & Addenda Acknowledgment form, page 30.
2. Copies of all addenda must be attached to the submittal.

Failure to indicate receipt of addenda in the above manner may result in a Proposal being rejected as non-responsive.

Inquires

Any questions related to this Request for Proposal must be directed to those whose names appear on the Notice. The Gila County Supervisors may require all questions be submitted in writing. Any correspondence related to a Request for Proposals should refer to the appropriate Request for Proposals number, page, and paragraph number. However, the Contractor(s) must not place the Request for Proposal number on the outside of an envelope containing questions since such an envelope may be identified as a sealed Proposal and may not be opened until after the official Request for Proposal due date and time. Questions received after 5:00 pm, September 6, 2011 will not be answered. Only questions answered by formal written addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

A. Proposal results ARE NOT provided in response to telephone or written inquires. A tabulation of proposals received is on file in the Gila County Board of Supervisors and Public Works offices and available for review after contract award.

Late Proposals

Any proposal received later than the date and time specified on Notice for Sealed Proposal will be returned unopened. Late Proposals shall not be considered. Any Contractor submitting a late Proposal shall be so notified.

Submittal Proposal Format:

It is requested that One (1) Original and Two (2) copies (3 TOTAL) with original signatures on all three (3) of the Proposal and Qualification Forms, Price Sheet, and Offer Page shall be submitted on the forms and in the format specified in the Request for Proposal. The County will not be liable for any cost incident to the preparation of Proposal, materials, reproductions, presentations, copy-right infringements, etc. It is permissible to copy these forms if required. Facsimiles or mailgrams shall not be considered. Failure to include all required documents, all with original signatures, may invalidate the bid.

1. By signature in the offer section of the Offer and Acceptance page, Contractor certifies:

   A. The submission of the proposal did not involve collusion or other anti-competitive practices.
   B. The Contractor has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer.
   C. In order to conserve resources, reduce procurement costs, improve timely acquisition and cost of supplies and to improve efficiency and economy of procurement, any political subdivision, Stated, County, City, Town, etc., of the State of Arizona, will be allowed by the Contractor(s) awarded the contract to provide the same services, at the same prices stated in the Proposal. Delivery charges may differentiate depending on geographical location.

2. Proposals submitted early may be modified or withdrawn by notice to the party receiving proposals at the place and prior to the time designated for receipts of Proposals.

3. The County is not responsible for any Contractor's errors or omissions. Negligence in preparing an offer confers no right to the Contractor unless the Contractor discovers and corrects such errors prior to the Proposal deadline.

The Proposal shall be submitted in a sealed envelope, a minimum of Three (3) copies with original signatures shall be provided by the Bidder. The words "SEALED PROPOSAL" with Proposal Title "JANITORIAL SERVICE", Bid No., "070111-1", Date "SEPTEMBER 14 2011", and time "3:00 PM" of Proposal opening shall be written on the envelope. The Bidder(s) shall assume full responsibility for timely delivery at the location designated in the Notice.

GENERAL TERMS AND CONDITIONS

Award of Contract

1. The Gila County Board of Supervisors reserves the right to award any Proposal by individual line item, by group of line items or as total, or any part thereof, whichever is deemed to be in the best interest, most advantageous of the County of Gila.

   a. Notwithstanding any or other provisions of the RFP, the County reserves the right to:
      1. Waive any immaterial defects or informalities; or
      2. Reject any or all Proposals; or portions thereof; or
      3. Reissue a Request for Proposal.

2. It is the responsibility of the Gila County Board of Supervisors to let the County contracts to the lowest responsive and responsible Contractor(s). To ensure that all Contractors are experienced, reasonably equipped and adequately financed to meet their contractual obligations, a determination of responsibility shall be made by the Gila County Board of Supervisors prior to contract award.

3. Further, the County reserves the right to reject the Proposal of any Contractor(s) who has previously failed to perform adequately after having once been awarded a prior Proposal for furnishing and installing materials similar in nature.

4. All submitted forms provided in this Request for Proposal will be reviewed by the Gila County attorney and Gila County Board of Supervisors.

5. Those Contractor(s) who, in the opinion of the Gila County Board of Supervisors, are best qualified and whose Proposals are most advantageous of the County may be invited to appear before the Board for an oral review.

6. The apparent successful Contractor shall sign and file with the County, within ten (10) days after Notice of Intent to Award, all documents necessary to successfully execute the contract.

Protests

Only other Contractors who have submitted a bid proposal have the right to protest. A protest of an award must be filed within ten (10) days after the award by the Board of Supervisors. A protest must be in writing and must include the following:

A. Name, address and telephone number of the protester.
B. Signature of the protester or its representative, and evidence of authority to sign.
C. Identification of the contract and the solicitation or contract number.
D. Detailed statement of the legal and factual grounds of protest including copies of relevant documents.
E. The form of relief requested.

All protests shall be sent to the attention of the Gila County Board of Supervisors, 1400 East Ash Street, Globe, Arizona 85501.

Laws and Ordinances

This agreement shall be enforced under the laws of the State of Arizona and Gila County. Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Contractor. The Contractor shall comply with the applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the act.

EXHIBIT "B" BIDDER AWARD AGREEMENT

This exhibit shall serve as the contract agreement to any Contractor, their agents, subcontractors and/or representatives, awarded this or any portion of this contract by the County, by submitting Proposals to this or any other solicitation requiring sealed Proposals, does hereby agree to the following provisions. Proof of acceptance of these provisions will be the Contractor's signature(s) appearing on page 31, BIDDERS OFFER PAGE, Exhibit "D" Bidders Qualification and Certification forms(s) pages 22-23.

Overcharges by Antitrust Violations

The County maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the County any and all claims for such overcharges as to the goods or services used to fulfill the contract.

Authority to Contract

This contract is based upon the Request for Proposal, Attached Exhibits and Forms, issued by the County and the offer submitted by the Contractor in response to the RFP. The offer shall substantially conform to the terms, conditions, specifications and other requirements set forth within the text of the RFP and attached exhibits. All other conditions, specifications and other requirements set forth within the text of the RFP, attached exhibits and forms are incorporated by this reference into this contract. The county reserves the right to clarify any contractual terms with the concurrence of the Contractor; however, any substantial non-conformity in the offer, as determined by the County Attorney, shall be deemed non-responsive and the offer rejected. The contract and incorporated RFP with attached exhibits and forms shall contain the entire agreement between Gila County and the Contractor relating to these requirements and shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders, or master agreement in any form. The contract activity is issued under the authority of the Gila County Manager, after the Gila County Board of Supervisors approves the award. No alteration of any portion of the contract, any items or services awarded, or any other agreement that is based upon this contract may be made without express written approval of the Gila County Board of Supervisors in the form of an official contract amendment. Any attempt to alter any documents on the part of the Contractor or any agency is a violation of the County Procurement Code. Any such action is subject to the legal and contractual remedies available to the County inclusive, but not limited to, contract cancellation, suspension and/or debarment of the Contractor.

Contract Amendments

The contract shall be modified only by a written contract amendment signed by the Gila County Board of Supervisors and persons duly authorized to enter into contracts on behalf of the Contractor.

Contract Default

A. The County, by written notice of default to the Contractor, may terminate the whole or any part of this contract in any one of the following circumstances:

   1. If the Contractor fails to make delivery of the supplies or to perform the services within the times specified; or
   2. If the Contractor fails to perform any of the other provisions of this contract; and fails to remedy the situation within a period of ten (10) days after receipt of notice.

B. In the event the County terminates this contract in whole or part, the County may procure supplies or services similar to those terminated, and the Contractor shall be liable to the County for any excess costs for such similar supplies or services.

Right to Assurance

Whenever one party to this contract in good faith has reason to question the other party's intent to perform, the other party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of this contract.

Costs and Payments

Payment: Payments shall comply with the requirements of A.R.S. Title 35 and 41, Net 30 days. Upon receipt and acceptance of goods and services, the Contractor shall submit a complete and accurate invoice for payment from the County within thirty (30) days.

Payment of Taxes: The Contractor shall be responsible for paying all applicable taxes.

Tax Indemnification: Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the County harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

IRS W9 Form: In order to receive payment the Contractor shall have a current IRS W9 Form on file with the County unless not required by law.

Note: If County receives a Preliminary Lien Notice from a subcontractor the Contractor will provide Lien Waivers prior to Contractor receiving payment.

Co-op Use of Contract – Intergovernmental Purchasing

Gila County has entered into an active purchasing agreement with other political subdivisions, cities, and towns of the State of Arizona in order to conserve resources, reduce procurement costs and improve timely acquisition and cost of supplies, equipment and services. The Contractor to whom this contract is awarded may be requested by other parties of said interactive purchasing agreements to extend to those parties the right to purchase supplies, equipment and services provided by the Contractor under this contract, pursuant to the terms and conditions stated herein. Any such usage by other entities must be in accord with the rules and regulations of the respective entity and the approval of the Contractor.

Cancellation of County Contracts

This contract is subject to the cancellation provisions of **A.R.S. §38-511.**

Termination of Contract

The County, with or without cause, may terminate this contract at any time by mutual written consent, or by giving thirty (30) days written notice to you. The County at its convenience, by written notice, may terminate this contract, in whole or in part. If this contract is terminated, the County shall be liable only for payment under the payment provisions of this contract for the services rendered and accepted material received by the County before the effective date of termination.

The County reserves the right to cancel the whole or any part of this contract due to failure of the Contractor to carry out any term, promise, or condition of the contract. The County will issue a written ten (10) day notice of default to Contractor for acting or failing to act as in any of the following:

1. In the opinion of the County, the Contractor fails to perform adequately the stipulations, conditions or services/specifications required in the contract.
2. In the opinion of the County, the Contractor attempts to impose on the County material products, or workmanship, which is of unacceptable quality.
3. Contractor fails to furnish the required service and/or product within the time stipulated in the contract.
4. In the opinion of the County, the Contractor fails to make progress in the performance of the requirements of the contract and/or give the County a positive indication that Contractor will not or cannot perform to the requirements of the contract.

Each payment obligation of the County created hereby is conditioned upon the availability of County, State and Federal funds, which are appropriated or allocated for the payment of such an obligation.

If funds are not allocated by the County and available for the continuance of service herein contemplated, the contract period for the service may be terminated by the County at the end of the period for which funds are available. The County shall notify the Contractor at the earliest possible time which service may be affected by a shortage of funds. No penalty shall accrue to the County in the event this provision is exercised, and the County shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

General

After receipt of all proposals, each submittal shall be screened to determine if any shall be deemed non-responsive. Unsigned proposals, unacknowledged Addenda, incomplete proposals, non-conformance with mandatory requirements, etc., may result in the determination of non-responsive.

Subsequent to the initial review, all remaining proposals shall be reviewed by the Gila County Public Works Fiscal Services Manager to evaluate the information submitted, perform tests when necessary and make comparisons in order to approve or reject the Request. If rejected, the purchasing department shall give written notice to the Bidder submitting this request.

MINIMUM SPECIFICATIONS

EXHIBIT "C" MINIMUM SPECIFICATIONS – PRODUCT SPECIFICATIONS

Purpose

It is the intent of this Invitation for Proposals to enter into a contract with a qualified Contractor to provide janitorial services for Gila County, Globe, Arizona.

SECTION 1.0

General Purpose

1.1 All product specifications are **minimum.**

1.2 Contractor should have adequate manufacturing/stocking facilities to serve the needs of Gila County.

1.3 All Proposals must represent the entire package. Partial awards will not be made unless otherwise stated in the Proposal specifications.

1.4 The parties specifically understand and agree that the quantities used for bidding purposes are estimates of County needs and in no event shall the County be obligated to purchase the exact quantities of any item set forth in the Proposal. The County does not guarantee any maximum or minimum amounts of purchase.

1.5 Contractor shall review its Proposal submission to assure the following requirements are met.

- 1.5.1 **One (1) original and two (2) copies, total of three (3), all with original signatures,** shall be submitted at time of bid opening.
- 1.5.2 Qualification and Certification Forms
- 1.5.3 Price Sheet
- 1.5.4 References List
- 1.5.5 No Collusion Certification
- 1.5.6 Intentions Concerning Subcontracting
- 1.5.7 Legal Arizona Workers Act Compliance
- 1.5.8 Checklist & Addenda Acknowledgment
- 1.5.9 Offer Page
- 1.5.10 Gila County Human Resources Department Background Authorizaiton

SECTION 2.0

Proposal Pricing & Term

2.1 Prices shall be in effect for the duration of the contract period. Contractor shall incorporate all profit and discount into their price. The exception will be any price reduction, which will be applied to the contract immediately upon the Contractor's or Gila County's discovery of any such price reduction.

2.2 The contract shall commence upon award and shall remain in effect for a period of twelve (12) months unless terminated, cancelled or extended as otherwise provided herein. The Contractor agrees that Gila County shall have the right, at its sole option, to renew the contract for two (2)

additional one year periods. In the event the County exercises such a right, all terms, conditions and provisions of the original contract shall remain the same and apply during the renewal period.

2.3 Profit costs may be negotiated should the Contractor provide information indicating the necessity for such price increases and must meet the Board of Supervisor's approval by an amendment to the contract prior to any such extension.

SECTION 3.0

Ordering and Delivery:

3.1 ORDERING: Gila County does not warrant the order of any equipment or services prior to actual need. Gila County's personnel may re-order equipment or services as it becomes necessary or based on the required needs within the County during the term of this contract.

3.2 PRODUCT DELIVERY: Gila County Facilities and Land Management Office. The Board of Supervisors may designate other or alternate delivery sites at any time during the term of the contract. These needs may be based on, but not limited to, seasonal, emergency, historical usage data.

SECTION 4.0

4.1 **Evaluation of Proposal and Negotiations**

The Director shall appoint a selection committee to evaluate the proposals and make a recommendation based on the criteria set forth in the Invitation for Proposals. The Board of Supervisors shall not act in capacity of the selection committee. Proposals shall be evaluated on the factors set forth in the Invitation for Proposals.

For the purpose of conducting Negotiations, the County shall determine what Proposals are susceptible for being selected for award. A determination that a Proposal is unacceptable shall be in writing, state the basis of the determination and be retained in the County files. If it is determined a Proposal is not reasonably susceptible of being selected for Award, the Contractor shall be notified and shall not be afforded an opportunity to modify its Proposal

4.2 **Negotiations with Individual Contractors**

- Gila County may establish procedures and schedules for conducting Negotiations. Disclosure of a Contractors Price or any information derived from competing Proposal Prices or any information derived from competing Proposals is prohibited.

  a. Any Response to a request for Clarification of a Proposal shall be in writing.
  b. Gila County shall keep a record of all Negotiations.

- For the purposes of conducting Negotiations with Contractors, Gila County may use any of the following methods that, in their judgment, best meets the unique requirements.

  a. Concurrent Negotiations: Negotiations may be conducted concurrently with Responsible Contractors for the purpose of determining source selection and/or Contract Award.

b. Exclusive Negotiations: A determination may be made by the Director to enter into exclusive Negotiations with the Responsible Contractor whose Proposal is determined in the selection process to be most Advantageous to the County.

- Exclusive Negotiations may be conducted subsequent to concurrent Negotiations or may be conducted without requiring previous concurrent Negotiations.

  a. A determination to conduct exclusive Negotiations shall not constitute a Contract Award nor shall it confer any property rights to the successful Contractor.
  b. If exclusive Negotiations are conducted and an agreement is not reached, the County may enter into exclusive Negotiations with the next highest rank Contractor without the need to repeat the formal Solicitation process.

INSURANCE PROVISIONS

Indemnification Clause

Contractor shall indemnify, defend, save and hold harmless the County of Gila and its 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 Contractor or any of its owners, officers, directors, agents, employees or subcontractors. 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 Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the County, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the County.

Insurance Requirements

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The County in no way warrants that the minimum limits contained herein are sufficient to protect the 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 is free to purchase additional insurance as may be determined necessary.

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 and broad form contractual liability coverage.
   - General Aggregate $2,000,000
   - Products – Completed Operations Aggregate $1,000,000
   - Personal and Advertising Injury $1,000,000
   - Each Occurrence $1,000,000

   a. Policy shall be endorsed to **include master key coverage**.
   b. The policy shall be endorsed to include the following additional insured language: **"The County of Gila shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor".**
   c. Policy shall be endorsed to **include coverage for "care-custody-control"**.

INSURANCE PROVISIONS

Indemnification Clause

Contractor shall indemnify, defend, save and hold harmless the County of Gila and its 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 Contractor or any of its owners, officers, directors, agents, employees or subcontractors. 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 Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the County, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the County.

Insurance Requirements

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The County in no way warrants that the minimum limits contained herein are sufficient to protect the 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 is free to purchase additional insurance as may be determined necessary.

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 and broad form contractual liability coverage.
   - General Aggregate $2,000,000
   - Products – Completed Operations Aggregate $1,000,000
   - Personal and Advertising Injury $1,000,000
   - Each Occurrence $1,000,000

   a. Policy shall be endorsed to include master key coverage.
   b. The policy shall be endorsed to include the following additional insured language: "The County of Gila shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor".
   c. Policy shall be endorsed to include coverage for "care-custody-control".

2. **Automobile Liability**
   Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.
   Combined Single Limit (CSL) $1,000,000
   a. The policy shall be endorsed to include the following additional insured language: "The County of Gila shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including automobiles owned, leased, hired or borrowed by the Contractor".

3. **Worker's Compensation and Employers' Liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	$100,000
Disease – Each Employee	$100,000
Disease – Policy Limit	$500,000

   a. Policy shall contain a waiver of subrogation against the County of Gila.

4. **Fidelity Bond or Crime Insurance**
   Bond or Policy Limit $820,321.77
   a. The bond or policy shall be issued with limits of 50% of the contract value or $50,000 - whichever amount is greater.
   b. The bond or policy shall include coverage for all directors, officers, agents and employees of the Contractor.
   c. The bond or policy shall include coverage for third party fidelity.
   d. The bond or policy shall include coverage for extended theft and mysterious disappearance.
   e. The bond or policy shall not contain a condition requiring an arrest and conviction.

B. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, the following provisions:
   1. On insurance policies where the County of Gila is named as an additional insured, the County of Gila shall be an additional insured 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.
   2. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.
   3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

C. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, reduced in coverage or endorsed to lower limits except after thirty (30) days prior written notice has been given to the County. Such notice shall be sent directly to, Birdie DeNero, Risk Management, 1400 E. Ash St., Globe, AZ 85501, and shall be sent by certified mail, return receipt requested.

D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed or approved unlicensed companies in the state of Arizona and with an "A.M. Best" rating of not less than B+ VI. The County 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 County with certificates of insurance (ACORD form or equivalent approved by the County) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the County 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, Birdie DeNero, Risk Management, 1400 E. Ash St., Globe, AZ 85501. The County project/contract number and project description shall be noted on the certificate of insurance. The County reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

F. **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as additional insured's under its policies or Contractor shall furnish to the County separate certificates and endorsements for each subcontractor. All coverage's for subcontractors shall be subject to the minimum requirements identified above.

G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by the County Attorney, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

QUALIFICATION AND CERTIFICATION FORMS

EXHIBIT "D" Bidder Qualifications and Certification

Purpose

This exhibit shall serve as a requirement to enable the evaluation team to assess the qualifications of Contractors under consideration for final award.

The information may or may not be a determining factor in award.

Contract Number 070111-1 Janitorial Services, Globe, Arizona

The applicant submitting this Proposal warrants the following:

1. Name, Address, and Telephone Number of Principal Contractor:

   G. B. Home cleaning
   206 N Nellie Ave, Miami, AZ 85539
   520-709-7181

2. Had Contractor (under its present or any previous name) ever failed to complete a contract? _____Yes ___✓___No. If "Yes, give details, including the date, the contracting agency, and the reasons Contractor failed to perform in the narrative part of this Contract.

3. Has Contractor (under its present or any previous name) ever been disbarred or prohibited from competing for a contract? _____Yes ___✓___No. If "Yes", give details, including the date, the contracting agency, the reasons for the Contractors disqualification, and whether this disqualification remains in effect in the narrative part of this Contract.

4. Has a contracting agency ever terminated a contract with the Contractor prior to contract expiration date (under your Contractor's present or any previous name)? _____Yes ___✓___No. If "Yes", give details including the date, the contracting agency, and the reasons Contractor was terminated in the narrative part of this Contract.

5. Contractor must also provide at least the following information:
   a. A brief history of the Contractor.
   b. A Cost Proposal shall be submitted on the Price Sheet, attached hereon and made a full part of this contract by this reference.
   c. A list of previous and current customers, which are considered identical or similar to the Scope of Services described herein, shall be submitted on the Reference List, attached hereon and made a full part of this contract by this reference.
   d. List the specific qualifications the Contractor has in supplying the specified services.
   e. A list of any subcontractors (if applicable) to be used in performing the service must accompany the Proposal. The subcontractors Arizona ROC, contact name and phone # must be included.
   f. Gila County reserves the right to request additional information.
   g. Sealed list of equipment used in performing the services must accompany proposal.

Qualification & Certification continued...

6. **Contractor Experience Modifier (e-mod) Rating in Arizona:** NA
(If Applicable)

A method the National Council on Compensation Insurance (NCCI) uses to measure a business' computed loss ratio and determine a factor, which when multiplied by premium, can reward policyholders with lower losses. E-mod rate may be a determining factor in bid award.

7. **Current Contractor Business License Number:** 26701
(If Applicable)

8. **Contractor must provide copies of all required Arizona Certifications in performing the scope of services provided in this request for proposals.**

Signature of Authorized Representative

Guadalupe Plascencia
Printed Name

Owner
Title

PRICE SHEET

Please complete price sheet in its entirety for the services provided in RFP 070111-1 Janitorial Service, Globe, Arizona.

Contractor Name: G. B. Homecleaning **Phone No.:** 520-701-7191

Location	Square Foot	Cost Per Square Foot	Total Cost
Gila County Courthouse	47,076	$ 0.0420	$ 1,977.19
Michaelson Building	7,952	$ 0.0840	$ 667.97
Health & Community Services	27,581	$ 0.0525	$ 1,448.00
WIC Building	1,792	$ 0.1680	$ 301.06
Public Works Administration Building	11,000	$ 0.0735	$ 808.50
Facilities/Sign Shop Building	2,256	$ 0.1470	$ 331.63
Roads/Shop Office	1,980	$ 0.1575	$ 311.85
Guerrero Building	5,976	$ 0.1155	$ 690.23

BILLABLE WORK	
Description	Price Per Square Foot
Carpet Cleaning (Including strain removal.)	$ 0.25125
Stripping and Waxing Floors	$ 0.55275

*Each location shall be billed separately with location identified on invoice when submitted to County for payment. County Terms "Net 30".

All applicable taxes shall be included in proposed amount.

REFERENCE LIST

References

Please list a minimum of three (3) references for contracts of similar size and scope as this Request for Proposals during the past twenty-four (24) months, in or as close to Gila County as possible. Bidder may attach further reference information as necessary.

1. **Company:** AZ Mobile Home werehouse
   Contact: Nancy Sturge
   Phone: 602-799-8787
   Address: 15215 S. 48th, Suite #3-130 phoenix
   Job Description: cleaning mobile Homes

2. **Company:** MGN manufactured Home sales
   Contact: steve shepard
   Phone: 520-252-5202
   Address: 1703 N thornton Road CasaGrande, AZ
   Job Description: cleaning mobile Homes

3. **Company:** Freeman & Son
   Contact: Spencer Freeman
   Phone: 909-943-1211
   Address: 31566 Railroad Canyon Road, Canyonlake CA
   Job Description: Fire Restoration, water Damage repair smoke remove, Demolition, Inventory list

G.B. Home Cleaning
Name of Business

Signature of Authorized Representative

owner
Title

AFFIDAVIT BY CONTRACTOR
CERTIFYING THAT THERE WAS NO COLLUSION
IN BIDDING FOR CONTRACT

STATE OF ARIZONA)
)ss
COUNTY OF:)

Guadalupe Plascencia
(Name of Individual)
being first duly sworn, deposes and says:

That he is Owner
(Title)

of G.B. Home Cleaning and
(Name of Business)

That he is bidding on **Gila County BID NO. 070111-1 JANITORIAL SERVICE, GLOBE** and,

That neither he nor anyone associated with the said G.B. Home Cleaning

(Name of Business)

has, directly or indirectly entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with the above mentioned project.

G.B. Home Cleaning
Name of Business

Guadalupe Plascencia
By

Owner
Title

Subscribed and sworn to before me this 14 day of Sep, 2011.

Judith Yercich
Notary Public

My Commission expires:
Jan 20, 2014

JUDITH YERCICH
NOTARY PUBLIC
GILA COUNTY, ARIZONA
MY COMM. EXPIRES JAN. 20, 2014

CERTIFICATION: INTENTIONS CONCERNING SUBCONTRACTING

At the time of the submission of bids for **BID NO. 070111-1 JANITORIAL SERVICE, GLOBE**, my intention concerning subcontracting a portion of the work is as indicated below.

In indicating that it is my intention to subcontract a portion of the work, this will acknowledge that such subcontractors will be identified and approved by the Facilities Manager prior to award of the contract; and that documentation, such as copies of letters, requests for quotations, quotations, etc., substantiating the actions taken and the responses to such actions is on file and available for review.

A list of any subcontractors (if applicable) to be used in performing the service must accompany the Bid. The list must include the subcontractors name, address, and phone number.

Any subcontractor not listed with the bid must be approved by the County prior to providing any work pursuant to this contract. Further, contractor warrants that all subcontractors will comply with all terms and conditions of this contract. The County reserves the right to terminate the contract if the contractor fails to comply with the provisions of this certification.

☐ It is my intention to subcontract a portion of the work.

☑ It is not my intention to subcontract a portion of the work.

G. B. Home Cleaning
Name of Firm

By: (Signature)

Owner
Title

LEGAL ARIZONA WORKERS ACT COMPLIANCE

Contractor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Contractor's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Contractor shall further ensure that each subcontractor who performs any work for Contractor 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 Contractor and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of Contractor'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 Contractor 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, Contractor 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 delivery of services.

Contractor 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 Contractor.

Signature of Authorized Representative

Guadalupe Placencia
Printed Name

Owner
Title

BIDDER CHECKLIST & ADDENDA ACKNOWLEDGMENT

NOTICE IS HEREBY GIVEN that all Bid Documents shall be completed and/or executed and submitted with this RFP. If Contractor fails to complete and/or execute any portion of the Bid documents, all with original signatures, the RFP may be determined to be "non-responsive" and rejected.

CHECKLIST:

REQUIRED DOCUMENT	COMPLETED / EXECUTED
QUALIFICATION & CERTIFICATION FORM	✓
PRICE SHEET	✓
REFERENCE LIST	✓
NO COLLUSION IN BIDDING	✓
INTENTIONS IN SUBCONTRACTING	✓
LEGAL ARIZONA WORKERS ACT COMPLIANCE	✓
CHECKLIST & ADDENDA ACKNOWLEDGMENT	✓
OFFER PAGE	✓
BACKGROUND AUTHORIZATION	✓

ACKNOWLEDGMENT OF RECEIPT OF ADDENDA:

	#1	#2	#3	#4	#5
Initials	_____	_____	_____	_____	_____
Date	_____	_____	_____	_____	_____

Signed and dated this _____ day of _____, 2011

_____
Contractor:

_____
By:

Each proposal shall be sealed in an envelope addressed to the Gila County Procurement Group and bearing the following statement on the outside of the envelope: Request for Sealed Proposals No. 070111-1 Janitorial Service. All proposals shall be filed with Gila County Procurement at 1400 E. Ash St., Globe, AZ on or before September 14, 2011, by 3:00 PM.

OFFER PAGE

TO GILA COUNTY:

The undersigned hereby offers and agrees to furnish the material or service in compliance with all terms and conditions, instruction, specifications, and any amendments contained in this Request for Proposal document.

Signature also certifies the Contractors bid proposal is genuine, and is not in any way collusive or a sham; that the bid proposal is not made with the intent to restrict or prohibit competition; that the Contractor submitting the proposal has not revealed the contents of the proposal to, or in any way colluded with, any other Contractor which may compete for the contract; and that no other Contractor which may compete for the contract has revealed the contents of a proposal to, or in any way colluded with, the Contractor submitting this proposal.

Pursuant to A.R.S. §35-397 the Contractor 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.

CONTRACT NUMBER: 070111-1 Janitorial Service, Globe, Arizona

Contractor Submitting Proposal:

G.B. Home Cleaning
Company Name

206 N Nellie Ave
Address

Miami AZ 85539
City State Zip

For clarification of this offer, contact:

Name: Guadalupe Plascencia

Phone No.: 520-709-7181

Fax

Email: gbhomecleaning@gmail.com

Signature of Authorized Person to Sign

Guadalupe Plascencia
Printed Name

Owner
Title

Proposal must be signed by a duly authorized officer(s) eligible to sign contract documents for the Contractor.

ACCEPTANCE OF OFFER

(For Gila County use only)

The Offer is hereby Accepted:

The Contractor ___G.B. Home Cleaning___ is now bound to provide the materials or services listed in RFP No.: 070111-1 including all terms and conditions, specifications, amendments, etc. and the Contractor's Offer as accepted by County/public entity.

The contract shall henceforth be referenced to as __**Contract No. 070111-1**__. The Contractor has been cautioned not to commence any billable work or to provide any material or service under this Contract until Contractor receives written notice to proceed from Gila County.

GILA COUNTY BOARD OF SUPERVISORS:

Awarded this 15th **day of** November**, 2011**

Tommie C Martin

Tommie C. Martin, Chairman, Board of Supervisors

ATTEST:

Marian Sheppard

Marian Sheppard, Chief Deputy Clerk of the Board

APPROVED AS TO FORM:

Bryan B. Chambers, Chief Deputy County Attorney
***for* Daisy Flores, County Attorney**

- Administration
- Engineering
- GIS & Survey
- Facilities and Land Management
- Consolidated Roads
- Recycle & Landfill Management
- Floodplain Engineering

1400 East Ash Street
Globe, Arizona 85501
Phone (928) 425-3231 Ext. 8521
Fax (928) 425-8104

GILA COUNTY PUBLIC WORKS DIVISION

G. B. Home Cleaning
206 N. Nellie Avenue
Miami, AZ 85539

November 15, 2011

RE: Contract No. 070111-1 Janitorial Services

On November 15, 2011 the Gila County Board of Supervisors awarded you the Janitorial Services contract. This is to inform you that as of December ~~8~~ 5, 2011 you are to proceed to fulfill your contract No. 070111-1 as written. RE

Before you or your employees are allowed on the premises we require these items:

An approved criminal back ground check of each person that will be on site.

Certificate of Liability naming Gila County as additional insured for the amounts stated in the contract.

Worker's Compensation Certificate covering each of the people working on G. B. Home Cleaning's behalf.

Contact list of supervisory personnel with telephone numbers.

There will be a mandatory meeting set up with you and your employees for MSDS training with Hillyard Company. These are the products that the County will provide to you for cleaning. No other chemicals are allowed without proper clearance from Gila County Facilities Management.

Your invoices will be sent directly to Gila County Accounts Payable at 1400 East Ash Street, Globe, AZ 85501. You may invoice monthly or bi-weekly for the buildings you are cleaning.

Please contact Robert Hickman at (928) 200-1643 or David Hom at (928) 200-1641 regarding issues with cleaning.

Please contact Shannon Coons at (928) 402-8521 regarding invoicing issues.

G. B. Home Cleaning

Contract No. 070111-1 for Janitorial Service for Gila County

Attached is the price sheet in the contract. It shows one building that is not open yet, the Roads/Shop Office.

Not including Roads/Shop Office building the monthly price for service is $6,224.58

Gila County will accept bi-weekly billing of $3,112.29 which must show the separate locations with dollar amounts, similar to your price sheet. The invoices must be sent directly to the Finance Department for payment with the Purchase Order on it. Payment will occur 15 to 20 days after they receive it. Please send your invoice to:

Gila County Accounts Payable or emailed to: accountspayable@co.gila.az.us
1400 East Ash Street
Globe, Arizona 85501

PRICE SHEET

Please complete price sheet in its entirety for the services provided in RFP 070111-1 Janitorial Service, Globe, Arizona.

Contractor Name: G. B. Home cleaning Phone No.: 520-709-7181

Location	Square Foot	Cost Per Square Foot	Total Cost
Gila County Courthouse	47,076	$ 0.0420	$ 1,977.19
Michaelson Building	7,952	$ 0.0840	$ 667.97
Health & Community Services	27,581	$ 0.0525	$ 1,448.00
WIC Building	1,792	$ 0.1680	$ 301.06
Public Works Administration Building	11,000	$ 0.0735	$ 808.50
Facilities/Sign Shop Building	2,256	$ 0.1470	$ 331.63
Roads/Shop Office	1,980	$ 0.1575	$ 311.85
Guerrero Building	5,976	$ 0.1155	$ 690.23

TOTAL $ 6536.43 ÷ 2 = $ 3,268.21 Bi-Weekly

BILLABLE WORK	
Description	Price Per Square Foot
Carpet Cleaning (Including strain removal.)	$ 0.25125
Stripping and Waxing Floors	$ 0.55275

$ 6224.58 ÷ 2 = $ 3112.29

*Each location shall be billed separately with location identified on invoice when submitted to County for payment. County Terms "Net 30".

All applicable taxes shall be included in proposed amount.

SCOPE OF SERVICES

It is the intention of Gila County to award a contract to a qualified Contractor for janitorial services at several of its facilities. The Contractor shall furnish all necessary labor, supervision, equipment, transportation and all effort necessary to perform the required services at the designated locations.

Building Address	Square Footage	Floors	Bathrooms	Mop Closets	Storage Closets
Gila County Courthouse 1400 E. Ash St. Globe, AZ 85501	47,076	1st 2nd 3rd	8 7 10	1 0 1	1 0 0
Michaelson Building 149 S. Broad St. Globe, AZ 85501	7,952	1st 2nd	2 2	1 1	1 1
Health & Community Services 5515 S. Apache Ave. Globe, AZ 85501	27,581	1	6	3	1
WIC Building 5515 S. Apache Ave Globe, AZ 85501	1,792	1	1	1	0
Public Works Administration 745 N. Rose Mofford Way Globe, AZ 85501	11,000	1	2	1	0
Facilities/Sign Shop Building 725 N. Rose Mofford Way Globe, AZ 85501	2,256	1	2	1	0
Roads/Shop Office 1100 W. Besich Blvd Globe, AZ 85501	1,980	1	2	1	0
Guerrero Building 1400 E. Ash St. Globe, AZ 85501	5,976	1	2	0	0

Contract may be awarded to multiple Contractors depending on what is deemed to be in the best interest of Gila County.

Scope of Services continued...

SPECIFIC REQUIREMENTS

Building Areas and Janitorial Standards:

- Sweeping and Dust Moping (Uncarpeted Areas)
  1. Vestibules, lobbies and entries
  2. Corridors
  3. Stairwells, stars and landings (interior)
  4. Elevators and elevator vestibules
  5. Offices, Courtrooms and Conference rooms

- Sweeping and Dust Mopping Standards

  Sweeping shall leave the surfaces uniformly clean of all surface dirt including corners and places inaccessible to the mop. Surface accumulation of hardened dirt that cannot be loosened with the broom shall be loosened sufficiently to permit removal by sweeping or if necessary, shall be washed. It is intended that all dust and surface contamination except deeply embedded dirt and stains shall be removed by sweeping or mopping with a treated mop. Dirty mops are <u>not</u> acceptable for use.

- Vacuuming (Carpeted Areas)
  1. Lobbies and entries (interior)
  2. Stairwells, stairs and landings (interior)
  3. Corridors
  4. Offices, Courtroom and Conference rooms

- Dusting and Vacuuming (Low Cleaning-Under 6')
  1. All furniture and fixtures (i.e.) file cabinets, tables, etc.
  2. Window sills, ledges, etc.
  3. Vending Machines
  4. Stairwells, stairs, landings and railings (interior)

- Dusting and Vacuuming (High Cleaning-Over 6')
  1. Door casings
  2. Partitions, wood paneling, etc.

- Dusting and Vacuuming Standards

  Dusting shall be accomplished by means of vacuum cleaners supplemented by chemically treated clean cloths. Oil treatment for cloths will not be permitted. Surfaces shall be cleaned and free from dust after dusting is completed. Dust shall be removed and not scattered around the room. Low dusting includes all surfaces not over six feet from the floor. Venetian blinds shall be dusted with a treated dust cloth by hand or with a vacuum cleaner attachment especially designed for cleaning Venetian blinds. Office equipment such as typewriters, adding machines, calculators and similar instruments shall not be dusted because of possibility of damage. Tops of desks will also be excluded from dusting.

- Trash Removal
  1. Empty <u>all</u> trash containers, replace liners as needed; DO NOT place leaking trash bags on carpet.
  2. Dispose of trash in sealed and/or tied plastic bags in outside dumpsters.

- Trash Removal Standards

  All waste baskets shall be emptied and boxes, cans, paper, etc. marked trash which is placed near the trash cans for disposal shall be removed in a manner that will not cause dispersion of dust. Trash shall not be allowed to blow around. Any trash dropped shall be immediately retrieved by the custodian or contractor and properly placed in the trash receptacle.

- Washing

  1. Clean and sanitize urinals inside and out
  2. Clean and sanitize commodes inside and out.
  3. Clean mirrors
  4. Clean and sanitize miscellaneous restroom and toilet fixtures.
  5. Clean and sanitize restroom and toilet floors.
  6. Clean and sanitize restroom wash basin wall area and toilet wall area.
  7. Clean and sanitize shower rooms.
  8. Damp wipe all restroom and locker room ledges and sills.
  9. Spot clean walls, doors and trim.
  10. Clean and sanitize water fountains.
  11. Windows inside and outside of building

- Washing Standards

  Washed surfaces shall be clean and free from all dirt, grease and film including embedded dirt and grease. All small and narrow openings shall be cleaned to the same degree as other surfaces. Surfaces shall be dried and left clean.

  A. Washing Glass: Glass shall be washed by application of glass cleaner, rubbed with a cloth and finally polished with a clean soft dry cloth or textile disposable wipers. Use only soft cloths on Plexiglas. The washing shall not contaminate adjacent non-glass areas. Glass shall be left clean and dry, free from film or streaks and any contamination visible when looking through the glass towards natural light source. Sill and frames shall be damp wiped.

  B. Washing Non-Glass: All surfaces shall be washed with a mild neutral detergent or quaternary disinfectant-detergent solution following manufacturer's dilution ration. They shall be left clean without streaks. Scrub brush or scour pad shall be used where necessary to loosen the dirt.

  C. Washing in Restroom, Public and Patient Areas: Restroom floors, chairs, tables and mirrors shall be cleaned as specified with quaternary disinfectant-detergent. Commodes and urinals shall be washed clean with disinfectant-detergent and toilet brush then wiped dry with textile disposable wipers or clean cloths.

- Damp Wiping Standards

  Surfaces shall be left clean and free from film or streaks upon completion of damp wiping.

- Disinfecting Standards

  Urinals and commode surfaces shall be disinfected with a concentration of quaternary disinfectant-detergent. It shall be allowed to stand in the fixtures for at least ten minutes.

Bowl cleaner shall be used once weekly for lime and iron stain removal except where water conditions require more frequent applications. In these cases, bowl cleaner shall be used twice weekly.

- Wet Mopping

  All tile, wooden or hard surface floors.

- Wet Mopping Standards

  After dust mopping, all floors shall be cleaned by wet mopping using quaternary ammonium germicide and shall be free from streaks, stains and film from dirt or soap. There shall be no splashes on walls, baseboards, furniture and furnishings. Wet mopping is also required on all stairwells, stars, landings & elevator hard floors.

  There shall be no mop strings left on the floor. Surface should be dry in a reasonable amount of time. Corners and spaces inaccessible to the mop shall be carefully cleaned and dry. Dirty mops are <u>not</u> acceptable for use.

- Polishing

  Clean and polish <u>all</u> brass and stainless steel (i.e. railings, elevators, doorknobs, plumbing fixtures, kick plates, etc.).

- Polishing Metal Trim and Plumbing Hardware

  This shall be accomplished with metal polish. Chromium-plated, stainless steel and brass shall be polished with a dry cloth or textile disposable wipers. All surfaces shall be rubbed to a soft gloss with clean cloth or textile disposable wipers.

- Spray Buffing (Hard Surfaced Floors)

  Spray buff all lobbies, corridors, and conference rooms. Spray buff product to be of the same manufacturer as floor finish.

- Spot Cleaning Carpets

  A carpet adequately spot cleaned is free of all stains, deposits, or spills. (Exceptions: Any stain, contractor has made every attempt to remove by industry standards, and such stain has become permanent to the surface). Care will be taken to use a product or cleaning that will not harm or discolor the carpet fibers or backing.

Work Schedule

Cleaning services shall be provided, five (5) nights a week (excluding those weeks with an official holiday), Monday through Friday unless otherwise noted on Bid Reply Section for specific building. Cleaning services will not be required on days in which a declared State of Emergency has been made by the Governor or in the event of any other unforeseen type of emergency where County offices are closed. There are 10 County holidays, and services will not be provided on these days unless the County agency makes such request and pays for these additional services.

- **Daily Schedule**

  1. Empty all wastebaskets; transport to specified area for removal. Replace liners as needed.

2. Clean all entryways and walkways six feet outside of entry.
3. Sweep or dusts mop all entrances, entryways, and lobbies.
4. Spot clean all glass and interior partitions.
5. Clean all restrooms.
    a. Clean and disinfect all drinking fountains.
    b. Clean and disinfect all sinks, toilets, and urinals.
    c. Remove all finger marks from walls, stalls, doors, and light switches.
    d. Damp wipe all ledges and sills.
    e. Clean all mirrors and ledges of mirrors.
    f. Sweep and mop all uncarpeted floors (Including Health Department Exam Rooms)
    g. Replenish all restroom with paper towels, tissue, and soap.
    h. Empty and remove trash.
6. Clean elevators, door tracks, and lobbies.
7. Remove trash from all buildings to the Shop garbage bin.
8. Clean all kitchens by sweeping, mopping floors and removing trash only.
9. Sweep and dust stairwells, stairs, and landings (interior). Wet mop, as needed.
10. Vacuum all courtrooms and offices with vacuum cleaner.

- **Two Times Weekly – (Minimum):**
    1. Vacuum all carpeted floors (including under desks) with a vacuum cleaner.
    2. Clean stairwells, steps and tread in the Courthouse using appropriate cleaning machine. Wipe down hand rails.

- **Two Times Weekly – (Minimum):**
    1. Dust furniture in lobby areas (top, side, and lower area), fixtures, ledges, and window sills using a treated dust cloth or feather duster.
    2. Remove all finger marks from furniture, fixtures, ledges and sills.
    3. Damp mop all quarry and tile floors.

- **Monthly**
    1. Wash baseboards, doors and door handles in all buildings.
    2. Clean light switches.

- **Semi-Annually**
    1. Wash windows inside and out of each building.
    2. Clean window blinds.

Billable Work

Carpet Cleaning Per County Request

- Carpet cleaning shall be performed as directed by the County on an as need basis. Carpet cleaning shall consist of shampooing or steam cleaning (after a thorough vacuuming).

Stripping and Waxing of Floors per County Request

- Stripping and waxing of floors shall be performed as directed by the County on an as need basis. All tile floors shall be stripped, all dirt and old wax removed, doors and baseboards cleaned, and three (3) coats of non-slip floor finish added.

2. Clean all entryways and walkways six feet outside of entry.
3. Sweep or dusts mop all entrances, entryways, and lobbies.
4. Spot clean all glass and interior partitions.
5. Clean all restrooms.
    a. Clean and disinfect all drinking fountains.
    b. Clean and disinfect all sinks, toilets, and urinals.
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Tommie C. Martin, District I
610 E. Hwy 260, Payson, 85547
(928) 474-2029
tmartin@gilacountyaz.gov

Michael A. Pastor, District II
(928) 402-8753
mpastor@gilacountyaz.gov

Shirley L. Dawson, District III
(928) 402-8511
sdawson@gilacountyaz.gov

GILA COUNTY
BOARD OF SUPERVISORS
1400 E. Ash Street
Globe, Arizona 85501

Don E. McDaniel, Jr.,
County Manager
(928) 402-4257
dmcdaniel@gilacountyaz.gov

John F. Nelson,
Deputy County Manager/
Clerk of the Board of Supervisors
(928) 402-8754
jnelson@gilacountyaz.gov

November 23, 2011

Guadalupe Plascencia
Owner G.B. Home Cleaning
206 North Nellie Ave.
Miami, AZ 85539
Gbhomecleaning@gmail.com

Certified Mail No: 7010 3090 0003 5536 6363
Re: RFP 070111-1, Janitorial Service.

Dear Ms. Plascencia:

We have been informed that there has been a misunderstanding regarding the terms of the RFP for janitorial services issued by Gila County and to which your company submitted a bid. As you know, the Gila County Board of Supervisors reviewed the bids on November 15, 2011. The Board was presented information that your bid was "monthly cost $6,536.43 = $78,437.16 per year + floor maintenance and incidentals at $26,562.84 for a yearly total of $105,000.00."

We have learned that your intent was that the $6,536.43 figure was actually a daily rather than a monthly cost. Because of this, ***please be advised that Gila County has not given and will not give you notice to proceed on the janitorial services contract***.

While we believe that this failure to have agreement on whether the bid was a daily or monthly amount causes the contract to fail, to the extent anyone could argue that your bid and the board's action created a valid contract, ***please accept this letter as the County's notice to G. B. Home Cleaning that it is terminating the janitorial contract based upon RFP 070111-1 and approved by the Board of Supervisors on November 15, 2011 effective thirty days from receipt of this letter***. This is pursuant to the paragraph titled Termination of Contract on page 17 of the Request for Proposals. Pursuant to that same paragraph, be advised again that ***Gila County has not authorized G.B. Home Cleaning to perform any services under RFP 070111-1.***

We hope by this letter to help you avoid any expenditures you might otherwise mistakenly incur believing that G.B. Home Cleaning would be receiving this contract.

If an amended RFP is considered and authorized by the Board of Supervisors, in the future, we would be happy to receive a new bid from G.B. Home Cleaning along with any other qualified janitorial services companies pursuant to the new amended RFP.

Sincerely,

Don E. McDaniel, Jr.
County Manager

ARF-944 **Consent Agenda Item 4- A**

Regular BOS Meeting

Meeting Date: 12/06/2011

Submitted For:	Malissa Buzan, CAP/Housing Services Manager	Submitted By:	Cecilia Bejarano, Executive Administrative Assistant, Community Services Division
Department:	Community Services Division	Division:	Comm. Action Program/Housing Servs.
Presenter's Name:			

Information

Request/Subject

Amendment No. 6 to Contract No. C037-09-02 Governor's Office of Energy Policy

Background Information

This contract has been in existence since May 2009. Original Contract Commerce C037-09-02 was signed by Chairman Shirley L. Dawson on May 19, 2009. Amendment No. 1 was signed by Chairman Dawson on March 23, 2010. Amendment No. 2 was signed by Chairman Michael A. Pastor on August 16, 2010. Amendment No. 3 was signed by Chairman Pastor on June 28, 2011. There is no Amendment No. 4 to this contract. Amendment No. 5 was signed by Chairman Pastor on June 28, 2011.

Evaluation

The American Recovery and Reinvestment Act of 2009 was enacted to preserve and create jobs and promote economic recovery, assist those most impacted by the recession, provide investments needed to increase economic efficiency by spurring technological advances in science and health, invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits, and stabilize state and local government budgets in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases. Recipients shall use grant funds in a manner that maximizes job creation and economic benefit.

Under the American Recovery and Reinvestment Act of 2009, the U.S. Department of Energy's (DOE) Weatherization Assistance Program (Weatherization) reduces energy costs for low-income families by increasing the energy efficiency of their homes, while ensuring their health and safety.

Conclusion

By approving Amendment No. 6 to Contract No. C037-09-02, Gila County Weatherization Program will be in compliance with the program financial eligibility and certification requirements allowing weatherization services to continue to eligible residents of Gila County.

Recommendation

The Gila County Community Action/Housing Manager recommends that the Board of Supervisors approve Amendment No. 6 to Contract No. C037-09-02.

Suggested Motion

Approval of Amendment No. 6 to Contract No. C037-09-02 between the Governor's Office of Energy Policy and the Gila County Division of Community Services, Weatherization Program, revising portions of Paragraph 32 of the American Recovery and Reinvestment Act (ARRA) Contract to stipulate that ARRA-funded client eligibility remains at 200% of the Federal Poverty Guidelines Income.

Attachments

Amendment No. 6 to Contract No. C037-09-02

Amendment No. 5 to Contract No. C037-09-02

Amendment No. 3 to Contract No. C037-09-02
Amendment No. 2 to Contract C037-09-02
Amendment No. 1 to Contract C037-09-02
Original Contract No. C037-09-02
Legal explanation

Contract Amendment

Contractor Name and Address:

GILA COUNTY
5515 South Apache Avenue, Suite 200
Globe, AZ 85501

Contract No.: **C037-09-02**

Amendment No.: **6**

Governor's Office of Energy Policy
1700 W. Washington, Suite 220
Phoenix, Arizona 85007

This contract is amended as follows:

1. Page 10, **Paragraph 32,** as amended by Amendment No. 1, PROGRAM FINANCIAL ELIGILIBITY AND CERTIFICATION REQUIREMENTS, sub-paragraph **A**, Eligible Population and Certification of Eligilibity, and Income Eligibility, sub-paragraph **B.1.**, are deleted in their entirety and replaced with the following:

32. PROGRAM FINANCIAL ELIGIBILITY AND CERTIFICATION REQUIREMENTS

A. Eligible Population and Certification of Eligibility
Contractor is responsible to follow the current Arizona Department of Economic Security ("DES") Low-Income Home Energy Assistance Program ("LIHEAP") Policy Manual requirements for income eligibility up to 200% of Federal Poverty Guidelines as it pertains to the Weatherization Program. Copies of the Policy Manual will be provided by DES.

B. Income Eligibility
1. Applicants are eligible whose income is 200% of the Federal Poverty Guidelines income determined in accordance with criteria established by the Office of the Secretary, U.S. Department of Health and Human Services.

ALL OTHER PROVISIONS OF THE CONTRACT SHALL REMAIN IN THEIR ENTIRETY.

THE CONTRACTOR ACKNOWLEDGES RECEIPT AND UNDERSTANDING OF THE ABOVE AMENDMENT	THE ABOVE REFERENCED AMENDMENT IS HEREBY EXECUTED ON BEHALF OF THE GOVERNOR'S OFFICE OF ENERGY POLICY BY:
	Leisa B. Brug 10-25-11
SIGNATURE DATE	SIGNATURE DATE
Tommie C. Martin CHAIRMAN, GILA COUNTY BOARD OF SUPERVISORS	LEISA B. BRUG, DIRECTOR Or Authorized Signatory
Chief Deputy County Attorney DATE Bryan B. Chambers	

AMENDMENT NO. 5 **CONTRACT C037-09-02**

AMERICAN RECOVERY AND REINVESTMENT ACT

WEATHERIZATION LOW-INCOME ASSISTANCE CONTRACTUAL AGREEMENT

BETWEEN

STATE OF ARIZONA
GOVERNOR'S OFFICE OF ENERGY POLICY

And

GILA COUNTY

This **Contractual Agreement** is amended as follows:

1. *Page 2, SPECIAL TERMS AND CONDITIONS, Paragraph* ***2. A,*** *as amended by Amendment #1, is deleted in its entirety and replaced with the following*:

   A. The total budget for this Contract shall not exceed **$2,044,457.00.** Budget **Exhibit A** is attached.

2. *Page 2, SPECIAL TERMS AND CONDITIONS, Paragraphs* ***2.B,*** *and* ***2.E*** *are deleted in entirety.*

3. *Page 16, SCOPE OF WORK, Paragraph 6, as amended by Amendment #1, is deleted in its entirety and replaced with the following:*

   6. <u>TOTAL ARRA FUNDED UNDUPLICATED ESTIMATED UNIT GOAL</u>
   Unduplicated unit goal: **273**

Any and all portions of the subject Contract, which are not specifically amended hereinabove, shall remain unchanged.

IN WITNESS WHEREFORE, the parties hereto have executed this Amendment.

STATE OF ARIZONA
GOVERNOR'S OFFICE OF ENERGY POLICY

By _____ **Date:** 8/10/11
Leisa B. Brug
Director
Or Authorized Signatory

_____ **Date:** 8/11/11
Travis Price
Compliance Finance & Procurement Manager
Office of the Governor

GILA COUNTY

_____ Chairman, Gila County Board of Supervisors
Contractor's Signature **Title**

Michael A. Pastor _____
Contractor's Printed/Typed Name **Date**

The undersigned **Contractor's** legal counsel has determined that the above Contract is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the **Contractor.**

Bryan B. Chambers _____
Printed/Typed Name of Legal Counsel **Date**
Chief Deputy County Attorney

_____
Signature of Legal Counsel

Exhibit A

Gila County	
ARRA Weatherization Program Budget	
Contract No. C037-09-02 AM#5	ARRA Proposed DOE Budget
1. Administration Costs	$118,548.00
2. Training and Technical Assistance (T&TA)	$155,048.02
3. Program Operations	$1,770,860.98
4. Financial Audit	$0.00
5. Liability Insurance	$0.00
ARRA Budget Total	**$2,044,457.00**

AMENDMENT NO. 3 COMMERCE CONTRACT C037-09-02

AMERICAN RECOVERY AND REINVESTMENT ACT

WEATHERIZATION LOW-INCOME ASSISTANCE CONTRACTUAL AGREEMENT

BETWEEN

STATE OF ARIZONA, DEPARTMENT OF COMMERCE
ENERGY OFFICE

And

GILA COUNTY

This **Contractual Agreement** is amended as follows:

1. *Page 3, SPECIAL TERMS AND CONDITIONS, paragraph **7** is deleted in its entirety and replaced with the following*:

7. PREVAILING WAGES

A. Section 1606 of the Recovery Act requires that all laborers and mechanics employed by Contractor and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

Pursuant to Reorganization Plan No. 14 and the Copeland Ct, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of $2,000 for construction, alteration or repair (including painting and decorating).

B. For additional guidance on the wage rate requirements of section 1606, contact Commerce. Contractor should direct initial inquiries concerning the application of Davis-Bacon requirements to Commerce. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

2. *Page 6, SPECIAL TERMS AND CONDITIONS, Paragraph **12** is deleted in its entirety and replaced with the following*:

12. AMENDMENTS OR MODIFICATIONS

A. This Contract may be amended or modified at any time by mutual agreement. No agent, employee or other representative of either party is empowered to alter any of the terms of the contract, unless done in writing and signed by the authorized representative of the respective parties.

B. Either party shall give written notice to the other party of the following alterations that do not require a written amendment:

1. Change of Address
2. Change of telephone number
3. Change in authorized signatory
4. Change in the name and/or related contact information of the person to whom notices are to be sent.

C. The following changes may be made in Exhibit A, ARRA Weatherization Program Budget,
1. Within the five categories of the ARRA DOE Budget:

a. Without limit, Administration Costs, Training and Technical Assistance, Financial Audit, and Liability Insurance funds may be moved to Program Operations as long as the Budget Total is not exceeded;
b. Up to 5% of Program Operations funds may be moved to either Financial Audit and/or Liability Insurance to cover the actual costs for a financial audit and/or liability insurance.

2. Any of the aforementioned changes shall be made in consultation with and approved in writing by the Energy Office Weatherization Program Manager These changes shall not require a formal contract amendment.

3. *Page 12, SPECIAL TERMS AND CONDITIONS, Paragraph **38** is deleted in its entirety and replaced with the following:*

38. <u>PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS</u>
REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS (COVERED UNDER INTERNATIONAL AGREEMENTS)--SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

(a) ***Definitions**. As used in this award term and condition—*

<u>Designated country</u> –

(1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Bulgaria, Canada, Chinese Taipei (Taiwan), Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and United Kingdom;

(2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Mexico, Morocco, Nicaragua, Oman, Peru, or Singapore);

(3) A United States-European Communities Exchange of Letters (May 15, 1995) country: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and United Kingdom; or

(4) An Agreement between Canada and the United States of America on Government Procurement country (Canada).

Designated country iron, steel, and/or manufactured goods
(1) Is wholly the growth, product, or manufacture of a designated country; or
(2) In the case of a manufactured good that consist in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different manufactured good distinct from the materials from which it was transformed.

Domestic iron, steel, and/or manufactured good
(1) Is wholly the growth, product, or manufacture of the United States; or

(2) In the case of a manufactured good that consists in whole or in part of materials from another country, has been substantially transformed in the United States into a new and different manufactured good distinct from the materials from which it was transformed. There is no requirement with regard to the origin of components or subcomponents in manufactured goods or products, as long as the manufacture of the goods occurs in the United States.

Foreign iron, steel, and/or manufactured good means iron, steel and/or manufactured good that is not domestic or designated country iron, steel, and/or manufactured good.

Manufactured good means a good brought to the construction site for incorporation into the building or work that has been
(1) Processed into a specific form and shape; or
(2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

Public building and public work means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) ***Iron, steel, and manufactured goods.***

(1) The award term and condition described in this section implements-
(i) Section 1605(a) of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (Recovery Act), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States; and
(ii) Section 1605(d), which requires application of the Buy American requirement in a manner consistent with U.S. obligations under international agreements. The restrictions of section 1605 of the Recovery Act do not apply to designated country iron, steel, and/or manufactured goods. The Buy American requirement in section 1605 shall not be applied where the iron, steel or manufactured goods used in the project are from a Party to an

international agreement that obligates the recipient to treat the goods and services of that Party the same as domestic goods and services. As of January 1, 2010, this obligation shall only apply to projects with an estimated value of $7,804,000 or more.

(2) The recipient shall use only domestic or designated country iron, steel, and manufactured goods in performing the work funded in whole or part with this award, except as provided in paragraphs (b)(3) and (b)(4) of this section.

(3) The requirement in paragraph (b)(2) of this section does not apply to the iron, steel, and manufactured goods listed by the Federal Government as follows:
["NONE"]

(4) The award official may add other iron, steel, and manufactured goods to the list in paragraph (b)(3) of this section if the Federal Government determines that--

(i) The cost of domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, and/or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the overall cost of the project by more than 25 percent;

(ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality; or

(iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) ***Request for determination of inapplicability of section 1605 of the Recovery Act or the Buy American Act.***

(1)(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(4) of this section shall include adequate information for Federal Government evaluation of the request, including--

(A) A description of the foreign and domestic iron, steel, and/or manufactured goods;
(B) Unit of measure;
(C) Quantity;
(D) Cost;
(E) Time of delivery or availability;
(F) Location of the project;
(G) Name and address of the proposed supplier; and
(H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(4) of this section.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.

(iii) The cost of iron, steel, or manufactured goods shall include all delivery costs to the construction site and any applicable duty.

(iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.

(2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other appropriate actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds, as appropriate, by at least the differential established in 2 CFR 176.110(a).

(3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods other than designated country iron, steel, and/or manufactured goods is noncompliant with the applicable Act.

(d) ***Data.*** To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the applicant shall include the following information and any applicable supporting data based on the survey of suppliers:
Foreign and Domestic Items Cost Comparison
Description Unit of measure Quantity Cost (dollars)*
Item 1:
Foreign steel, iron, or manufactured good _____ _____ _____
Domestic steel, iron, or manufactured good _____ _____ _____
Item 2:
Foreign steel, iron, or manufactured good _____ _____ _____
Domestic steel, iron, or manufactured good _____ _____ _____
[List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]
[Include other applicable supporting information.]
[*Include all delivery costs to the construction site.]"

4. *Page 13, SPECIAL TERMS AND CONDITIONS, Paragraph **40.D** is added:*

D. All reimbursement of travel expenses shall be paid in accordance with the Contractor's travel policies, but shall not exceed the Domestic Per Diem rates allowed under the Federal Travel Management Policy, and the prevailing Federal standard mileage rates.

5. *Page 14, SPECIAL TERMS AND CONDITIONS, Paragraph **44**, as added by Amendment #1, is deleted in its entirety and replaced with the following:*

44. <u>HISTORIC PRESERVATION:</u>
Prior to the expenditure of Federal funds to alter any structure or site, the Contractor is required to comply with the requirements of Section 106 of the National Historic Preservation Act (NHPA), consistent with DOE's 2009 letter of delegation of authority regarding the NHPA. Section 106 applies to historic properties that are listed in or eligible for listing in the National Register of Historic Places. In order to fulfill the requirements of

Section 106, the AZ Dept of Commerce Energy Office and the State Historic Preservation Officer (SHPO) have developed a Statewide Programmatic Agreement (PA). As long as the contractor adheres to a scope of work in conformance with this executed PA, the contractor need not perform any further Section 106 review. The Statewide Programmatic Agreement is available at: http://www.azcommerce.com/Energy/ Additional information is also available at the Dept of Energy website: http://www1.eere.energy.gov/wip/historic_preservation.html

6. *Page 14, SPECIAL TERMS AND CONDITIONS, Paragraph **46** is added:*

46. ACKNOWLEDGEMENT OF SUPPORT

An acknowledgement of Federal support and a disclaimer must appear in the publication of any material, whether copyrighted or not, based on or developed under this project, as follows:

Acknowledgement: "This material is based upon work supported by ARRA funds through the U.S. Department of Energy, Arizona Low-Income Weatherization Program grant."

Disclaimer: "This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes any warranty, express or implied, or assumes information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof."

7. *Page 14, SPECIAL TERMS AND CONDITIONS, Paragraph **47** is added:*

47. INDEMNIFICATION:

Each party (as "Indemnitor") agrees to indemnify, defend, 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.

8. *Page 16, SCOPE OF WORK, Paragraph **5**, as amended by Amendment #1, is deleted in its entirety and replaced with the following:*

5. SERVICE TERRITORY

Gila County, excluding tribal organizations.

9. **Exhibit A, Budget**, as amended by Amendment #1, is replaced with the attached **Exhibit A.**

Exhibit A

Gila County	
ARRA Weatherization Program Budget	
Contract No. C037-09-02 AM#3	**ARRA Proposed DOE Budget**
1. **Administration Costs**	$101,153.00
2. **Training and Technical Assistance (T&TA)**	$155,048.02
3. **Program Operations**	$1,488,255.98
4. **Financial Audit**	$0.00
5. **Liability Insurance**	$0.00
ARRA Budget Total	**$1,744,457.00**

Any and all portions of the subject Contract, which are not specifically amended hereinabove, shall remain unchanged.

IN WITNESS WHEREFORE, the parties hereto have executed this Amendment.

STATE OF ARIZONA
DEPARTMENT OF COMMERCE

By_____ **Date:**_____
Don Cardon
Director
Or Authorized Signatory

GILA COUNTY

_____ _____
Contractor's Signature **Title**

Michael A. Pastor _____
Contractor's Printed/Typed Name **Date**
Chairman, Gila County Board of Supervisors

The undersigned **Contractor's** legal counsel has determined that the above Contract is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the **Contractor.**

Bryan B. Chambers _____
Printed/Typed Name of Legal Counsel **Date**
Chief Deputy County Attorney

_____
Signature of Legal Counsel

AMENDMENT NO. 2 **COMMERCE CONTRACT C037-09-02**

AMERICAN RECOVERY AND REINVESTMENT ACT

WEATHERIZATION LOW-INCOME ASSISTANCE CONTRACTUAL AGREEMENT

BETWEEN

STATE OF ARIZONA, DEPARTMENT OF COMMERCE
ENERGY OFFICE

And

GILA COUNTY

This **Contractual Agreement** is amended as follows:

1. *Page 3, SPECIAL TERMS AND CONDITIONS, Paragraph **8** is deleted in its entirety and replaced with the following:*

DAVIS-BACON ACT REQUIREMENTS

A. Definitions. For purposes of paragraph 8, the following definitions are applicable:
(1) *Award* means the Award by the Department of Energy (DOE) to a Recipient that includes a requirement to comply with the labor standards clauses and wage rate requirements of the Davis-Bacon Act (DBA) for work performed by all laborers and mechanics employed by Subrecipients, Contractors and subcontractors on projects funded by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act.
(2) "*Construction, alteration or repair*" means all types of work done by laborers and mechanics employed by the Subrecipient, construction contractor or construction subcontractor on a particular building or work at the site thereof, including without limitation—
(a) Altering, remodeling, installation (if appropriate) on the site of the work of items fabricated off-site;
(b) Painting and decorating; or
(c) Manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work.
(3) *Contract* means a written procurement contract executed by a Subrecipient for the acquisition of property and services for construction, alteration, and repair under a Subaward. For purposes of these Clauses, a Contract shall include subcontracts and lower- tier subcontracts under the Contract.
(4) *Contracting Officer* means the DOE official authorized to execute awards on behalf of DOE and who is responsible for the business management and non-program aspects of the financial assistance process.
(5) *Contractor* means an entity that enters into a Contract. For purposes of these Clauses, Contractor shall include subcontractors and lower-tier subcontractors.
(6) *Recipient* means any entity other than an individual that receives Recovery Act funds in the form of a grant directly from the Federal Government. The term includes the State that receives an Award from DOE and is financially accountable for the use of any DOE funds or property, and is legally responsible for carrying out the terms and conditions of the program and Award.
(7) "*Site of the work*"—
(a) Means--
(i) The physical place or places where the construction called for in the Award, Subaward, or Contract will remain when work on it is completed; and
(ii) Any other site where a significant portion of the building or work is constructed, provided that such site is established specifically for the performance of the project;
(b) Except as provided in paragraph (c) of this definition, the site of the work includes any fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., provided—
(1) They are dedicated exclusively, or nearly so, to performance of the project; and

(2) They are adjacent or virtually adjacent to the site of the work as defined in paragraphs (7)(a)(i) or (7)(a)(ii) of this definition; and

(c) Does not include permanent home offices, branch plant establishments, fabrication plants, or tool yards of a Contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular contract or Federal Award or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, yards, etc., of a commercial or material supplier which are established by a supplier of materials for the project before opening of bids and not on the project site as defined in paragraphs (7)(a)(i) or (7)(a)(ii) of this definition, are not included in the "site of the work." Such permanent, previously established facilities are not a part of the "site of the work" even if the operations for a period of time may be dedicated exclusively or nearly so, to the performance of an Award, Subaward, or Contract.
(8) *Subaward* means an award of financial assistance in the form of money, or property in lieu of money, made under an award by a Recipient to an eligible Subrecipient or by a Subrecipient to a lower- tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include the Recipient's procurement of goods and services to carry out the program nor does it include any form of assistance which is excluded from the definition of "Award" above.
(9) *Subrecipient* means a non-Federal entity that expends Federal awards received from a pass-through entity [Recipient] to carry out a Federal program, but does not include an individual that is a beneficiary of such a program. The term includes a Community Action Agency (CAA), local agency, or other entity to which a Subaward under the Award is made by a Recipient that includes a requirement to comply with the labor standards clauses and wage rate requirements of the DBA work performed by all laborers and mechanics employed by contractors and subcontractors on projects funded by or assisted in whole or in part by and through the Federal Government pursuant of the Recovery Act.

B. Davis-Bacon Act
(1)(a) 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 to the Subaward or Contract and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Recipient, a Subrecipient, or Contractor and such laborers and mechanics.
(i) Applicable to Recipient Only: Prior to the issuance of the Subaward or Contract, the Recipient shall notify the Contracting Officer of the site of the work in order for the appropriate wage determination to be obtained by the Contracting Officer from the Secretary of Labor.
(ii) If the Subaward or Contract is or has been issued without a wage determination, the Recipient shall notify the Contracting Officer immediately of the site of the work under the Subaward or Contract in order for the appropriate wage determination to be obtained by the Contracting Officer from the Secretary of Labor.
(b) Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the DBA on behalf of laborers or mechanics are considered wages paid to such laborers and mechanics, subject to the provisions of paragraph B(4) below; 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 period.
(c) Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the paragraph entitled Apprentices and Trainees. 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.
(d) The wage determination (including any additional classifications and wage rates conformed under paragraph B(2) of this Clause) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Subrecipient and Contractor at the site of the work in a prominent and accessible place where it can be easily seen by the workers.
(2)(a) The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the Subaward or Contract shall be classified in

conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefore only when all the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination.
(ii) The classification is utilized in the area by the construction industry.
(iii) 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 Subrecipient (and Contractor, when applicable) and the laborers and mechanics to be employed in the classification (if known), or their representatives agree on the classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Subrecipient shall notify the Recipient. The Recipient shall notify the Contracting Officer of this agreement. If the Contracting Officer agrees with 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 Contracting Officer to the Administrator of the:
Wage and Hour Division Employment Standards Administration U.S. Department of Labor Washington, DC 20210
The Administrator or an authorized representative will approve, modify, or disapprove every additional classification action 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.
(c) In the event the Subrecipient (and Contractor, when applicable), and the laborers or mechanics to be employed in the classification, or their representatives, do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Subrecipient shall notify the Recipient. The Recipient shall notify the Contracting Officer of the disagreement. The Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator of the Wage and Hour Division 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 subparagraphs B(2)(b) or B(2)(c) of this Clause shall be paid to all workers performing work in the classification under the Award, Subaward, or Contract from the first day on which work is performed in the classification.
(3) Whenever the minimum wage rate prescribed in the Award, Subaward, or Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Subrecipient and 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.
(4) If the Subrecipient or Contractor does not make payments to a trustee or other third person, the Subrecipient or 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 Subrecipient or Contractor that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Subrecipient or Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

C. Rates of Wages
(1) The minimum wages to be paid laborers and mechanics under the Subaward or Contract involved in performance of work at the project site, as determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the pertinent locality, are included as an attachment to the Award, Subaward, or Contract.
(2) If the Subaward or Contract has been issued without a wage determination, the Recipient shall notify the Contracting Officer immediately of the site of the work under the Subaward or Contract in order for the appropriate wage determination to be obtained by the Contracting Officer from the Secretary of Labor.

D. Payrolls and Basic Records
(1) Payrolls and basic records relating thereto shall be maintained by the Recipient, Subrecipient and Contractor during the course of the work and preserved for a period of 3 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 paragraph (4) of the provision entitled Davis-Bacon Act, 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 Subrecipient or 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. The Subrecipient or Contractor 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.

(2)(a) The Contractor shall submit weekly for each week in which any Contract work is performed a copy of all payrolls to the Subrecipient. The Subrecipient shall submit weekly for each week in which any Subaward or Contract work is performed a copy of all payrolls to the Recipient. The Recipient shall submit weekly for each week in which any Subaward or Contract work is performed a copy of all payrolls to the Contracting Officer. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph D(1) of this Clause, except that the 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/esa/whd/forms/wh347instr.htm or its successor site.

(b) The Recipient is responsible for the ensuring that all Subrecipients and Contractors submit copies of payrolls and basic records as required by paragraph D, Payrolls and Basic Records, of this Clause. The Subrecipient is responsible for ensuring all Contractors, including lower tier subcontractors submit copies of payrolls and basic records as required by paragraph D, Payrolls and Basic Records, of this clause. Subrecipients and Contractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request for transmission to the Contracting Officer, the Recipient, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. The Recipient shall also obtain and provide the full social security number and current address of each covered worker upon request by the Contracting Officer 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 Recipient to require a Subrecipient or Contractor to provide addresses and social security numbers to the Recipient for its own records, without weekly submission to the Contracting Officer.

(c) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Recipient, Subrecipient or Contractor or his or her agent who pays or supervises the payment of the persons employed under the Subaward or Contract and shall certify –

(i) That the payroll for the payroll period contains the information required to be maintained under paragraph D(2)(a) of this Clause, the appropriate information is being maintained under paragraph D(1) of this Clause, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Subaward or 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 the Regulations, 29 CFR Part 3; and

(iii) 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 Subaward or Contract.

(d) 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 D(2)(c) of this Clause.

(e) The falsification of any of the certifications in Paragraph D, Payrolls and Basic Records, of this Clause may subject the Recipient, Subrecipient or Contractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.
(3) The Recipient, Subrecipient, or Contractor shall make the records required under paragraph D(1) of this Clause available for inspection, copying, or transcription by the Contracting Officer, authorized representatives of the Contracting Officer, or the Department of Labor. The Subrecipient or Contractor shall permit the Contracting Officer, authorized representatives of the Contracting Officer or the Department of Labor to

interview employees during working hours on the job. If the Recipient, Subrecipient, or Contractor fails to submit the required records or to make them available, the Contracting Officer may, after written notice to the Recipient, Subrecipient, or Contractor 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.

E. Withholding of Funds
(1) The DOE Contracting Officer shall, upon his or her or its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Recipient or any other contract or Federal Award with the same Recipient, on this or any other federally assisted Award subject to Davis-Bacon prevailing wage requirements, which is held by the same Recipient 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 Subrecipient or a Contractor the full amount of wages required by the Award or Subaward or a 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 Award or Subaward or a Contract, the Contracting Officer may, after written notice to the Recipient 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.
(2) The Recipient shall, upon its own action or upon written request of the DOE Contracting Officer or an authorized representative of the Department of Labor, withhold or cause to be withheld from any Subrecipient or 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 Subrecipient or Contractor the full amount of wages required by the Subaward or 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 Subaward or Contract, the Recipient may, after written notice to the Subrecipient or Contractor, 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 or the Government may cause the suspension of any further payment under any other contract or Federal award with the same Subrecipient or Contractor, on any other federally assisted Award subject to Davis-Bacon prevailing wage requirements, which is held by the same Subrecipient or Contractor.

F. Apprentices and Trainees
(1) Apprentices.
(a) An apprentice will be permitted to work at less than the predetermined rate for the work they performed when they are employed—
(i) 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 and Training, Employer, and Labor Services (OATELS) or with a State Apprenticeship Agency recognized by the OATELS; or
(ii) In the first 90 days of probationary employment as an apprentice in such an apprenticeship program, even though not individually registered in the program, if certified by the OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.
(b) 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 Subrecipient or Contractor as to the entire work force under the registered program.
(c) Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph F(1) of this Clause, shall be paid not less than the applicable 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.
(d) Where a Subrecipient or 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 Subrecipient's or Contractor'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 journeyman hourly rate specified in the applicable wage determination.

(e) 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.
(f) In the event OATELS, or a State Apprenticeship Agency recognized by OATELS, withdraws approval of an apprenticeship program, the Subrecipient or 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.
(2) Trainees.
(a) 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 (OATELS). The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by OATELS.
(b) 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 in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship/training program associated with the corresponding journeyman wage rate in 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 OATELS shall be paid not less than the applicable wage rate in 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 in the wage determination for the work actually performed.
(c) In the event OATELS withdraws approval of a training program, the Subrecipient or 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.
(3) Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under this Clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

G. Compliance with Copeland Act Requirements
The Recipient, Subrecipient or Contractor shall comply with the requirements of 29 CFR Part 3 which are hereby incorporated by reference in the Award, Subaward or Contract.

H. Subawards and Contracts
(1) The Recipient, the Subrecipient and Contractor shall insert in the Subaward or any Contracts this Clause entitled "Davis Bacon Act Requirements" and such other clauses as the Contracting Officer may require. The Recipient shall be responsible for ensuring compliance by any Subrecipient or Contractor with all of the requirements contained in this Clause. The Subrecipient shall be responsible for the compliance by Contractor with all of the requirements contained in this Clause.
(2) Within 14 days after issuance of a Subaward, the Recipient shall deliver to the Contracting Officer a completed Standard Form (SF) 1413, Statement and Acknowledgment, for each Subaward and Contract for construction within the United States, including the Subrecipient's and Contractor's signed and dated acknowledgment that this Clause) has been included in the Subaward and any Contracts. The SF 1413 is available from the Contracting Officer or at

http://contacts.gsa gov/webforms.nsf/0/70B4872D16EE95A785256A26004F7EA8/$file/sf1413_e.pdf . Within 14 days after issuance of a Contract or lower- tier subcontract, the Subrecipient shall deliver to the Recipient a completed Standard Form (SF) 1413, Statement and Acknowledgment, for each Contract and lower-tier subcontract for construction within the United States, including the Contractor and lower- tier subcontractor's signed and dated acknowledgment that this Clause has been included in any Contract and lower- tier subcontracts. SF 1413 is available from the Contracting Officer or at http://contacts.gsa.gov/webforms.nsf/0/70B4872D16EE95A785256A26004F7EA8/$file/sf1413_e.pdf. The Recipient shall immediately provide to the DOE Contracting Officer the completed Standard Forms (SF) 1413.

I. Contract Termination -- Debarment
A breach of these provisions may be grounds for termination of the Award, Subaward, or Contract and for debarment as a Contractor or subcontractor as provided in 29 CFR 5.12.

J. Compliance with Davis-Bacon and Related Act Regulations
All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are hereby incorporated by reference in the Award, Subaward or Contract.

K. Disputes Concerning Labor Standards
The United States Department of Labor has set forth in 29 CFR Parts 5, 6, and 7 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and shall not be subject to any other dispute provision that may be contained in the Award, Subaward, and Contract. Disputes within the meaning of this Clause include disputes between the Recipient, Subrecipient (including any Contractor) and the Department of Energy, the U.S. Department of Labor, or the employees or their representatives.

L. Certification of Eligibility.
(1) By entering into this Award, Subaward, or Contract (as applicable), the Recipient, Subrecipient, or Contractor, respectively certifies that neither it (nor he or she) nor any person or firm who has an interest in the Recipient, Subrecipient, or Contractor's firm, is a person, entity, or firm ineligible to be awarded Government contracts or Government awards by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
(2) No part of this Award, Subaward or Contract shall be subcontracted to any person or firm ineligible for award of a Government contract or Government award by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

M. Approval of Wage Rates
All straight time wage rates, and overtime rates based thereon, for laborers and mechanics engaged in work under an Award, Subaward or Contract must be submitted for approval in writing by the head of the federal contracting activity or a representative expressly designated for this purpose, if the straight time wages exceed the rates for corresponding classifications contained in the applicable Davis-Bacon Act minimum wage determination included in the Award, Subaward or Contract. Any amount paid by the Subrecipient or Contractor to any laborer or mechanic in excess of the agency approved wage rate shall be at the expense of the Subrecipient or Contractor and shall not be reimbursed by the Recipient or Subrecipient. If the Government refuses to authorize the use of the overtime, the Subrecipient or Contractor is not released from the obligation to pay employees at the required overtime rates for any overtime actually worked.

N. Contract Work Hours and Safety Standards Act
This section, entitled "Contract Work Hours and Safety Standards Act (CWHSSA)", shall apply to any Subaward or Contract in an amount in excess of $100,000. As used in this CWHSSA Clause, the terms laborers and mechanics include watchmen and guards.
A. Overtime requirements. No Subrecipient or Contractor contracting for any part of the Subaward 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.

B. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph B herein, the Subrecipient or Contractor responsible therefor shall be liable for the unpaid wages. In addition, such Subrecipient or Contractor shall be liable to the United States (in the case of work done under a Subaward or 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 provision set forth in CWSSHA paragraph A, 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 (A) of this section

C. Withholding for unpaid wages and liquidated damages

(1) The DOE Contracting Officer shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Recipient on this or any other Federal Award or Federal contract with the same Recipient on any other federally-assisted Award or contract subject to the CWHSSA, which is held by the same Recipient such sums as may be determined to be necessary to satisfy any liabilities of such Recipient for unpaid wages and liquidated damages as provided in the clause set forth in CWHSSA, paragraph B of this Clause.

(2) The Recipient shall, upon its own action or upon written request of the DOE Contracting Officer or an authorized representative of the Department of Labor, withhold or cause from any moneys payable on account of work performed by the Subrecipient or Contractor on this or any other federally assisted subaward or contract subject to the CWHSSA, which is held by the same Subrecipient or Contractor such sums as may be determined to be necessary to satisfy any liabilities of such Subrecipient or Contractor for unpaid wages and liquidated damages as provided in clause set forth in CWHSSA, paragraph B of this Clause.

D. Subcontracts. The Subrecipient shall insert in a Contract and a Contractor shall insert in any lower tier subcontracts, the clauses set forth in these CWHSSA paragraphs (A) through (D) and also a provision requiring the Contractors to include this CWHSSA Clause in any lower tier subcontracts. The Recipient shall be responsible for compliance by any Subrecipient or Contractor, with the CWHSSA paragraphs A through D. The Subrecipient shall be responsible for compliance by any Contractor (including lower- tier subcontractors).

E. The Subrecipient or Contractor shall maintain payrolls and basic payrolls in accordance with Clause XX, Davis- Bacon Act Requirements, for all laborers and mechanics, including guards and watchmen working on the Subaward or Contracts. These records are subject to the requirements set forth in Clause XX, Davis Bacon Requirements.

F. RECIPIENT FUNCTIONS

(1) On behalf of the Department of Energy (DOE), Recipient shall perform the following functions:

(a) Obtain, maintain, and monitor all DBA certified payroll records submitted by the Subrecipients and Contractors at any tier under this Award;

(b) Review all DBA certified payroll records for compliance with DBA requirements, including applicable DOL wage determinations;

(c) Notify DOE of any non-compliance with DBA requirements by Subrecipients or Contractors at any tier, including any non-compliances identified as the result of reviews performed pursuant to paragraph (b) above;

(d) Address any Subrecipient and any Contractor DBA non-compliance issues; if DBA non-compliance issues cannot be resolved in a timely manner, forward complaints, summary of investigations and all relevant information to DOE;

(e) Provide DOE with detailed information regarding the resolution of any DBA non-compliance issues;

(f) Perform services in support of DOE investigations of complaints filed regarding noncompliance by Subrecipients and Contractors with DBA requirements;

(g) Perform audit services as necessary to ensure compliance by Subrecipients and Contractors with DBA requirements and as requested by the Contracting Officer; and

(h) Provide copies of all records upon request by DOE or DOL in a timely manner.

(2) All records maintained on behalf of the DOE in accordance with paragraph (1) above are federal government (DOE) owned records. DOE or an authorized representative shall be granted access to the records at all times.

(3) In the event of, and in response to any Freedom of Information Act, 5 U.S.C. 552, requests submitted to DOE, Recipient shall provide such records to DOE within 5 business days of receipt of a request from DOE.

AMENDMENT NO. 2

DAVIS-BACON WAGE DETERMINATION EFFECTIVE MARCH 8, 2010

COMMERCE CONTRACT C037-09-02

Request For Wage Determination And Response To Request
(Davis Bacon Act as Amended and Related Statutes)

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

FOR DEPARTMENT OF LABOR USE

Response To Request

☐ Use area determination issued for this area

☑ The attached decision noted below is applicable to this project

Decision Number: S2009-AZ-001

Date of Decision: 12/11-2009

Expires: 03/03-2010

Superseded Decision Number: 2009-AZ-001

Approved:

Shirley Ebbesen, Director
Division of Wage Determinations

Mail Your Request To:
U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division
Branch of Construction Contract Wage Determinations
Washington, D.C. 20210

Requesting Officer (Typed name and signature): Lisa Kuzmar Lisa.Kuzmar@netl.doe.gov

Department, Agency, or Bureau: Department of Energy/National Energy Technology Laboratory

Phone Number: 304-285-4242

Date of Request: 08/11/2009

Estimated Advertising Date:

Estimated Bid Opening Date:

Prior Decision Number (if any): N/A

Estimated $ Value of Contract: ☐ Under 1/2 Mil ☐ 1 to 5 Mil ☐ 1/2 to 1 Mil ☑ Over 5 Mil

Type of Work: ☐ Bldg. ☐ Highway ☑ Resid. ☐ Heavy

Address to which wage determination should be mailed. (Print or type)

3610 Collins Ferry Rd.
PO Box 880
Morgantown, WV 26507

Fax Number
304-285-4683

Location of Project (City, County, State, Zip Code)

State of Arizona - all counties

Description of Work (Be specific) (Print or type)

RESIDENTIAL WEATHERIZATION CONSTRUCTION

Describe the work to be performed. Minor repairs, batt insulation, blown insulation, window & door repair and weatherstripping; air sealing; caulking; replacement of windows, doors; furnace/cooling major overhaul or replacement; furnace/cooling tune up and repair; electrical repairs; minor or incidental structural repairs; plumbing work; duct sealing and/or repair and/or replacement.

CHECK OR LIST CRAFTS NEEDED
(Attach continuation sheet if needed)

- ___ Asbestos workers
- ___ Boilermakers
- ___ Bricklayers
- ✓ Carpenters
- ___ Cement masons
- ✓ Electricians
- ___ Glaziers
- ___ Ironworkers
- ___ Laborers (Specify classes)
- ✓ HVAC Mechanic
- ___ Lathers
- ___ Marble & tile setters, terrazzo workers
- ___ Painters
- ___ Piledrivermen
- ___ Plasterers
- ✓ Plumbers
- ___ Roofers
- ✓ Sheet metal workers
- ___ Soft floor layers
- ___ Steamfitters
- ___ Welders-rate for craft
- ___ Truck drivers
- ___ Power equipment operators (Specify types)
- ✓ Weatherization Worker

Other Crafts

308-104
NSN 7540-00-105-0076

* U.S. Government Printing Office: 1985-486-278/20411

Standard Form 308 (Rev. May 1985)
U.S. Department of Labor 29 CFR Part 1

S2009-AZ-001
Issue Date: 12/11/2009
Exp. Date: 03/03/2010

ARIZONA RESIDENTIAL WEATHERIZATION WAGE DETERMINATION

This project wage determination is issued in response to a request from the Department of Energy (DOE) for prevailing wage rates specific to weatherization of residential structures as those structures are defined in the All Agency Memorandum 130 and 131. This wage determination has application only to weatherization construction projects on existing residential structures as described in the SF 308 submitted by DOE. The primary purpose of the project for which this wage determination is being issued is weatherization and is not for the renovation, repair, or new construction of residential structures. All other types of residential construction projects are subject to the published general residential wage determinations for the State of **Arizona** found on www.wdol.gov.

General weatherization work for purposes of this wage determination is defined as minor repairs, batt insulation, blown insulation, window and door repair, and weather stripping, solar film installation, air sealing, caulking, minor or incidental structural repairs, duct sealing, air sealing, installation of light bulbs, and installation of smoke detectors. In **Arizona**, the Department's recent survey determined as a matter of prevailing practice that these duties are performed by a weatherization worker classification.

Additionally, specialty weatherization work is defined as the (1) replacement of doors and windows; (2) installation and repair of furnace/cooling (HVAC) systems and all associated work involved with the installation of the HVAC system including electrical, pipe, and duct work. In **Arizona**, the Department's recent survey determined that the duties described by (1) above are performed by a Window and Door Replacement Worker, and by (2) above are performed by an HVAC worker.

Wage payment data submitted for the State of **Arizona** included wage data information for a weatherization crew chief classification. This classification of worker is essentially a working foreman who performs the same tasks as the weatherization worker, but who is responsible for supervision, job oversight, forms completion, work assignments, and quality assurance. The additional duties are not "laborer or mechanic" work as defined by the Davis-Bacon and related Acts regulations, but are more supervisory in nature. The Department issues various classifications of workers when the duties are defined and distinct from all other classifications of workers on the wage determination. The "laborer or mechanic" duties of the crew chief are not sufficiently distinct to warrant the issuance of a separate classification on the wage determination. Moreover, the Department does not issue separate wage determinations based on a worker's skill, experience or individual training. Therefore, the weatherization crew chief is not listed as a separate classification of worker. The weatherization crew chief must be classified as a weatherization worker and paid at least the applicable wage determination rate of the weatherization worker when performing weatherization work. There is no restriction however to paying the weatherization crew chief more than the weatherization worker wage rate listed on the wage determination.

The rates listed on this wage determination are the minimum rates that may be paid the listed classification for the work performed. Wage rates are based strictly on work performed and are not based on the employee's level of experience, seniority, ability, etc. There are no levels of rates for this work. Workers performing the work described are due at least the minimum rates listed.

S2009-AZ-001
Issue Date: 12/11/2009
Exp. Date: 03/03/2010

The following is a key to the chart below. Each county in the state is listed in alphabetical order on the far left side of the chart. There are two main columns separated by a bold line with the left column labeled **Weatherization Survey Wage Determination** and the right column labeled **Existing Residential Wage Determination**.

The three classifications listed under the **Weatherization Survey Wage Determination** column are the classifications and rates determined to be prevailing for weatherization work and are based on wage data submitted in response to the weatherization survey. Weatherization work, as well as the specific duties that may be performed by these three classifications, is defined on this project decision. The rate information under each classification is the basic hourly rate and fringe benefit (if fringe benefits were found to be prevailing). If there is no wage rate or fringe benefit listed under the classification column, usually the HVAC Worker, then there was no data or insufficient data from which to establish a rate and/or fringe benefit for that classification. If the work performed by that classification is needed for the project, then an additional classification request (conformance) must be made. **NOTE:** Classifications and rates listed under the Existing Residential Wage Determination Column **may not be used** for unlisted classifications/work in the Weatherization Survey Wage Determination column. See below for the procedure for requesting additional classifications and the form to request these classifications.

The classifications listed under the **Existing Residential Wage Determination** column are those classifications and rates currently published as prevailing on the residential general wage determinations. These wage determinations may be found at www.wdol.gov. The classifications and rates listed under the Existing Residential Wage Determination column may be used on weatherization projects only in those situations where the work is **different than that described for the three classifications listed under the Weatherization Survey Column.** For example, when an electrician is needed to perform electrical work not associated with the installation, repair, or overhaul of furnace or cooling equipment, then the existing electrician classification and rate listed under this column may be used for that work. The rate information under each classification is the basic hourly rate and a fringe benefit (if fringe benefits were found to be prevailing). If there is no wage rate or fringe benefit listed under the classification column, then there was no data or insufficient data from which to establish a rate and/or fringe benefit for that classification. If that unlisted classification is needed for the project, then a request for an additional classification (conformance) should be made. See below for the procedure for requesting additional classifications and the form to request these classifications.

Any unlisted classifications and rates (conformances) needed for work not listed on the chart below may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)). The procedure for requesting approval of an unlisted classification and rate (conformance) as well as a "pdf" copy of the form (SF Form 1444) may be found at **http://www.dol.gov/esa/whd/recovery/**. The SF Form 1444 may be sent to the Department electronically, by facsimile, or by mail. Electronic submissions should be sent to **09WeatherizationSurvey@dol.gov**. Facsimile submissions should be sent to (202) 693-1432. Mailed forms should be sent to the address listed in Block 1 of the SF Form 1444. Any SF Form 1444 submitted for weatherization projects should be marked as being for weatherization projects and the project decision being used for the project should also be submitted with the SF Form 1444.

S2009-AZ-001
Issue Date: 12/11/2009
Exp. Date: 03/03/2010

Weatherization Survey Wage Determination (S2009-AZ-001)				Existing Residential Wage Determinations (www.wdol.gov)		
Counties	Weatherization Worker	Doors & Window Replacement Worker	HVAC, Furnace, Heating & Cooling Repair, Installation Replacement Worker	Carpenter (Excludes Door & Window Replacement, and work listed as performed by weatherization worker)	Electrician (Excludes electrical work associated with HVAC installation, overhaul, and work listed as performed by weatherization worker)	Plumber (Excludes work associated with HVAC installation repair or overhaul and work listed as performed by weatherization worker)
Apache	$14.20+0.55	$14.20+0.55	$13.50+1.53	$13.35	$14.24	$15.45
Cochise	$17.50+2.05	$17.00+5.42	$12.00+0.32	$13.35	$14.24	$15.45
Coconino	$14.20+3.21	$14.20+3.21	$18.48+1.49	$23.00+7.24	$12.14+1.83	$15.13+1.18
Gila	$17.00+0.43	$17.00+0.43	$16.00+0.98	$13.35	$14.24	$15.45
Graham	$17.00+5.42	$17.00+5.42	$16.00+0.98	$13.35	$14.24	$15.45
Greenlee	$14.20+0.55	$14.20+0.55	$16.00+0.98	$13.35	$14.24	$15.45
La Paz	$13.94+3.65	$13.94+3.65	$17.63+3.04	$13.35	$14.24	$15.45
Maricopa	$14.81+1.28	$14.81+1.28	$18.48+1.49	$23.00+7.24	$12.14+1.83	$15.13+1.18
Mohave	$13.94+3.65	$13.94+3.65	$17.63+3.04	$23.00+7.24	$12.14+1.83	$15.13+1.18
Navajo	$14.20+3.31	$14.20+3.31	$13.50+1.53	$13.35	$14.24	$15.45
Pima	$9.81+1.49	$13.50+2.13	$17.38+0.55	$23.00+7.24	$12.14+1.83	$15.13+1.18
Pinal	$10.21	$20.00+0.40	$15.59+0.52	$23.00+7.24	$12.14+1.83	$15.13+1.18
Santa Cruz	$17.00+5.42	$17.00+5.42	$13.00+1.65	$13.35	$14.24	$15.45
Yavapai	$11.73	$11.73	$18.48+1.49	$13.35	$14.24	$15.45
Yuma	$9.81+1.49	$13.50+2.13	$17.38+0.55	$23.00+7.24	$12.14+1.83	$15.13+1.18

Any and all portions of the subject Contract, which are not specifically amended hereinabove, shall remain unchanged.

IN WITNESS WHEREFORE, the parties hereto have executed this Amendment.

STATE OF ARIZONA
DEPARTMENT OF COMMERCE

By _____ Date: 8-24-10
Jerry J. Ewing
Deputy Director

GILA COUNTY

_____ Chairman of the Board of Supervisors
Contractor's Signature Title

Michael A. Pastor 8/16/10
Contractor's Printed/Typed Name Date

The undersigned **Contractor's** legal counsel has determined that the above Contract is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the **Contractor.**

Bryan B. Chambers 7-26-2010
Printed/Typed Name of Legal Counsel Date

_____
Signature of Legal Counsel

AMENDMENT NO. 1 **COMMERCE CONTRACT C037-09-02**

AMERICAN RECOVERY AND REINVESTMENT ACT

WEATHERIZATION LOW-INCOME ASSISTANCE CONTRACTUAL AGREEMENT

BETWEEN

STATE OF ARIZONA, DEPARTMENT OF COMMERCE
ENERGY OFFICE

And

GILA COUNTY

This **Contractual Agreement** is amended as follows:

1. *Page 2, SPECIAL TERMS AND CONDITIONS, Paragraph **1** is deleted in its entirety and replaced with the following:*

   TERM OF CONTRACT
   This Contract shall become effective upon signature by both parties and continue through **March 31, 2012**, unless terminated, cancelled or extended as otherwise provided herein.

2. *Page 2, SPECIAL TERMS AND CONDITIONS, Paragraph **2. A.** is deleted in its entirety and replaced with the following:*

   A. The total budget for this Contract shall not exceed **$1,744.457.00.** Budget **Exhibit A** is attached. The funding is **allocated as follows:**
      1. Ten percent (10%) of the $1,744,457.00 allocation award is available upon full execution of the contract. Amount = ***$174,446.00***.
      2. Forty percent (40%) of the $1,744,457.00 allocation award is available upon approval of the Arizona State ARRA Weatherization Plan by DOE. Amount = ***$697,783.00.***
      3. Twenty percent (20%) of the $1,744,457.00 allocation award is available when Contractor demonstrates that they have obligated funds appropriately and jobs are being created, based on Commerce and DOE review of the progress reports and monitoring. Amount = ***$348,891.00***.
      4. Thirty percent (30%) of the $1,744,457.00 allocation award is available when the Contractor demonstrates continued progress based on Commerce and DOE review of the progress reports and monitoring. Amount = ***$523,337.00.***
      5. Any funds remaining unspent in any funding level will carry forward to subsequent levels.

3. *Page 2, SPECIAL TERMS AND CONDITIONS, Paragraph **3 title** is changed to:*

   TRAINING AND TECHNICAL ASSISTANCE (T&TA)

4. *Page 3, SPECIAL TERMS AND CONDITIONS, Paragraph **8** is deleted in its entirety and replaced with the following*:

DAVIS-BACON ACT REQUIREMENTS
Contractors and subcontractors employed on projects receiving funds under ARRA shall provide information which validates that all laborers and mechanics on projects funded directly by or assisted in whole or in part by and through funding appropriated by the Act are paid certain wage rates not less than those prevailing on projects of a character similar in the locality as determined by subchapter IV of Chapter 31 of title 40, United States Code (Davis-Bacon Act). (from ARRA Section 1606).

In accordance with the United States Housing Act of 1949 all laborers and mechanics employed or working upon the site of work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. ***** **Additional information regarding the Davis Bacon Act is included in this clause of the contract with Commerce. Paragraph 8 can be found at the following link** http://apps1.eere.energy.gov/weatherization/pdfs/dba_clauses_weatherization.pdf
Please print out the 13 pages and add them to your contract information. Please be sure to include this or refer to this information in all future contracts.***

5. *Page 3, SPECIAL TERMS AND CONDITIONS, Paragraph **10. C.** is deleted in its entirety and replaced with the following*:

All measures must be determined to be eligible as set forth by the Weatherization Assistance Program.

6. *Page 7, SPECIAL TERMS AND CONDITIONS, Paragraph **18. B.** is deleted in its entirety and replaced with the following*:

A copy of the signed application form must be retained in the client file. Applicants qualifying for Weatherization will be notified of program eligibility.

7. *Page 9, SPECIAL TERMS AND CONDITIONS, Paragraph **29** is deleted in its entirety and replaced with the following*:

IRAN INVESTMENTS
In Accordance with A.R.S. §35-393.06, the offeror hereby certifies that the offeror does not have scrutinized business operations in Iran.

8. *Page 9, SPECIAL TERMS AND CONDITIONS, Paragraph **30** is deleted in its entirety and replaced with the following*:

SUDAN INVESTMENTS
In Accordance with A.R.S. §35-391.06, the offeror hereby certifies that the offeror does not have scrutinized business operations in Sudan.

9. *Page 10, SPECIAL TERMS AND CONDITIONS, Paragraph **32** is deleted in its entirety and replaced with the following:*

PROGRAM FINANCIAL ELIGIBILITY AND CERTIFICATION REQUIREMENTS

A. Eligible Population and Certification of Eligibility
Contractor is responsible to follow the current Arizona Department of Economic Security (DES) LIHEAP Financial Eligibility Policy Manual requirements as it pertains to the Weatherization Program. Copies of the Manual will be provided by DES.

B. Income Eligibility
1. Income level is determined by DES for LIHEAP qualification in accordance with criteria established by the Office of the Secretary, U.S. Department of Health and Human Services.
2. Households including members who have received cash assistance payments under Aid to Families with Dependent Children (AFDC) or Supplemental Security Income (SSI), are automatically eligible for Weatherization assistance.

C. Priority
Priority shall be given to identifying and providing weatherization assistance to the following households:
1. Elderly persons
2. Persons with disabilities
3. Families with children
4. High residential energy users and households with a high energy burden

10. *Page 11, SPECIAL TERMS AND CONDITIONS, Paragraph **34. A. 3.** is deleted in its entirety.*

11. *Page 14, SPECIAL TERMS AND CONDITIONS, the following paragraphs are added:*

43. DECONTAMINATION AND/OR DECOMMISSIONING (D&D) COSTS:
Notwithstanding any other provisions of this Contract, the ARRA funds shall not be responsible for or have any obligation to the recipient for:

43.1. D&D of any of the recipient's facilities.
43.2. Any costs which may be incurred by the contractor in connection with the D&D of any of its facilities due to the performance of the work under this Contract, whether said work was performed prior to or subsequent to the effective date of this Contract.

44. HISTORIC PRESERVATION:
Prior to the expenditure of Federal funds to alter any structure or site, the Contractor is required to comply with the requirements of Section 106 of the National Historic Preservation Act (NHPA), consistent with DOE's 2009 letter of delegation of authority regarding the NHPA. Section 106 applies to historic properties that are listed in or eligible for listing in the National Register of Historic Places. In order to fulfill the requirements of Section 106, the contractor must contact the State Historic Preservation Officer (SHPO), and, if applicable, the Tribal Historic Preservation Officer (THPO), to coordinate the Section 106 review outlined in 36 CFR Part 800. SHPO contact information is available at:
http://azstateparks.com/SHPO/index.html.

45. ELIGIBILITY FOR STATE OR LOCAL PUBLIC BENEFITS; DOCUMENTATION AND VIOLATIONS

Contractors providing services as an agent the State, shall ensure compliance with A.R.S. §1-502. A.R.S. §1-502 requires each person applying or receiving a public benefit to provide documented proof which demonstrates a lawful presence in the United States. The State shall reserve the right to conduct unscheduled, periodic process and documentation audits to ensure contractor compliance. All available contract remedies, up to and including termination may be taken for failure to comply with A.R.S. §1-502 in the delivery of services under this contract.

12. *Page 15, SCOPE OF WORK, Paragraph* **3. D.** *is deleted in its entirety and replaced with the following:*

DETAILED EXPENSE FINANCIAL REPORTS

Detailed financial expense documentation reports generated by Contractor's accounting system that reflect Contractor's Weatherization budget expenses for the period being filed must be submitted with a Payment Request for the purpose of fiscal desk-audit monitoring.

13. *Page 15, SCOPE OF WORK, Paragraph* **3. E.** *is deleted in its entirety and replaced with the following:*

ARRA PERFORMANCE PROGRESS REPORTS

Contractor shall submit to Commerce with each Payment Request, a minimum of once a month if no payments are requested within the month, an ARRA Performance Progress Report consisting of:

1 ARRA Funded Hours Worked & Trained Report
2. ARRA Funded Vendor Information Report

Report form templates will be forwarded to Contractor providing specific ARRA Performance Progress reporting requirements. It is subject to change pursuant to additional requirements as provided by DOE.

14. *Page 16, SCOPE OF WORK, Paragraph* **5.** *Is deleted in its entirety and replaced with the following:*

SERVICE TERRITORY

Gila County

15. *Page 16, SCOPE OF WORK, Paragraph* **6.** *Is deleted in its entirety and replaced with the following:*

TOTAL ARRA FUNDED UNDUPLICATED ESTIMATED UNIT GOAL

Unduplicated unit goal: **202**

Exhibit A

Gila County	
ARRA Weatherization Program Budget	
Contract No. C037-09-02 AM#1	**ARRA Proposed DOE Budget**
1. Administration Costs	$101,153.00
2. Training and Technical Assistance (T&TA)	$330,100.00
3. Program Operations	$1,313,204.00
4. Financial Audit	$0.00
5. Liability Insurance	$0.00
ARRA Budget Total	**$1,744,457.00**

Any and all portions of the subject Contract, which are not specifically amended hereinabove, shall remain unchanged.

IN WITNESS WHEREFORE, the parties hereto have executed this Amendment.

STATE OF ARIZONA
DEPARTMENT OF COMMERCE

By _____ **Date:** 3-31-10
Jerry J. Ewing
Deputy Director

GILA COUNTY

_____ **Chairman, Gila County Board of Supervisors**
Contractor's Signature **Title**

Shirley L. Dawson 3/23/10
Contractor's Printed/Typed Name **Date**

The undersigned **Contractor's** legal counsel has determined that the above Contract is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the **Contractor.**

Bryan Chambers, Chief Deputy Gila County Attorney 3-16-2010
Printed/Typed Name of Legal Counsel **Date**

_____
Signature of Legal Counsel

AMERICAN RECOVERY AND REINVESTMENT ACT

WEATHERIZATION LOW-INCOME ASSISTANCE CONTRACTUAL AGREEMENT

BETWEEN

STATE OF ARIZONA, DEPARTMENT OF COMMERCE ENERGY OFFICE

And

GILA COUNTY

THIS American Recovery and Reinvestment Act (ARRA) Weatherization Low-Income Assistance Contractual Agreement is made, by and between the **State of Arizona, Department of Commerce, Energy Office**, located at 1700 W. Washington, Suite 220, Phoenix, Arizona 85007, hereinafter referred to as **Commerce**, authorized to contract under A.R.S. §41-1504 B.2, "Powers and Duties" and **Gila County, Office of Community Services**, located at 5515 South Apache Avenue, Suite 200, Globe, Arizona 85501, hereinafter referred to as **Contractor,** authorized by Board or Council approval, and a Resolution or Ordinance may be attached.

WHEREAS, the American Recovery and Reinvestment Act of 2009 was enacted to preserve and create jobs and promote economic recovery, assist those most impacted by the recession, provide investments needed to increase economic efficiency by spurring technological advances in science and health, invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits, stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive State and Local tax increases. Recipients shall use grant funds in a manner that maximizes job creation and economic benefit.

WHEREAS, Commerce desires to engage the Contractor to render certain services, hereinafter described, in connection with an ARRA work program funded through the U.S. Department of Energy. The funds are to provide Weatherization services under the U.S. Department of Energy Low-Income Weatherization Assistance Program, hereinafter referred to as DOE.

In consideration of the mutual representations and obligations hereunder Commerce and Contractor agree as follows:

SPECIAL TERMS AND CONDITIONS

1. **TERM OF CONTRACT**
This Contract shall become effective upon signature by both parties and continue through March 31, 2010, unless terminated, cancelled or extended as otherwise provided herein.

2. **CONTRACT BUDGET**
A. The total budget for this Contract shall not exceed **$1,744,457.00 based on the following ARRA incremental disbursement level funding schedule:**

1. Ten percent (10%) of the Contractor's total allocation award at the time of contract full execution ***$174,446.00***. Funding for this level can only be utilized for ramp-up activities relating to every authorized activity EXCEPT unit home production. No units may be weatherized at this funding level.
2. Forty percent (40%) of the Contractor's total allocation award upon approval of the Arizona State ARRA Weatherization Plan by DOE ***$697,783.00***. Unit weatherization production may begin with this funding level.
3. Twenty percent (20%) of the Contractor's total allocation when Contractor demonstrates that they have obligated funds appropriately and jobs are being created, based on Commerce and DOE review of the progress reports and monitoring ***$348,891.00.***
4. Thirty percent (30%) of the Contractor's total allocation when the Contractor demonstrates continued progress based on Commerce and DOE review of the progress reports and monitoring ***$523,337.00.***

B. In order to advance to the next level of funding outlined in 2.A, Contractor must
1. Complete a Funding Level Request Form (provided by Commerce) signed by authorized signature authority;
2. Submit signed form with a written request to the Energy Office Contractual/Financial contact named in this contract;
3. Receive written approval of request from said Energy Office contact.

C. Contractor agrees that it will use the funds solely for the purposes outlined in the Scope of Work and in accordance with the attached Budget, Exhibit A.

D. If Progress Reviews reveal deficiencies, such as funds not disbursed, jobs not created, insufficient technical monitoring, or failure to meet reporting requirements, Commerce reserves the right to place a hold on current balances, and withhold further funding until deficiencies are corrected.

E. Funding disbursement levels outlined in 2.A are subject to change.

F. Prior written approval by Commerce must be given for any adjustment to budget line items as outlined in Exhibit A.

3. **TECHNICAL AND TECHNICAL ASSISTANCE (T&TA)**
T&TA funds are provided to maintain or increase the efficiency, quality and effectiveness of the Weatherization Program and activities should be designed to maximize energy savings, minimize production costs, improve program management and crew/contractor "quality of work," and/or reduce the potential for waste, fraud, abuse and mismanagement.

T&TA funds may be used to train subcontractors participating in the Program.

4. **FLOW DOWN REQUIREMENT**
Contractor shall comply with requirements of applicable Federal, State, and local laws, regulations, DOE and Commerce policy and guidance, and shall flow down the requirements of applicable Federal, State, and local laws, regulations, DOE and Commerce policy and guidance to subcontractors at any tier to the extent necessary to ensure the Contractor's compliance with the requirements.

5. **SEGREGATION OF COSTS**
Contractor must segregate the obligations and expenditures related to funding under ARRA. Financial and accounting systems should segregate, track and maintain these funds apart and separate from other revenue streams. No part of the funds from ARRA shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowed for ARRA projects.

6. **PROHIBITION ON USE OF FUNDS**
None of the funds provided under this contract may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

7. **PREVAILING WAGES**
All laborers and mechanics employed by Contractor and subcontractors on projects funded under ARRA may be required to be be paid prevailing wages as applicable in accordance with rules and guidelines determined by the U.S. Department of Energy.

8. **DAVIS-BACON LABOR RATES**
Contractors and subcontractors employed on Weatherization projects receiving funds under ARRA may be required to pay certain wage rates to laborers and mechanics as applicable in accordance with rules and guidelines determined by the U.S. Department of Energy.

9. **PROTECTION OF WHISTLEBLOWERS**
Prohibition on Reprisals: An employee of any non-Federal employer receiving funds under ARRA may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, information that the employee believes is evidence of gross management of grant funds; gross waste of funds; danger to public health or safety related to implementation or use of funds; abuse of authority; or violation of law, rule or regulation.

10. **REGULATION REQUIREMENTS**
A. Contractor must follow conditions set forth by the U. S. Department of Energy Code of Federal Regulations (CFR) 10 Part 440 Weatherization Assistance for Low-Income Persons, and the Arizona Department of Commerce, Energy Office, Program Requirements.

B. The average cost per dwelling unit for materials and program support expenditures shall not exceed $6,500.00 using DOE program funds.

C. All eligible measures must be determined to be cost effective as set forth by the Weatherization Assistance Program cost-effective procedures.

D. Total expenditures on Health and Safety and Durability measures are subject to budget limitations.

11. INSURANCE REQUIREMENTS

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, its agents, representatives, employees or subcontractors, and Contractor is 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 injury and broad form contractual liability coverage.

• General Aggregate	$2,000,000
• Products – Completed Operations Aggregate	$1,000,000
• Personal and Advertising Injury	$1,000,000
• Blanket Contractual Liability – Written and Oral	$1,000,000
• Fire Legal Liability	$ 50,000
• Each Occurrence	$1,000,000

   a. The policy shall be endorsed to include the following additional insured language: "The State of Arizona, its departments, agencies, boards, commissions, universities and its 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".

   b. Policy shall contain a waiver of subrogation against 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.

2. 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 to include the following additional insured language: "The State of Arizona, its departments, agencies, boards, commissions, universities and its 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".

3. Workers' Compensation and Employers' Liability

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	$ 500,000

Disease – Each Employee	$ 500,000
Disease – Policy Limit	$1,000,000

a. Policy shall contain a waiver of subrogation against 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.

4. If working with pollutants or any remediation exposures are part of project then Pollution Occurrence Insurance (POI) shall be added as a part of, or an addendum to, general liability insurance by Contractor and all subcontractors. If Contractor or subcontractors choose NOT to obtain POI coverage and damage occurs because of not following all aspects of Lead Safe Weatherization, or there is disturbance to any other environmental pollutants, the cost to do remediation, clean up, relocation, medical expenses or any other resulting costs may not be charged to DOE Weatherization and must be covered by another funding mechanism.

B. ADDITIONAL INSURANCE REQUIREMENTS: The policies shall include, or be endorsed to include, the following provisions:

1. The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees wherever additional insured status is required, 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.
2. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.
3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

C. NOTICE OF CANCELLATION: Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the State of Arizona. Such notice shall be sent directly to, Evelyn Billings, Program & Project Specialist, Arizona Department of Commerce, Energy Office, 1700 W. Washington, Suite 220, Phoenix, AZ 85007, and shall be sent by certified mail, return receipt requested.

D. ACCEPTABILITY OF INSURERS: Insurance is to be placed with duly licensed or approved non-admitted insurers in the state of Arizona with an "A.M. Best" rating of not less than A-VII. 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 a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements 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 Evelyn Billings, Program and Project Specialist, Arizona Department of Commerce, Energy Office, 1700 W. Washington, Suite 220, Phoenix, AZ 85007. The State of Arizona project/contract number and project description shall 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. DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT SECTION.

F. SUBCONTRACTORS: Contractors' certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall furnish to the State of Arizona separate certificates and endorsements 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 this Contract shall be made by the Department of Administration, Risk Management Section, 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, none of the above shall apply.

12. **AMENDMENTS**

This Contract is issued under the authority of the Procurement Officer who signed this Contract. The contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

13. **NON-AVAILABILITY OF FUNDS**

Every payment obligation of Commerce under this Contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Contract, this Contract may be terminated by Commerce at the end of the period for which funds are available. No liability shall accrue to Commerce in the event this provision is exercised, and Commerce shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

14. **ARBITRATION**

The parties to this Contract agree to resolve all disputes arising out of or relating to this Contract 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.

15. CANCELLATION FOR CONFLICT OF INTEREST

Pursuant to A.R.S. § 38-511, the state, its political subdivisions or any department or agency of either may, within three years after its execution, cancel any Contract, without penalty or further obligation, made by the state, its political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the state, its political subdivisions or any of the departments or agencies of either is, at any time while the Contract or any extension of the Contract is in effect, an employee or agent 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 of the Contract. A cancellation made pursuant to this provision shall be effective when the Contractor receives written notice of cancellation unless the notice specifies a later time.

16. AUDIT OF RECORDS

Pursuant to A.R.S. §§ 35-214 and 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data, books, and other records ("records") relating to this Contract for a period of five years after completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce the original of any or all such records. Audit of this contract will be conducted pursuant to Office of Management and Budget (OMB) Circular A-133 when applicable.

17. INDEPENDENT AUDITOR FINANCIAL REPORT

A copy of the Contractor's Annual Independent Auditor's Report for the term of the contract must be submitted to Commerce when it becomes available.

18. CLIENT FILE REQUIREMENTS

A. Separate File

A separate file shall be maintained for each household receiving Weatherization assistance under the terms of this contract. The client file shall be retained by the Contractor for a minimum of five years and be available for inspection by representatives of Commerce with reasonable advance notification.

B. Program Application Form

The program application form shall make it clear to the Weatherization applicant that the household is applying for Weatherization assistance, funded in part or in whole by grant funds made available to the Arizona Department of Commerce from the U.S. Department of Energy (DOE).

C. Fuel Information Release Form

A fuel information release form signed by the applicant to allow the Contractor or the Arizona Department of Commerce to obtain a utility history for all metered fuels purchased by the applicant household. Refusal to sign fuel information release **does not** affect weatherization services available to applicants. If fuel information release is not signed by applicant, do not list utility account number on the Weatherization Program Database Website. Applicants who are on a "master metered" system are not required to sign the fuel information release form.

D. Rental Properties

Rental properties may be weatherized under the terms of this contract. **Prior written approval is required by the Energy Office for all rental properties of four (4) or more units.** Written permission to perform itemized services must be obtained from the owner of

the rental unit or the owner's authorized agent. Said written permission is to be retained, along with such other agreements between the Contractor and the rental owner/agent, as part of the job record and client job file.

1. The owner of the rental property or the owner's agent shall agree in writing not to raise the rental charge of said dwelling for a minimum period of one year from the date of completion of Weatherization services as a consequence of the Weatherization investment.
2. In accordance with A.R.S. 33-1324 titled "Landlord to maintain fit premises," Subsection A, paragraph 4, landlords are required to "Maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances, including elevators, supplied or required to be supplied by him." The Contractor must obtain written permission from the Energy Office prior to repairing or replacing any of these items in the rental property.

19. APPLICABLE LAW

This Contract shall be governed and interpreted by the laws of the State of Arizona.

20. NON-DISCRIMINATION

The Contractor shall comply with Executive Order 99-4, which mandates that all persons, regardless of race, color, religion, sex, age, national origin, or political affiliation, 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 Contractor 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.

21. THIRD PARTY ANTITRUST VIOLATIONS

The Contractor assigns to Commerce any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to the Contractor toward fulfillment of this Contract.

22. PROGRAM REVIEW AND SITE VISITS

Commerce has the right to make site visits at reasonable intervals for purposes of review of project accomplishments and management control systems and to provide technical assistance, if required. Contractor will provide reasonable access to facilities, office space, resources, and assistance for the safety and convenience to Commerce representatives in the performance of their duties. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.

23. RIGHTS IN DATA

Commerce may duplicate, use, and disclose in any manner and for any purpose whatsoever, within the limits established by Federal and State laws and regulations, all information relating to this Contract.

24. HEALTH & SAFETY

The nature of the work to be performed under this Contract is inherently hazardous. In performance of work under this Contact the Contractor shall satisfy all federal, state, and local statutes, regulations, ordinances, etc., regarding health and safety.

25. **OSHA GUIDELINES**
The Contractor shall be familiar with and operate with the guidelines set forth by the occupational safety and health act.

26. **ENTIRE AGREEMENT**
This Contract, including exhibits, attachments, and modifications approved in accordance herewith, shall constitute the entire Contract between the parties and supersede all understandings, oral or written.

27. **OFFSHORE PERFORMANCE OF WORK PROHIBITED**
Due to security and identity protection concerns, direct services under this Contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or "overhead" services, redundant back-up services or services that are incidental to the performance of the Contract. The provision applies to work performed by subcontractors at all tiers.

28. **COMPLIANCE REQUIREMENTS FOR A.R.S. § 41-4401, GOVERNMENT PROCUREMENT:**
E VERIFY REQUIREMENT

1. The contractor 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.)
2. A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract and the contractor may be subject to penalties up to and including termination of the contract.
3. Failure to comply with a State audit process to randomly verify the employment records of contractors and subcontractors shall be deemed a material breach of the contract and the contractor may be subject to penalties up to and including termination of the contract.
4. The State Agency retains the legal right to inspect the papers of any employee who works on the contract to ensure that the contractor or subcontractor is complying with the warranty under paragraph 1.
5. Questions about E-Verify see website below:
http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=6a0988e60a405110VgnVCM1000004718190aRCRD&vgnextchannel=6a0988e60a405110VgnVCM1000004718190aRCRD

29. **IRAN INVESTMENTS:**
In Accordance with A.R.S. §35-397, the offeror hereby certifies that the offeror does not have scrutinized business operations in Iran.

30. **SUDAN INVESTMENTS:**
In Accordance with A.R.S. §35-397, the offeror hereby certifies that the offeror does not have scrutinized business operations in Sudan.

31. **NOTICES**

All notices, demands, and communications provided for herein or made hereunder shall be delivered, or sent by certified mail, return receipt requested, addressed in each case as follows, until some other address shall have been designated in a written notice to the other party hereto given in like manner:

If to CONTRACTOR:
Gila County, Office of Community Services
5515 S. Apache Avenue, Suite 200
Globe, AZ 85501

Contractual/Financial Contact
Malissa Buzan
Housing Services Manager
PHONE 928-402-8693
FAX 928-425-9468
EMAIL mbuzan@co.gila.az.us

Program/Technical Contact
Malissa Buzan
Housing Services Manager
PHONE 928-402-8693
FAX 928-425-9468
EMAIL mbuzan@co.gila.az.us

If to COMMERCE:
Arizona Department of Commerce
Energy Office
1700 W. Washington, Suite 220
Phoenix, AZ 85007

Contractual/Financial Contact
Evelyn Billings
Program and Project Specialist
PHONE 602-771-1141
FAX 602-771-1203
EMAIL evelynb@azcommerce.com

Program/Technical Contact
Ken Pancost
Weatherization Program Manager
PHONE 602-771-1149
FAX 602-771-1203
EMAIL kenp@azcommerce.com

Each notice shall be deemed to have been given or made when so delivered or mailed. Notification of change shall be delivered to Commerce and Contractor within ten (10) days of any change affecting this provision.

32. **PROGRAM FINANCIAL ELIGIBILITY AND CERTIFICATION REQUIREMENTS**

A. Contractor is responsible to follow the current Arizona Department of Economic Security (DES) LIHEAP Financial Eligibility Policy Manual requirements as it pertains to the Weatherization Program. Copies will be provided by DES.

B. **Priorities**

Priority shall be given to identifying and providing weatherization assistance to the following eligible households:

- Elderly persons
- Persons with disabilities
- Families with children
- High residential energy users and households with a high energy burden

33. **REQUIRED PROGRAM ANNOUNCEMENT**

Contractor shall announce the availability of Weatherization services as provided by this contract. The program announcement shall provide all potentially interested and income eligible families with an opportunity to apply for Weatherization assistance. The Contractor shall provide application services on an outreach basis to applicants who are unable to leave their residences

due to a handicap or fear of assault. Proof of Program Announcement shall be forwarded to Commerce.

The following types of program announcements will satisfy this contract stipulation:

A. Legal advertisement in a newspaper of general circulation in the contractor's service area.

B. Feature article, on receipt of a new Weatherization contract, by the Contractor in a newspaper of general circulation in contractor's service area.

C. Program flyer or handout announcing the additional program funds or program expansion.

34. PROHIBITION AGAINST WEATHERIZATION SERVICES

A. Dwelling Units

1. Dwelling units which are vacant or which are designated for acquisition or clearance by a federal, state, or local program within twelve (12) months from the date of scheduled weatherization shall not be provided Weatherization services under this contract.
2. Dwelling units which are known to be for sale as evidenced by "For Sale" signs on the property, realtor listing and offering or classified advertisement, shall not be provided Weatherization services under this contract.
3. Weatherization services, under this contract, are prohibited where the dwelling unit of an applicant household is located in a designated flood plain unless said dwelling unit is currently covered by flood insurance.

35. PRIOR WRITTEN APPROVAL REQUIREMENTS

Prior Written Approval from the Energy Office is required on the following:

1. All purchases of program vehicles or equipment over $4,999.
2. All purchase lease or lease-purchase of vehicles or equipment.
3. Weatherization training, program sessions, or workshops not sponsored by the Energy Office or DOE, and charged to Weatherization.
4. Adjustments to line items in the contract budget
5. Purchase of extended warranties for installed items on client homes.
6. Weatherization of all rental properties of four (4) or more units.
7. Replacement or repair of items in a rental unit that are the responsibility of the landlord under Statute 33-1324. (Reference Paragraph 17.D.2)
8. Specific references to written approval requirements listed in the Program Requirements, attached as Exhibit B.
9. Low-Income Weatherization services are for existing residential buildings only. Services are not authorized for new additions or residences in varying stages of new construction or remodeling, or for garage/carport conversions in progress unless authorization by Commerce is obtained in writing for said work.
10. Homes that have been weatherized and reported to Commerce for contract credit will not be accepted for additional Weatherization assistance unless the Contractor has been issued prior authorization in writing to proceed.

36. INVENTORY

The Contractor shall maintain a current list of all non-expendable inventory equipment, with an individual cost of $500 and over, which has a useful life of more than a year, and is available for use in Weatherization. This list shall include:

1. Description of inventory item
2. Manufacturer's serial number, model number, national stock number, or other identification number, and agency's unique tag number, if applicable.
3. Acquisition date
4. Locations, use, and condition of inventory
5. Unit acquisition cost and funding source
6. Disposition data - date and method of disposal

Contractor shall update the Program Equipment Inventory list at the end of the program year. Inventory list shall include any inventory acquisition, disposition, and condition changes during the program. Upon request by Commerce, a copy of the Contractor's Program Equipment Inventory list shall be provided.

37. PROPERTY

All inventories acquired by funds provided through Commerce contract become program property. Title to inventory acquired and defined under the contract may vest upon expiration of the contract provided all terms and conditions of the contract have been met. This is pursuant to Office of Management and Budget (OMB) Circular A-102, and Code of Federal Regulations (CFR), Title 10, Chapter II, Section 600-232A.

The Contractor shall indicate Weatherization Program ownership, maintain reasonable control, and be responsible for the proper care and maintenance of all inventories acquired through a contract with Commerce. Equipment and vehicles no longer required for program operation shall be reported to Commerce prior to disposition. When the contract is terminated, the disposition of all inventory acquired with contract funds shall be determined as follows:

A. Commerce may allow continued use of program inventory provided that a new contract is executed and the inventory continues to be used as originally intended.

B. Commerce may sell inventory to the Contractor, at fair market value, if the Contractor wishes to utilize the inventory for purposes other than for which it was acquired. Fair market value will be determined by Commerce.

C. Commerce may take possession of the inventory.

38. PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS

To the greatest extent practicable, all equipment and products purchased with funds made available under this award should be American-made.

39. FALSE CLAIMS ACT

Contractor and subcontractors shall promptly refer to Commerce any credible evidence that a principal, employee, agent, contractor, subgrantee, subcontractor or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict or interest, bribery, gratuity or similar misconduct involving those funds.

40. METHOD OF PAYMENT

A. Program expenses for this Contract are allowable beginning the effective date of this Contract.

B. Commerce shall provide to Contractor master templates for the Payment Request Form and the Financial Report Form to use in requesting ARRA funds during the term of the contract.

C. The Contractor shall submit to Commerce no later than the twelfth (12th) working day of the following month (excluding state observed holidays) a monthly Payment Request Form, a Financial Report Form showing monthly and cumulative expenditures by line item according to Exhibit A, and a list of database client job numbers of completed and submitted jobs entered on the Weatherization Program Database website for the report month. All documents must indicate the contract name and number.

41. CHOICE OF PAYMENT

A. Working Capital Cash Advance APPLIES TO DOE ARRA FUNDS ONLY

1. To qualify for Working Capital Cash Advance status, a Contractor must submit to the Arizona Department of Commerce, Energy Office, an agency-wide Balance Sheet financial report from the previous Fiscal Year End, and justify in writing why the Contractor needs to be placed in the Cash Advance status. A written response of acceptance or denial to the Contractor's request will be given in writing by Commerce.
2. If approved for Advance status, a Contractor must request a DOE ARRA advance one month prior to DOE-planned expenditures by providing a proposed monthly line-item budget of anticipated expenditures, and complete the *ADVANCE REQUEST* space on the DOE ARRA Payment Request Form. Monthly advance funds must be liquidated within thirty days of issue.
3. In order to continue to qualify for cash advances each month, a DOE ARRA Financial Report form must be submitted by the due date showing actual line-item expenditures for the reporting month, total accumulated expenses, total Working Cash Advance funds accumulated, total accumulated expenses, and remaining cash advance balance. If actual expenditures exceed the cumulated cash advance, the agency may request reimbursement of the expense balance along with appropriate documentation for the next month's advance.
4. If the Contractor fails to submit a timely monthly ARRA Financial Report, and/or fails to expend the cash advance funds as stipulated, then approval for the Capital Cash Advance payment method will be cancelled in writing by Commerce to the Contractor, and the Contractor will file on a monthly reimbursement method for the remainder of the contract year, as described in the section entitled *Reimbursement*.
5. Should the Contractor choose to change from Working Capital Cash Advance status to Reimbursement status, a formal letter must be sent to the Commerce contact named in this contract requesting the change and the effective date of the change.

B. Reimbursement

1. Reimbursement requests shall be submitted to Commerce on a Payment Request Form a minimum of once a month, and no more than a maximum of twice a month, for services performed and work completed to date. Include reporting month, dollar amount requested, original signature, and date. The *COMPLETED/SUBMITTED JOBS* check-box section of the Payment Request Form must be marked with appropriate choice and if applicable, attach documentation:
   - *Completed/Submitted Jobs listing attached* (Attach list)
   - *Completed/Submitted Jobs listing sent via email to* evelynb@azcommerce.com (Send list by email to Evelyn Billings).
   - *No Completed/Submitted jobs this month* (No list is required)

2. Reimbursement requests will be processed for payment upon determination that all reporting elements have met Weatherization contractual requirements. If reimbursement requests do not meet Weatherization contractual requirements, Commerce will provide a report listing areas out of compliance and remedies needed to bring the request into compliance.

42. INCORPORATION BY REFERENCE

The State hereby incorporates by reference the **Uniform Terms and Conditions**, and the **Uniform Instructions** to Offerors. A copy of the text may be found at www.azspo.az.gov. If the offeror would prefer a hard copy, please contact the State Procurement Office at 100 N. 15th Avenue, Phoenix, Arizona 85007.

SCOPE OF WORK

1. **GENERAL REQUIREMENTS**
Contractor shall implement weatherization services under the terms of this Contract in coordination with other federal, state and local weatherization related services or energy conservation programs in order to preclude duplication of services generally and to optimize residential energy conservation efforts within the Contractor's service delivery area.

2. **SPECIFIC REQUIREMENTS**
The Contractor shall perform the services under this Contract, in accordance with the Program Requirements, attached to the Contract as Exhibit B.

3. **REPORTS**

A. Weatherization Program Database Website

1. For each dwelling unit completed, the Contractor shall input in the database the client information, house occupant information, and data on House Characteristics, Combustion Safety, Diagnostics and Work Performed to the fullest extent possible.

2. No later than the twelfth (12th) working day of the following month (excluding state observed holidays), each completed dwelling unit submitted for payment in the report month must have the job submitted as final on the website.

B. List of Client Jobs

1. A hard-copy client list, referencing the website client job numbers of completed jobs being requested for payment, must be submitted either by email to evelynb@azcommerce.com or attached as a separate document to the Payment Request Form. As applicable, the appropriate check-box must be marked on the Payment Request Form utilizing the following choices:
   - *Completed/Submitted Job listing attached*
   - *Completed/Submitted Job listing sent via email to evelynb@azcommerce.com*

2. For dwelling units not completed and submitted as final on the website, but payment is being requested for job expenses paid to date, the following box on the Payment Request Form should be checked:
   - *No Completed/Submitted jobs this month*

C. Financial Report Form

The Financial Report shall show per line item current expenditures of the reporting period, and cumulative expenditures to date. For agencies requesting monthly working capital cash advances, a cumulative balance of cash advanced and remaining cumulative cash balance on hand must be included.

D. Monthly Detailed Expense Financial Reports

Detailed financial expense documentation reports generated by Contractor's accounting system that reflect Contractor's Weatherization budget expenses must be submitted monthly with a Payment Request for the purpose of fiscal desk-audit monitoring.

E. ARRA Performance Progress Report

Contractor shall submit to Commerce no later than seven (7) working days after the end of each calendar quarter an ARRA Performance Progress Report on the following, at a minimum:

1. Jobs created at the local agency level
2. Jobs created using local agency contractors

3. Jobs retained at the local agency level
4. Jobs retained with local agency contractors
5. State desk monitoring/oversight visits
6. State on-site monitoring/oversight visits
7. Hours trained at the local agency
8. Equipment units purchased costing more than $4,999.

A report form template will be forwarded to Contractor at a later date providing specific ARRA Performance Progress reporting requirements. It is subject to change pursuant to additional requirements as provided by DOE.

F. Report Submittal Requirements
1. The Payment Request Form and Financial Report Form shall be mailed and received by Commerce no later than the twelfth (12th) working day of the month on or before 5:00 P.M. taking into consideration any State holiday.
2. Payment Request Forms must be submitted even if there was no production or fiscal activity during the report month.

G. Information in Supporting of Recovery Act Reporting
Contractor may be required to submit backup documentation for expenditures of funds under the Recovery Act including such items as timecards and invoices. Contractor shall provide copies of backup documentation at the request of Commerce or designee.

4. SUBMITTAL ADDRESS

All Payment Request Forms and Report Forms must be directed to:

Arizona Department of Commerce
Energy Office
1700 W. Washington, Suite 220
Phoenix, Arizona 85007

5. SERVICE TERRITORY

Gila County, excluding Indian Reservations.

6. TOTAL ARRA FUNDED UNDUPLICATED ESTIMATED UNIT GOAL

Unduplicated unit goal: **204**

7. PRIORITY

A. Elderly
B. Disabled
C. Families with children
D. High residential energy users and households with high energy burden

IN WITNESS WHEREFORE, the parties hereto have executed this Contract.

STATE OF ARIZONA
DEPARTMENT OF COMMERCE

By Martha Lynch **Date:** 5-26-09
Martha Lynch
CPPB, Chief Procurement Officer

GILA COUNTY

Shirley L. Dawson
Contractor's Signature

Chairman of the Board of Supervisors
Title

Shirley L. Dawson
Contractor's Printed/Typed Name

5/19/09
Date

Pursuant to _____, the undersigned **Contractor's** legal counsel has determined that the above Contract is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the **Contractor.**

Bryan Chambers
Printed/Typed Name of Legal Counsel

5/19/09
Date

Signature of Legal Counsel
Chief Deputy Gila County Attorney

Exhibit A

Gila County	
ARRA Weatherization Program Budget	
Contract No. C037-09-02	**ARRA Proposed DOE Budget**
1. Administration Costs	$87,223.00
2. Technical and Technical Assistance (T&TA)	$330,100.00
3. Program Operations	$1,327,134.00
4. Financial Audit	$0.00
5. Liability Insurance	$0.00
ARRA Budget Total	**$1,744,457.00**

EXHIBIT B

ARRA FUNDS

WEATHERIZATION

PROGRAM REQUIREMENTS

APRIL 1, 2009
EDITION

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INSTALLATION MEASURES

All materials/measures installed shall be justified utilizing the Energy Audit Procedures established by Commerce.

ENERGY AUDIT PROCEDURE

The Weatherization Assistance Program (WAP) Energy Audit Procedure is to be used by all sub-grantees to gather, record and analyze data on structures. This data is to be used to deliver weatherization materials/measures in a fashion that protects the health and safety of the client, increases the durability of the structure, increases the comfort of the client and reduces the energy cost to the client in a cost effective manner.

The following audit activities must be completed on all homes utilizing WAP funds.

- A site audit is to be completed that records all of the relevant data on the structure that is needed to perform cost effectiveness tests.
- The Cost Effectiveness Procedure must be followed to determine cost effectiveness of potential weatherization materials/measures.
- The Pressure Diagnostic Procedure must be completed and the findings documented following the Reporting procedures.
- A health and safety audit of the structures must be completed and the findings documented following the Reporting procedures.
- A final inspection of the structure must be completed and findings documented following the Final Inspection Procedures.

COST EFFECTIVENESS PROCEDURE

WAP has incorporated a performance-based energy audit procedure that focuses on optimizing investment in energy efficiency through a systems approach. To enable the WAP program to optimize the investment in energy efficiency, the following requirements have been established for the audit procedure:

- The energy audit procedure must determine that each weatherization material/measure is cost effective by ensuring the discounted savings-to-investment ratio (SIR) is greater or equal to one.
- The energy audit procedure must assign priorities among weatherization materials/measures in descending order of SIR and must account for interactions between architectural and mechanical measures.
- The energy audit procedure must ensure that the overall SIR for the entire package of materials/measures, including the cost of incidental repairs, is greater or equal to one. Incidental repairs are only allowed if they are necessary to make the installation of weatherization materials effective.
- Funds spent to abate energy related health and safety hazards do not need to be included in the preceding requirements. Funds can be spent to eliminate health and safety hazards when the elimination of the hazard is necessary before or because of the installation of weatherization materials.
- Written authorization must be received from the Energy Office before the installation of measures/materials that do not meet the Cost Effectiveness or Health and Safety Requirements established by the WAP program.

To determine the cost effectiveness of weatherization materials/measures, the contractor must use a computer audit approved by the Energy Office or an appropriate priority list for homes that meet the criteria contained in the list.

CLIMATE ZONE

Arizona Climate Zones used for the Cost Effective Priority Lists can be found at
http://www.azcommerce.com/energy/weatherization.asp

FUEL SWITCHING

The Weatherization Assistance Program does not permit the general practice of fuel switching when replacing heating, cooling or water heating equipment. The changing or converting equipment using one fuel source to another will be considered on a limited case-by-case basis only.

Written authorization must be received from the Energy Office prior to changing or converting equipment using one fuel source to another.

COST EFFECTIVENESS PRIORITY LIST FOR DETACHED HOUSING

CLIMATE ZONE 3 Globe Miami Payson

The priority list can be used to determine cost effective weatherization materials/measures for homes located in Climate Zone 3 (see Climate Zone map).

A computer audit is required if:

- There are potential cost-effective energy upgrades to the house that are not listed on the priority list or the General Waste Heat Items list.
- There are not sufficient funds to complete all the measures, including energy related health and safety measures and other energy related repairs.
- Energy related incidental repairs of more than $100 are included with the energy upgrades.

Home with Fossil Fuel Heating

- Existing ceiling insulation of R-19or less upgraded to R-38.
- Un-insulated frame walls upgraded with blown insulation.
- Pressure diagnostics and repair following the pressure diagnostic procedure established by the WAP program.
- Forced air furnace with a standing pilot light upgraded to a 90+ AFUE furnace.
- Water heater wrap (where allowed).

Homes Electric Heating (Heat Pump or Electric Resistance)

- Existing ceiling insulation of R-19 or less upgraded to R-38.
- Un-insulated frame walls upgraded with blown insulation.
- Pressure diagnostics and repair following the pressure diagnostic procedure established by the WAP program.
- Water heater wrap (where allowed).

In cases where there are potential cost effective energy upgrades not listed, incidental repairs of more than $100, or sufficient funds are not available to complete **all** (energy, health and safety and energy related repairs) possible upgrades, a computerized audit must be completed to develop a ranking of the energy upgrades, based on their SIR. Only those measures with a SIR of one or greater can be completed. If sufficient funds are not available to complete all possible upgrades, those upgrades with the highest SIR must be completed first.

COST EFFECTIVENESS PRIORITY LIST FOR DETACHED HOUSING

[redacted] Hayden (Boise in [illegible])

The priority list can be used to determine cost effective weatherization materials/measures for homes located in Climate Zone 4 (see Climate Zone map).

A computer audit is required if:

- There are potential cost-effective energy upgrades to the house that are not listed on the priority list or the General Waste Heat Items list.
- There are not sufficient funds to complete all the measures; including energy related health and safety measures and other energy related repairs.
- Energy related incidental repairs of more than $100 are included with the energy upgrades.

Homes with Refrigeration Cooling

- Existing ceiling insulation of R-19 or less upgraded [redacted]
- Un-insulated frame walls upgraded with blown insulation.
- Pressure diagnostics and repair following the pressure diagnostic procedure established by the WAP program.
- Air Conditioners twenty years old or older upgraded with a [redacted]
- [redacted]
- Water heater wrap (where allowed).

Homes with Evaporative Cooling

- Existing ceiling insulation of R-11 or less upgraded [redacted]
- Pressure diagnostics and repair following the pressure diagnostic procedure established by the WAP program.
- [redacted]
- [redacted]

Homes with Inoperable Forced Air Fossil Fuel Furnace

- [redacted]

In cases where there are potential cost effective energy upgrades not listed, incidental repairs of more than $100, or sufficient funds are not available to complete **all** (energy, health and safety and energy related repairs) possible upgrades, a computerized audit must be completed to develop a ranking of the energy upgrades, based on their SIR. Only those measures with a SIR of one or greater can be completed. If sufficient funds are not available to complete all possible upgrades, those upgrades with the highest SIR must be completed first.

COST EFFECTIVENESS PRIORITY LIST FOR MOBILE HOMES

CLIMATE ZONE 3

The priority list can be use to determine cost effective weatherization materials/measures for mobile homes located in Climate Zone 3 (see Climate Zone map).

A computer audit is required if:

- There are potential cost-effective energy upgrades to the house that are not listed on the priority list or the General Waste Heat Items list.
- There are not sufficient funds to complete all the measures; including energy related health and safety measures and other energy related repairs.
- Energy related incidental repairs of more than $100 are included with the energy upgrades.

Mobile Homes with Refrigeration Cooling and Fossil Fuel Heating

- Reflective roof coating.
- Pressure diagnostics and repair following the pressure diagnostic procedure established by the WAP program.
- Jalousie windows retrofit (installed cost of under $15 per square foot).
- Water heater wrap (where allowed).

Mobile Homes with Refrigeration Cooling and Electric Resistance Heating

- Reflecative roof coating.
- Pressure diagnostics and repair following the pressure diagnostic procedure established by the WAP program.
- Jalousie windows retrofit (installed cost of under $20 per square foot).
- Water heater wrap (where allowed).

Mobile Homes with Evaporative Cooling and Electric Resistance Heating

- Pressure diagnostics and repair following the pressure diagnostic procedure established by the WAP program.
- Jalousie windows retrofit (installed cost of under $20 per square foot).
- Upgrade of evaporative cooler motor with higher efficiency two-speed motor.
- Water heater wrap (where allowed).

Mobile Homes with Evaporative Cooling Only and Fossil Fuel Heating

- Pressure diagnostics and repair following the pressure diagnostic procedure established by the WAP program.
- Jalousie windows retrofit (installed cost of under $14 per square foot).
- Upgrade of evaporative cooler motor with higher efficiency two-speed motor.
- Water heater wrap (where allowed).

In cases where there are potential cost effective energy upgrades not listed, incidental repairs of more than $100, or sufficient funds are not available to complete **all** (energy, health and safety and energy related repairs) possible upgrades, a computerized audit must be completed to develop a ranking of the energy upgrades, based on their SIR. Only those measures with a SIR of one or greater can be completed. If sufficient funds are not available to complete all possible upgrades, those upgrades with the highest SIR must be completed first.

[redacted]

[redacted] Hayden, Winkelman

The priority list can be use to determine cost effective weatherization materials/measures for mobile homes located in Climate Zone 4 (see Climate Zone map).

A computer audit is required if:

- There are potential cost-effective energy upgrades to the house that are not listed on the priority list or the General Waste Heat Items list.
- There are not sufficient funds to complete all the measures; including energy related health and safety measures and other energy related repairs.
- Energy related incidental repairs of more than $100 are included with the energy upgrades.

[redacted]

- Reflective roof coating.
- Pressure diagnostics and repair following the pressure diagnostic procedure established by the WAP program.
- [redacted]
- [redacted]
- Shade screens on all sun struck south, east and west windows and glass doors.
- Water heater wrap (where allowed).

Mobile Homes with Refrigeration Cooling and Electric Resistance Heating

- Reflective roof coating.
- Pressure diagnostics and repair following the pressure diagnostic procedure established by the WAP program.
- [redacted]
- [redacted]
- Shade screens on all sun struck south, east and west windows and glass doors.
- Water heater wrap (where allowed).

[redacted]

- Pressure diagnostics and repair following the pressure diagnostic procedure established by the WAP program.
- [redacted]
- Upgrade of evaporative cooler motor with higher efficiency two-speed motor.
- Water heater wrap (where allowed).

[redacted]

- Pressure diagnostics and repair following the pressure diagnostic procedure established by the WAP program.
- [redacted]
- Upgrade of evaporative cooler motor with higher efficiency two-speed motor.
- Water heater wrap (where allowed).

In cases where there are potential cost effective energy upgrades not listed, incidental repairs of more than $100, or sufficient funds are not available to complete all (energy, health and safety and energy related repairs) possible upgrades, a computerized audit must be completed to develop a ranking of the energy upgrades, based on their SIR. Only those measures with a SIR of one or greater can be completed. If sufficient funds are not available to complete all possible upgrades, those upgrades with the highest SIR must be completed first.

COST EFFECTIVENESS PRIORITY LIST FOR MOBILE HOMES

CLIMATE ZONE 5

The priority list can be use to determine cost effective weatherization materials/measures for mobile homes located in Climate Zone 5 (see Climate Zone map).

A computer audit is required if:

- There are potential cost-effective energy upgrades to the house that are not listed on the priority list or the General Waste Heat Items list.
- There are not sufficient funds to complete all the measures; including energy related health and safety measures and other energy related repairs.
- Energy related incidental repairs of more than $100 are included with the energy upgrades.

Mobile Homes with Refrigeration Cooling and Fossil Fuel

- Reflective roof coating.
- Pressure diagnostics and repair following the pressure diagnostic procedure established by the WAP program.
- Jalousie windows retrofit (installed cost of under $16 per square foot).
- Water heater wrap (where allowed).

Mobile Homes with Refrigeration Cooling and Electric Resistance Heating

- Reflective roof coating.
- Pressure diagnostics and repair following the pressure diagnostic procedure established by the WAP program.
- Jalousie windows retrofit (installed cost of under $24 per square foot).
- Water heater wrap (where allowed).

Mobile Homes with Evaporative Cooling and Electric Resistance Heating

- Pressure diagnostics and repair following the pressure diagnostic procedure established by the WAP program.
- Jalousie windows retrofit (installed cost of under $24 per square foot).
- Upgrade of evaporative cooler motor with higher efficiency two-speed motor.
- Water heater wrap (where allowed).

Mobile Homes with Evaporative Cooling and Fossil Fuel

- Pressure diagnostics and repair following the pressure diagnostic procedure established by the WAP program.
- Jalousie windows retrofit (installed cost of under $15 per square foot).
- Upgrade of evaporative cooler motor with higher efficiency two-speed motor.
- Water heater wrap (where allowed).

In cases where there are potential cost effective energy upgrades not listed, incidental repairs of more than $100, or sufficient funds are not available to complete **all** (energy, health and safety and energy related repairs) possible upgrades, a computerized audit must **be** completed to develop a ranking of the energy upgrades, based on their SIR. Only those measures with a SIR of one or greater can be completed. If sufficient funds are not available to complete all possible upgrades, those upgrades with the highest SIR must be completed first.

COST EFFECTIVENESS PRIORITY LIST FOR MOBILE HOMES

CLIMATE ZONE 6

The priority list can be use to determine cost effective weatherization materials/measures for mobile homes located in Climate Zone 6 (see Climate Zone map).

A computer audit is required if:

- There are potential cost-effective energy upgrades to the house that are not listed on the priority list or the General Waste Heat Items list.
- There are not sufficient funds to complete all the measures; including energy related health and safety measures and other energy related repairs.
- Energy related incidental repairs of more than $100 are included with the energy upgrades.

Mobile Homes with Refrigeration Cooling and Heat Pump or Fossil Fuel Heating

- Reflective roof coating.
- Pressure diagnostics and repair following the pressure diagnostic procedure established by the WAP program.
- Air Conditioners twenty years old or older upgraded with a minimum 13 SEER unit.
- Shade screens on all sun struck south, east and west windows and glass doors.
- Jalousie windows retrofit (installed cost of under $8 per square foot).
- Water heater wrap (where allowed).

Mobile Homes with Refrigeration Cooling and Electric Resistance Heating

- Reflective roof coating.
- Pressure diagnostics and repair following the pressure diagnostic procedure established by the WAP program.
- Air Conditioners twenty years old or older upgraded with a minimum 13 SEER heat pump.
- Shade screens on all sun struck south, east and west windows and glass doors.
- Jalousie windows retrofit (installed cost of under $10 per square foot).
- Water heater wrap (where allowed).

Mobile Homes with Evaporative Cooling and Heat Pump or Fossil Fuel Heating

- Pressure diagnostics and repair following the pressure diagnostic procedure established by the WAP program.
- Jalousie windows retrofit (installed cost of under $4 per square foot).
- Upgrade of evaporative cooler motor with higher efficiency two-speed motor.
- Water heater wrap (where allowed).

Mobile Homes with Evaporative Cooling and Electric Resistance Heating

- Pressure diagnostics and repair following the pressure diagnostic procedure established by the WAP program.
- Jalousie windows retrofit (installed cost of under $6 per square foot).
- Upgrade of evaporative cooler motor with higher efficiency two-speed motor.
- Water heater wrap (where allowed).

In cases where there are potential cost effective energy upgrades not listed, incidental repairs of more than $100, or sufficient funds are not available to complete **all** (energy, health and safety and energy related repairs) possible upgrades, a computerized audit must be completed to develop a ranking of the energy upgrades, based on their SIR. Only those measures with a SIR of one or greater can be completed. If sufficient funds are not available to complete all possible upgrades, those upgrades with the highest SIR must be completed first.

[illegible]

[illegible]

Domestic Hot Water

- Adjustment of the hot water temperature to 120 degrees if approved by the client.
- Replacement of existing [illegible] with a low-flow replacement showerhead if approved by the client.
- Faucet aerators

Space Heating and Cooling Systems

- Equipment maintenance and tune-up.
- Heating or Cooling System setback thermostat(s) for people with mobility problems or other extenuating circumstances, which make it difficult for them to manually adjust thermostat set points.

Evaporative Coolers

- General evaporative cooler tune-ups.
- Replacement of a single speed evaporative cooler motor with a listed two-speed motor.

Base Load Items

- Replacement of incandescent light bulbs, which are on for at least one hour per day, with an ENERGY STAR qualified compact fluorescent bulbs that emit the same amount of light.
- Replacement of Refrigerators following the procedure established by the WAP program.

Door Replacement

- Door replacement can be completed on a limited basis.

DURABILITY MEASURES

Measure installed to protect or insure the long-term effectiveness energy measures are allowed. Total expenditures are subject to budget limitations.

PRESSURE DIAGNOSTIC PROCEDURE

The pressure diagnostic procedures are to be followed when performing air leakage diagnostics and repair. These procedures provide crews with immediate feedback on the effectiveness of air sealing work, insure that repairs will provide long-term energy benefit in a safe manner, and provide essential management information needed to monitor the cost effectiveness of the air sealing programs.
Pressure Diagnostic Decision Tree

The pressure diagnostic decision tree provides assistance to agency personnel in identifying the minimum level of pressure testing that needs to be performed to meet the Weatherization Program requirements. The decision tree is comprised of two levels of housing characteristics and corresponding test requirements. In all cases, air sealing can only be performed in conjunction with pressure diagnostics.

Level One: Homes with Central Forced Air Heating or Cooling

- The **complete** pressure diagnostic process must be followed in all cases on homes with a central forced air heating or cooling system. (Evaporative cooling is not considered a forced air system in this case.)

Level Two: Homes with No Central Forced Air Heating or Cooling

- The use of pressure diagnostic process is **optional** in homes that do not have a central forced air heating or cooling system and that do not contain the characteristics listed below.
- [illegible] Pressure diagnostics must be completed on homes where the cost of space heating and/or cooling provides possible cost effective envelope sealing opportunities.

- **Combustion appliance zone testing:** The Worst Case Pressure Test must be performed in all zones that contain a combustion appliance.

Testing Procedure

When performing pressure diagnostic, crews are required to use the following procedures **IN SEQUENCE**. If a test is not performed, documentation must be provided in all cases stating the rational for not following the testing procedure.

1. Initial air leakage and room pressure tests
2. Duct repair
3. Envelope air sealing
4. Room pressure balancing

1. Initial Air Leakage and Room Pressure Tests

These initial tests will provide reference information on the existing condition of the home. This information will be used to determine what retrofit measures are to be completed and their effectiveness.

A. Perform a complete energy audit and combustion safety test of the house. **No pressure testing or air sealing can be done until the required combustion safety procedure is completed.**
B. Perform Room Pressure Tests (dominant duct leakage test, room pressure test, and combustion appliance zone [CAZ] test) and record pressures. List combustion appliances located in rooms tested. **If a pressure of -3 Pascal's (Pa) or more exists in a CAZ, or the possibility exists that repair work will create a pressure of -3 Pa or more in a CAZ, corrective action must be completed before or in conjunction with air sealing or duct repair.** Discuss possible corrective action with the client. **If client refuses to allow corrective action to be completed,** no air sealing or duct repair can be completed.
C. Perform zonal pressures and record the results.
D. Perform initial Whole House CFM50 Test and record the results.
E. Perform Pressure Pan Test and record initial pressure difference.
F. Based on the results of the energy audit, combustion safety tests, and pressure tests, determine the extent of work to be completed.

2. Duct Repair Procedure:

A. Duct repair can only be performed under the supervision of a trained technician.
B. **In all cases, air sealing can only be performed in conjunction with pressure diagnostics.**
C. The Health and Safety Policy must be followed at all times.
D. Perform duct repair using approved products (see Product Guidelines) and repair techniques (see Duct Repair Techniques).
D. After initial duct repair is performed, evaluate if additional duct repair is possible.
E. Once all attainable duct leakage is repaired, perform post duct repair Whole House CFM50 Test and pressure pan readings. The difference between the initial Whole House CFM50 Test and the post duct repair Whole House CFM50 Test will provide the CFM reduction in duct leakage.

3. Envelope Air Sealing Procedure:

A. All duct repairs must be completed before envelope air sealing.
B. Envelope air sealing can only be performed under the supervision of a trained technician.
C. **In all cases, air sealing can only be performed in conjunction with pressure diagnostics.**
D. The Health and Safety Policy must be followed at all times.
E. Perform air sealing with high-quality products. Weatherization products must be permanent and guaranteed for at least 15 years.
F. Repeat Whole House CFM50 Test after air sealing work is performed and evaluate if additional air sealing is possible (see Health and Safety Policy for CFM ventilation requirements).
G .Once air sealing is completed, perform final Whole House CFM50 Test and record results.

4. Room Pressure Balancing:

A. All duct repair and air sealing must be completed before room pressure balancing.
B. Room pressure balancing can only be performed under the supervision of a trained technician.
C. **In all cases, room pressure balancing can only be performed in conjunction with pressure diagnostics.**
D. The Health and Safety Policy must be followed at all times.
E. Perform post air sealing room pressure tests (dominant duct leakage test, room pressure test, and worst case test) and record room pressures.
F. Review options to remedy pressure imbalances with the client. If pressure balancing is not performed, record reasons in the work summary.
G. Repeat room pressure tests after initial pressure balancing measures are installed and evaluate if addition pressure balancing is needed.
H. Once pressure balancing is completed, repeat room pressure tests and record results.

Economics

The cost effectiveness of pressure diagnostic and repair is to be based on a comparison of the present value of the reduced air leakage and the cost (labor and materials) to achieve the reduction. The values in the following tables are designed to provide general guidance on the present value of air leakage control.

Infiltration

The following table gives the present value of reducing the infiltration rate by 100 CFM50 for a typical weatherized home.

Present value of 100 CFM50 reduction	Climate Zone 1	Climate Zone 2	Climate Zone 3	Climate Zone 4	Climate Zone 5	Climate Zone 6
	$160	$40	$90	$40	$90	$40

Duct Leakage

The following table gives the present value of reducing duct leakage by 100 CFM50 for a typical weatherized home.

Present Value of 100 CFM reduction	Climate Zone 1	Climate Zone 2	Climate Zone 3	Climate Zone 4	Climate Zone 5	Climate Zone 6
Heating	$600	$90	$245	$95	$385	$50
Cooling*	$10	$450	$80	$200	$100	$570

*If a home has only evaporative cooling, only the heating values will be realized in duct repair.

COMBUSTION SAFETY AND CARBON MONOXIDE PROCEDURES

The Combustion Safety procedure records data on combustion appliances in the house, possible health and safety issues with these appliances and the actions taken by the Weatherization program. Because combustion appliances can be the dominant factor in the health and safety of the occupants, it is imperative that the combustion safety procedures are followed in all cases.

Note: Gas/propane stoves cannot be replaced utilizing DOE funds.

Carbon Monoxide Tests

Ambient CO levels shall be monitored upon entering the combustion appliance zone and during the test period for all appliances. If ambient levels exceed 35 ppm at any time, turn off the appliance immediately and make appropriate repair recommendations according to the charts provided.

CO shall be measured of undiluted flue gases, in the throat or flue of the appliance using a digital gauge and measured in parts per million (ppm). Do not drill holes in flues for power vented or sealed combustion units. Instead, measure CO at the exterior outlet of the flue and proceed with appropriate actions according to the CO limits identified in the Combustion Safety Action Level table. For all combustion appliances, CO shall be measured at steady-state operating conditions. Measurements shall be taken of undiluted flue gases.

With the exception of unvented gas or propane cooking appliances, CO must be tested in all combustion appliances under worst-case conditions and normal draft conditions (when the appliance fails under worst-case). In addition, it is recommended that CO be tested under a mild down-draft if conditions are safe.
For gas ovens, CO shall be measured at steady state (usually after 5-10 minutes of operation) at the highest setting. When measuring CO on gas ovens, it is recommended to turn on the exhaust hood and open a window to reduce risk of exposure to elevated ambient CO levels.

Spillage and Draft Tests
Spillage and draft tests must be completed for all natural and induced draft space heating systems and water heaters. Spillage and draft must first be tested under worst-case conditions (see procedure below) and then repeated for natural conditions if the appliance fails under worst-case.

When a chimney is shared by multiple appliances the appliance with the smallest Btu input rating shall be tested first and remaining appliances tested in order of increasing input rate.

Induced draft heating systems shall be checked for spillage at the base of the chimney liner or flue. If a chimney is shared between an induced draft heating system and a natural draft water heater, spillage shall be checked at the water heater draft diverter. Vent draft pressure shall be measured at steady-state operating conditions for all natural draft heating and hot water appliances. Draft test location should be approximately 1-2' downstream of the appliance draft diverter. The test hole must be sealed with an appropriate plug after the test. Acceptable draft test results are shown below:

Acceptable Draft Test Ranges Need to Supply thermometer

Outside Temperature (degree F)	Minimum Draft Pressure Standard (Pa)
<10	-2.5
10-90 (and -40)	-3.75
>90	-0.5

Most appliances will spill upon startup with a cold chimney. Document the amount of time it takes for spillage to stop and a positive draft to be established. Any appliance that continues to spill flue gases beyond the time limits established in the statement below has failed the spillage test.

Acceptable Appliance Spillage Periods
Vented appliances, regardless of type, that spill flue gases for more than 60 seconds after startup, fail the spillage test.

Gas Supply Safety
The entire gas/propane line must be examined and all leaks repaired. Particular care should be made in the immediate vicinity of the appliances and at the joints, shutoff valves, and pilot lines. Identify leaks using a gas leak detector and accurately locate the source of the leak using a soap bubble solution. Flexible gas lines must be replaced if they are: kinked, corroded or show signs of visible wear, the line was manufactured before 1973 (date is stamped on the date ring attached to the line), or the line has any soldered connections.

Combustion Air
Combustion air requirements, as prescribed in NFPA 54 or local gas codes, must be met on all homes with combustion appliances.

The Kbtu per hr input for heating and water heating equipment must be listed. If Kbtu per hr information is not available, state this fact and estimate input.
The location of all heating and water heating equipment must be listed.

The source and amount of combustion air for all heating and water heating equipment must be listed. For appliances that are using an interior space for combustion air, the cubic feet available is determined by the volume (area times height) of the space. Areas that can be isolated and the flow of air restricted from the combustion appliance are not to be included.

[redacted]
Tests for possible cracked heat exchanger must be performed on all systems possible.

HVAC EQUIPMENT AND DISTRIBUTION INSTALLATION/REPAIR POLICY

The following policy must be strictly adhered to when installing or repairing HVAC equipment and distribution systems.

[redacted]
Replacement of inoperable equipment is allowed under the following conditions.

- Existing inoperable AC equipment upgraded with a [redacted] unit if the replacement costs are less than the estimated repair cost and the lost saving potential of the new equipment.

- Existing inoperable forced air furnace equipment upgraded with [redacted] unit if the replacement costs are less than the estimated repair cost and the lost saving potential of the new equipment.

Replacement of the equipment is also justified if there is a high probability that the repaired equipment will fail again in the near term.

Sizing and Installing HVAC Equipment

- [redacted]
  - AC: 13 SEER
  - Heat Pump: 13 SEER and 7.7 HSPF
  - Combustion furnace: 80% AFUE.
- [redacted]
- Airflow across the indoor coil and/or heat exchanger shall conform to the manufacturer's specifications.
  - Refrigerant charge shall be installed per the manufacturer's specifications.
  - Indoor and outdoor units shall be "matched" according to the ARI Directory.

Evaporative Cooler Installation

It is [redacted] Replacing an existing evaporative cooler with a new evaporative cooler on a forced air heating or cooling system is allowed.

All [redacted] or the conditioned space.

Installation of Forced Air Distribution Systems

- All new ductwork must be installed according to the Duct Installation/Repair Techniques and Product Guidelines.
- All duct systems must be pressure tested and the CFM leakage rate cannot exceed [redacted]
- [redacted]

Repair of Existing Air Distribution Systems

All ductwork must be repaired according to the Duct Installation/Repair Techniques and Product Guidelines.

Duct Installation / Repair Techniques

A. Flex ducts

- [redacted]
- [redacted]
- [redacted]

- Fasten the outer liner well over the start collar using a mechanically tightened draw band.
- Seal all boots to the Sheetrock using mastic or silicone caulk applied at the point where the air barrier (metal or exterior foil backing) meets the Sheetrock.

B. Duct board

- Staple all duct board joints with appropriate staples every two inches.
- Apply a layer of mastic; embed reinforcing mesh and overcoat with another layer of mastic sufficiently thick to hide the pattern in the tape.
- Allow for proper curing (manufacturer's specifications) before starting the system. This is critical.
- Seal all boots to the Sheetrock at the point where the foil backing meets the Sheetrock.

C. Metal

- Seal all points where components join together using mastic. Special attention must be given to any area where tabs provide the method of securing the joint.
- Seal all boots to the Sheetrock at the point where the metal meets the Sheetrock.
- Join all components with screws or other mechanical fastening devices as required in listings or code.

D. Building Cavities Used as Returns

- If the cavity is lined with Sheetrock, seal all joints with mastic. All gaps over 1/4 inch must be reinforced with embedded mesh tape.

- If the cavity is lined with duct board with the fiberglass side facing inside, you must create a positive air barrier in the plenum by covering the fiberglass with a material such as Sheetrock, duct board with the foil facing inside, or coat the fiberglass with mastic, etc., and seal all remaining joints in the plenum.

- If the cavity is unlined (exposed studs) and it is impossible to line the plenum, seal all joints, holes and penetrations using mastic applied with a brush attached to a handle or other extension. It may be easier and more effective to simply create a ducted plenum or chase and avoid the problems associated with using a building cavity to convey conditioned air.

- It may be necessary to cut a hole in the plenum in order to gain access and seal the interior adequately.

E. Air Handler

- Seal all penetrations and gaps between materials using mastic or silicone. If the gap is over ¼ inch, reinforce with fiberglass mesh.
- Seal the areas where the air handler meets the supply/return plenums using mastic reinforced with fiberglass mesh or other approved methods.
- Seal any panels that will require frequent access by the client (such as the filter area), using a quality temporary tape (duct tape).
- The air handler must not have any noticeable leaks.

F. Wall Penetrations

(The most common wall penetration problem is where the opening for the return grille is cut through the wall. In such an installation, even in a lined plenum, the wall cavity is open into the plenum.)

- Where an un-ducted section of the air distribution system penetrates a wall cavity, the wall cavity must be sealed.
- The cavity will first be blocked using a rigid air barrier such as Sheetrock or duct board with the foil facing the airflow.
- All seams, cracks, crevices, and openings will then be sealed airtight using approved mastic.

Duct Product Guidelines

- All new ductwork will be a minimum of R-8.
- Duct sealing materials shall have both excellent cohesive and adhesive qualities.

- Water-based Latex mastic with at least 50 percent solids reinforced with fiberglass mesh at all duct connections, joints and seams shall be used. "Hardcast" type mastic with reinforcing mesh is also acceptable.
- The ducts shall be further attached as per manufacturer's specification, using a draw tie, plumbing strap or screws, as appropriate for a strong mechanical connection. The mechanical connection does not replace air sealing.
- Foil tapes, including UL 181 AP-type tapes, when used alone will not be accepted. If tape is used to temporarily hold a seam, it must be overlaid with a coating of mastic that extends at least one inch (1") past the tape on all sides, and is thick enough to hide the tape completely.
- Do not use materials that are potentially damaging or have harmful effects, such as toxic vapors or carcinogenic substances that may be harmful to the clients or the installer. Agencies are required to obtain and maintain the Material Safety Data Sheets (MSDS) for all materials used on the job. Federal law requires this procedure; further information is available locally from the vendor.
- Materials must meet all current codes and manufacturer's specifications.

INSULATION STANDARDS

Installation of Insulation

Insulation must be installed with no gaps, no voids, no compression of the insulation, or no wind intrusion into the insulation. Insulation must also be in alignment with the air barrier in all cases.

All items on the Thermal Bypass Inspection Checklist must be verified where accessible. Items not meeting these standards must be repaired unless the repair is not cost effective. The Checklist includes the following 12 areas:

- Shower/Tub at Exterior Wall: Exterior walls behind tub or shower have been fully insulated. Exterior walls behind tub or shower have been faced with air barrier material.
- Insulated Floor above Garage: Floor framing is completely filled with insulation or insulation is snug against sub-floor. Air barrier is installed at any exposed edges of insulation.
- Attic Knee Walls Air barrier is installed on attic side of insulated wall. Insulation is in complete alignment with interior wall finish.
- Attic Hatch/Drop-down Stair Attic: Opening is fully gasketed for an air-tight fit. Hatch is covered with insulation that is attached and fits snugly in framed opening.
- Cantilevered Floor: Floor framing is completely filled with insulation or insulation is snug against sub-floor. Air barrier installed at any exposed edges of insulation.
- Duct Shafts: Opening is enclosed as required with flashing and any remaining gaps are sealed with caulk or foam.
- Flue Shaft: Opening is fully enclosed as required with flashing. Combustion clearance between flue and combustible flashing (e.g., OSB panel) are properly closed with metal collars and any remaining gaps are sealed with fire-proof caulk or foam.
- Piping Shaft/ Penetrations: Opening is fully enclosed as required with flashing and any remaining gaps are sealed with caulk or foam.
- Dropped Ceiling/Soffit Air barrier is fully aligned with insulated framing and any gaps are fully sealed with caulk or foam.
- Fireplace Wall: Air barrier is fully aligned with insulated framing in framed shaft behind fireplace and any gaps are fully sealed with caulk or foam.
- Staircase Framing at Exterior Wall/Attic: Air barrier is fully aligned with insulated framing and any gaps are fully sealed with caulk or foam.
- Whole-house Fan Attic Penetration: An insulated cover is provided that is gasketed to the framed opening.

RENEWABLES

Section 206 of the Energy Policy Act of 2005 (EPACT 2005) amended the Energy Conservation and Production Act to clarify that assistance under the Weatherization Assistance Program may be provided for renewable energy systems and to provide definitions and criteria to be used in assessing eligibility.

Cost Effectiveness
Renewable energy systems must follow the Cost Effectiveness Procedures. Local agencies must determine that the renewable energy system is cost effective by ensuring the discounted savings-to-investment ratio [redacted] is greater or equal to one. The net cost of renewable energy systems after rebates from third parties can be used for the [redacted] review.

Product Guidelines

Renewable energy systems must meet the requirements established by the State of Arizona for state tax credits which imposed several requirements on the seller of solar devices in order to qualify the equipment and application. Title 44, chapter 11, article 11 of the Arizona revised statues (44-1761- Definitions, and 44-1762 - Solar energy device warranties; installation standards; inspections) provides details on the requirements.

FINAL INSPECTION REQUIREMENTS
A final inspection shall be performed on all jobs.

The final inspection must be completed by designated inspector not directly involved with the completion of the job.

The final inspection shall verify that the house characteristics reported are correct.

The inspection shall verify that all cost effective opportunities were completed.

The inspection shall include all measures listed on the Work Performed report to verify installation has been completed in a safe and effective manner.

The inspection shall include a review of the diagnostic result, both pressure and combustion safety, to verify that all applicable tests were completed.

The inspector shall complete diagnostics on minimum of ten percent of completed homes to compare with reported results.

HEALTH AND SAFETY PLAN

PURPOSE
To establish the policies and procedures under which health and safety concerns are addressed in the Weatherization Assistance Program (WAP).

GOAL
To ensure energy savings are the result of Weatherization Assistance Program actions while promoting a healthy and safe environment for clients and WAP workers and contractors.

SCOPE
Energy-related health and safety concerns need to be remedied before, or because of, the installation of weatherization materials. Therefore, energy-related health and safety hazards associated with weatherization activities may be remedied or prevented with DOE funds. Measures and their costs must be reasonable and must not seriously impair the primary energy conservation purpose of the program.

The Health and Safety Procedures are applicable to all activities under the WAP.

Total expenditures on Health and Safety are subject to budget limitations.

A. Grantee Health & Safety
The Arizona Energy Office – WAP field monitors will follow all applicable health and safety rules with respect to the conduct of their on-site job visits including the use of face masks, hard hats, appropriate footwear, and such other applicable attire and equipment so as to minimize personal risks.

B. Crew and/or Contractor Health & Safety

Arizona sub-grantees and their contractors will comply with Occupational Safety and Health Administration (OSHA) requirements in all weatherization activities.

The costs for sub-grantees to comply with OSHA requirements (action items and measures that DOE funds and receives credit for) may be charged under health and safety, tools and equipment, incidental repairs, etc. The cost category selected will be charged consistently throughout the state (from agency to agency) for the same activity.

Because of the wide range of activities involved in weatherizing a house, ensuring crew health and safety requires a broad knowledge of the appropriate OSHA requirements. Some of these requirements include, but are not limited to: respirator protection, techniques for safely lifting heavy objects, electrical equipment safety, ladder safety, and general worker protection. OSHA standards should be consulted for further details.

Other useful information includes Material Safety Data Sheets (MSDS) that identify potential health risks and describe the proper use, handling, and storage of a wide variety of materials, including some common weatherization materials. MSDS also recommend personal protective equipment and address first aid measures.

C. Client Health and Safety

Weatherization services can be provided in a manner that minimizes risk to workers and clients. Although the Weatherization Assistance Program does not provide all the solutions, awareness of potential hazards is essential to providing quality services. A list of the more common hazards and DOE's preferred approach to them are discussed in Section D. Other energy-related hazards should be considered on a case-by-case basis

Grantees and sub-grantees are required to take all reasonable precautions against performing work on homes that will subject workers or clients to health and safety risks. If there is any doubt that weatherization work can be conducted in a manner that is safe for all parties concerned, the subgrantee must not proceed further.

Before beginning work on the residence, sub-grantees will take into consideration the health concerns of each occupant, the condition of the dwelling, and the possible effect of work to be performed on any particular health or medical condition of the occupants. When a person's health is fragile and/or the work activities would constitute a health or safety hazard, the occupants at risk will be required to leave the home during these work activities or the work will be suspended until such a time as it can be performed appropriately.

D. Potential Hazard Considerations

1. Biological

Removal of mold, odors, viruses, bacteria, unsanitary (including raw sewage) conditions, and rotting wood is not a Weatherization responsibility; however, subgrantee frequently encounter these conditions. DOE funds may be used if these conditions must be remedied to allow effective weatherization work and/or to assure the immediate or future health of workers and clients. The Arizona Energy Office – WAP requires that its sub-grantees seek prior approval to proceed before attempting to weatherize such dwellings with *Biological* problems.

Arizona sub-grantees will exercise caution when selecting air tightness limits for dwellings with these problems. Since these conditions are often related to moisture, Arizona sub-grantees may use DOE health and safety funding to acquire moisture detection instruments. Sub-grantees should incorporate moisture detection into their initial energy audits. If necessary, weatherization services may need to be delayed until moisture problems can be corrected by other funding sources.

2. Combustion Appliances and Combustion Safety

The following policy must be strictly adhered to when completing Weatherization work. If any house fails these program safety standards and the problem cannot be remedied, the homeowner must be notified in writing and a copy placed in the client's file.

- Perform air sealing and duct repair in conjunction with pressure diagnostics to ensure that sufficient ventilation and draft rates are maintained in the home.

- A UL listed carbon monoxide detector (Underwriters Laboratories 2034-98) shall be installed in all structures with an attached garage or a combustion appliance located in the conditioned space.

- Research and follow the local health and safety codes and standards dealing with residential ventilation requirements for occupants and combustion equipment.

- No air sealing (including duct repair) should be done if there is a high pollution source, such as a non-vent combustion heater, that can't be removed.

- No air sealing (including duct repair) should be done if there are existing health and safety problems in the home.

- No air sealing (including duct repair) should be done if there is Carbon Monoxide (CO) present in the [illegible] that higher than 100 PPM.

- No air sealing (including duct repair) should be done if there is a possible gas leak.

- No air sealing (including duct repair) should be done if CO is greater than 9 PPM in the living space.

- If CFM50 is less than 1500 CFM for the home or 300 CFM per room (whichever is greater), the homeowner must be advised of the tightness of the home. Any further air sealing (including duct repair) may require that an active ventilation strategy be employed.

- Under normal operating conditions, an air handler cannot create room pressures with a magnitude of 3.0 Pascal's, or greater with reference to outside, anywhere in a combustion appliance zone.

- Corrective action must be completed before or in conjunction with air sealing (including duct repair) if a negative pressure of 3 Pascal's or greater exists or is produced by repair work in a combustion appliance zone.

- Flame change is an indication of a cracked heat exchanger - no air sealing (including duct repair) should be done until the problem is fixed.

- If spillage of flue gases occurs for more than one minute - no air sealing (including duct repair) should be done until the problem is fixed.

- If draft is low, it must be fixed before air sealing (including duct repair) is completed.

IF THE CONDITIONS DESCRIBED BELOW CONCERNING COMBUSTION AIR ARE NOT MET, NO AIR SEALING (INCLUDING DUCT REPAIR) SHOULD BE DONE:

- In homes of ordinary tightness insofar as infiltration is concerned, all or a portion of the air for fuel-burning appliances may be obtained from infiltration when the requirements for 50 cubic [illegible] Two openings are required and one shall be within 12 inches of the bottom of the space containing the combustion equipment. Openings shall allow space to communicate with the rest of the house. A minimum of 100 sq. in. or [illegible] of the total input rating of all gas utilization equipment in the space, shall be provided.

- In all cases where combustion air is from inside the home, the homeowner must be made aware of this and sign the Health and Safety Waiver before any air sealing or duct repair is completed.

(**Note:** If this method is used, special attention must be given to zonal and draft pressures. In buildings of unusually tight construction, combustion air shall be obtained from outside.)

- In homes that receive combustion air from outside the conditioned space, two openings are required. One shall be within 12 inches of the top and one within 12 inches of the bottom of the space containing the combustion equipment. The openings shall communicate directly, or by ducts, with the outdoors or spaces (crawl or attic) that communicate with the outdoors.

- The following guidelines must be met when determining the minimum free area for combustion air openings:

- Openings directly communicating with the outdoors shall provide one square inch per 4000 Btu per hour of the total input of all gas utilization equipment in the space.

- Openings communicating to outdoors with vertical ducts shall provide one square inch per 4000 Btu per hour of the total input of all gas utilization equipment in the space.

- Opening communicating to outdoors with horizontal ducts shall provide one square inch per 2000 Btu per hour of the total input of all gas utilization equipment in the space.

NOTE: If the free area is not known because of louvers or screens, double the squared opening size. IF THESE NFPA 54 NATIONAL FUEL GAS CODE REQUIREMENTS ON COMBUSTION AIR ARE NOT MET, THEN NO AIR SEALING (INCLUDING DUCT REPAIR) SHOULD BE DONE UNTIL THESE CONDITIONS ARE MET.)

3. Fire Hazards

Combustion appliances and their associated venting systems can also present potential fire hazards. Sub-grantees that accept clients with wood stoves and fireplaces will have procedures to identify potentially dangerous creosote build-up in chimneys and wood stove flues.

It is the sub-grantee's responsibility to ensure that any work on wood stoves and fireplaces conforms with applicable codes in jurisdictions where the work is being performed.

4. Existing Health Problems

Sub-grantees will be sensitive to client health problems that might be exacerbated by weatherization activities.

Sub-grantees will establish procedures to identify pre-existing client conditions (e.g., allergies) and address such problems when they are found. Those procedures should address the manner in which such problems will be identified and the steps to be taken to ensure that weatherization work will not worsen these problems.

5. Indoor Air Quality (IAQ)

a. Asbestos

General asbestos removal is not approved as a DOE WAP health and safety weatherization cost.

Major asbestos problems should be referred to the Arizona Department of Environmental Quality or to the Environmental Protection Agency (EPA).

Where local agencies work on large heating and distribution systems, including related piping, asbestos removal may be necessary. Removal is allowed to the extent that energy savings resulting from the measure will provide a cost-effective savings-to-investment ratio. This would normally be true with work done on large, multifamily heating systems. Where permitted by code or EPA regulations, less costly measures that fall short of asbestos removal, such as encapsulation, may be used. Removal and replacement of asbestos siding for purposes of wall cavity insulation is permissible if allowed by state and local codes.

b. Radon

Where there is a previously identified radon problem, work that would exacerbate this problem should be limited. Radon abatement is not an allowable activity under the Weatherization program. However, those costs associated with taking precautions in a dwelling known to have radon problems are allowable weatherization expenditures. These costs are

allowable if an energy audit indicates that weatherization techniques would help in radon remediation. While sub-grantees should establish sound radon-related strategies, major radon problems should be referred to the appropriate local environmental organization or agency for mitigation or abatement.

[illegible] Volatile Organic Compounds (VOC)

Formaldehyde vapors may be slowly released by some new carpets, wafer-board, plywood, etc. Some household cleaning agents also emits VOCs. Caution should be taken when selecting air tightness limits in dwellings with VOC problems.

[illegible]

Lead Safe Weatherization (LSW) must be applied to <u>all</u> pre-1978 housing unless the house meets EPA's Final Rule Exemptions.

Exemptions

1. **No Lead-Based Paint will be Disturbed.** LSW must be applied to all pre-1978 housing unless there is existing evidence that the home has been certified as being lead-free or below the lead threshold limit (e.g., for paint containing lead below the regulated level, 1.0 mg/cm2 or 0.5% by weight). One of the following methods must be used to determine the paint to be disturbed is not lead-based paint: -Written determination by certified lead inspector or risk assessor; *OR*
   -Proper use of EPA-recognized test kit provided agencies (*documenting manufacturer and model of test kit used, description and location of components tested, and test kit results)*
   > *Note: Beginning in 2010, tests must be performed by a Certified Renovator, per EPA final rule. Test kits are currently being evaluated but none have been approved to date – updates and approved kits will be posted athttp://www.epa.gov/lead/pubs/renovation.htm*

   OR
   -A State-approved lead-based paint test protocol (e.g., XRF scans verifying absence of lead paint).

2. **Mobile Homes.** Often, interiors of mobile homes were not painted but rather, paneling was applied to the surfaces. Therefore, pre-1978 mobile homes that were not painted by the manufacturer, occupant, landlord, or past owner of the unit before 1978, may be exempt from LSW. However, Weatherization Programs must verify the areas receiving weatherization services have never been painted or were painted for the first time after 1978. If this is not verifiable, then LSW protocols must be followed. Painted exterior surfaces on pre-1978 units should not be drilled, scraped, sanded, or receive any other work that disturbs the paint.

3. **Exempt from training and work practice requirements <u>if owner signs written statement</u> that <u>all</u> apply:**
   a. No pregnant women resides there; and
   b. Not a child-occupied facility ("occupied" includes being the child's primary residence or a home that is visited regularly by the same child, under age 6, on at least two different days within any week (Sunday through Saturday period), provided that each day's visit lasts at least 3 hours and the combined weekly visits last at least 6 hours, and the combined annual visits last at least 60 hours).

4. **Housing for the elderly or persons with disabilities** (unless any one or more children under age 6 resides or is expected to reside in such housing for the elderly or persons with disabilities).

5. **Any 0-bedroom dwelling.**

6. **Minor Repair or Maintenance Activities**: Activities that will disturb less than the following square feet of paint surfaces in 30 calendar days (counting all paint surface areas of a removed component):
   - 6 square feet per room for interior activities; or
   - 20 square feet for exterior activities.

But this exemption does *NOT* apply to the following:

- Window replacement.
- Demolition of painted surface areas.
  - Using any of the following:
- Open-flame burning or torching;
- Machines to remove paint through high-speed operation without HEPA exhaust control; or
- Operating a heat gun at temperatures at or above 1100 degrees Fahrenheit.

Testing for lead-based paint and lead-based paint residues
Testing for lead-based paint is not an allowable weatherization expense except, when it is related to the installation of energy efficiency measures. These expenditures must be within the limits set by the state in its Weatherization health and safety plan.

U.S. Department of Energy Minimum Standards for LSW

Safe Work Practices must be implemented to minimize exposure to hazards for residents and the workers, while allowing Weatherization to occur in a cost-effective manner and to not hinder production. The effort required will be based on the hazard, the work specifications, and customer health issues.

CHECK: Federal, state, and local regulations.

- OSHA has rules for worker safety.
- States and local communities may have rules for waste disposal.

To meet the LSW minimum standards, crews and contractors MUST follow the general principles of working in a lead-safe manner. Best practices for working in a lead-safe manner are available in the benchmark LSW procedures and curriculum and should be reviewed and consistently enforced on LSW jobs.

A. Requirements

Client Protection and Notification
For occupied homes, the Weatherization staff, crew, or contractor must have an adult tenant or homeowner sign an acknowledgement after receiving the pamphlet. The pamphlet can also be sent by certified mail with receipt to be placed in the customer file.

In multi-unit housing, the agency must:

- Provide written notice to each affected unit (notice must describe: general nature and locations of the planned renovation activities; the expected starting and ending dates; statement of how occupant can get pamphlet at no charge); or
- Post informational signs (signs must describe general nature and locations of the renovation and the anticipated completion date) and post the EPA pamphlet. (If pamphlet is not posted then agencies are required to provide information on how interested occupants can review a copy of the pamphlet or obtain a copy at no cost from the Weatherization Program).
- Delivery to owner/occupant. Owner's and/or occupant's signature with acknowledgment or certificate of mailing. The owner/occupant must acknowledge receipt of the EPA pamphlet prior to start of renovation that contains the address of unit undergoing renovation, name and signature of owner or occupant, and the date of signature. It must be in same language as "contract for renovation" for an owner-occupied (or the same language as the lease for occupant of non-owner occupied) target housing.

If the Weatherization Program cannot get a signed acknowledgment (either the occupant is not home or refuses to sign the form), then the self-certification section of the form must be signed to prove delivery.

The acknowledgement form must be filed and remain with the client file for three years from date of signature. In addition to providing a copy of the pamphlet to owners and occupants, designated local agency staff (e.g., intake specialist, auditor, crew chief) must discuss the hazards associated with lead-based paint and lead dust, and describe how they will conduct LSW in the home.

Weatherization Worker Protection

LSW includes these procedures and safety precautions:

- Wear personal protective gear specifically suited for the particular LSW measure. Use the National Institute for Occupational Safety and Health (NIOSH) approved respirators (at least ½ face) with HEPA filters.
- Use disposable overalls (with hood or a disposable painter's cap), gloves (cloth, plastic, or rubber as appropriate), goggles, and disposable shoe/boot covers.
- Keep dust to a minimum and properly contain dust and paint chips to the work area.
- Clean up area during and after work.
- During Weatherization, wash your hands and face frequently, particularly when leaving the work area and especially before leaving the area for the purpose of eating, drinking, or smoking.
- Before leaving a confined work area, remove your protective clothing and protective shoe/boot covers to avoid exposing others.
- Before leaving a confined work area, and before returning tools and equipment to vehicles, clean all tools to avoid exposing others and creating a lead-hazard to the next Weatherization job.
- Get annual medical exams to check blood lead levels. Do non-lead-related work if your blood lead level gets too high.
- Inform your employer if you develop signs of lead poisoning.

B. General LSW Work Practice Standards

- Crews and contractors must take steps to protect occupants from lead-based paint hazards while the work is in-progress using appropriate containment strategies.
- Occupants, especially young children or pregnant women, may not enter the work site. Occupants are allowed to return only after the work is done and the home has passed a visual inspection.
- Occupants' belongings must be protected from lead contamination. This can be done by removing them from the work area or covering them in protective bags and sealing it to prevent dust from getting on the items.
- The work site must be set up to prevent the spread of leaded dust and debris.
- Warning signs must be posted at entrances to the worksite when occupants are present; at the main and secondary entrances to the building; and at exterior work sites. The signs must be readable from 20 feet from the edge of the worksite. Signs should be in the occupants' primary language, when practical.
- The work area must be contained. If containment can not be achieved with occupants in the unit (e.g., work will take several days and involves the kitchen, bathrooms, or bedrooms that can not be sealed off from use), occupants must move out of the unit or the work must be deferred until containment can be achieved.
- Ensure containment does not interfere with occupant and worker egress in an emergency.

Prohibited Work Activities

- NEVER - use reusable cloth or fabric, such as a painter's drop cloth, as protective containment sheeting. Polyethylene and in some cases when working on the exterior garden fabric are the only acceptable protective containment sheeting and must never be reused.
- NEVER - use brooms and shop vacuums for cleanup. Wet cleaning and HEPA vacuums are the only acceptable methods for cleanup.
- NEVER – use a conventional shop vacuum with HEPA filters – only HEPA-designed vacuums are acceptable for LSW.
- NEVER - turn leaded paint into leaded dust by dry scraping or sanding (unless needed around electrical outlets) or grinding, abrasive blasting or planning.
- NEVER - use an open-flame torch or heat gun (above 1100°F) to remove paint or window glazing. Open flame/high heat methods to remove paint create fumes that are dangerous for workers to breathe. Small lead particles created by burning and heating also settle on surrounding surfaces and are very hard to clean up.
- NEVER - allow residents and pets access to the work area while work is underway.
- NEVER - open windows and doors allowing lead dust to float into other parts of the building or outside.
- NEVER - allow furniture and other objects to remain in the Weatherization work area while Weatherization work is being performed unless they are covered and sealed in polyethylene sheeting or bags.

C. Containment

Containment is anything that stops any dust or debris from spreading beyond the work area to non-work areas. The level of containment must be determined by the auditor/inspector or supervisor before work is assigned to a crew or contractor. To comply with EPA's LRRPP Rule requirements, **a Certified Renovator will be required at the jobsite to assess and set up the containment site.**

Every home and every specific Weatherization measure is unique, therefore the level of containment required will be based on the hazards present, the age of the home, the scope of work activities, and any customer health issues. Although Weatherization jobs require individual assessments, LSW work generally falls into two levels of containment and the related standards are outlined below.

Level 1 Containment

Level 1 containment is required in pre-1978 homes when ***less than*** 6 ft^2 of interior painted surface per room or 20 ft^2 of exterior painted surface will be disturbed.

Level 1 containment consists of methods that prevent dust generation and contains all debris generated during the work process. The containment establishes the work area which must be kept secure.

Measures that *may* fall within this guideline include:

- Installing or replacing a thermostat
- Drilling and patching test holes
- Replacing HEPA filters and cleaning HEPA vacuums
- Changing Furnace Filter
- Removing caulk or window putty (interior)
- Removing caulk or window putty (exterior)
- Removing weather-stripping

Level 2 Containment

Level 2 containment is required when Weatherization activities will disturb ***more than*** 6 ft^2 of interior surface per room or 20 ft^2 of exterior surfaces in homes built prior to 1978. Level 2 containment consists of methods that define a work area that will not allow any dust or debris from work area to spread. Level 2 containment requires the covering of all horizontal surfaces, constructing barrier walls, sealing doorways, covering HVAC registers with approved materials, and closing windows to prevent the spread of dust and debris.

Measures requiring level 2 containment *may* include:

- Drilling holes in interior walls
- Drilling holes in exterior walls, removing painted siding
- Cutting attic access into ceiling or knee walls
- Planing a door in place
- Replacing door jambs and thresholds
- Replacing windows or doors
- Furnace replacements

Additionally, Level 2 containment must ***ALWAYS*** be used where any of the following is conducted (even if the activities will disturb less than the hazard de minimis levels within the Level 1 category):

- Window replacement
- Demolition of painted surface areas
- Using any of the following:
    - Open-flame burning or torching;
    - Machines to remove paint through high-speed operation without HEPA exhaust control; or
    - Operating a heat gun at temperatures at or above 1100 degrees Fahrenheit.

D. Proper LSW Clean-Up and Debris Disposal

Following the containment standards in the previous section will minimize the level of effort required to properly clean up the job site. All dust, dirt, material scraps, containers, wrappers, and work related debris must be removed from the customer's home. A HEPA vacuum should be used to clean up the work areas. Further cleaning may be necessary based on the hazard.

At the conclusion of the job, once all workers have "cleaned" the work areas thoroughly, Weatherization workers must adhere to the following:

Safe and Secure Disposal

- Bag and gooseneck-seal all waste in 6-mil plastic bags
- Safely dispose of all waste in accordance with federal, state, and local regulations

Visual Inspection Verification

Checking the quality of worksite cleanliness is a two-phase process:

- Phase 1: Worker visual inspection during the cleaning process; look for any visible paint chips, dust, or debris as you clean, using proper techniques.
- Phase 2: Supervisor visual inspection after cleanup. There should be no evidence of settled dust following a cleanup effort. If dust is observed, the Weatherization crew must be required to repeat the cleaning.

If work is done outside the house, the grounds around the dwelling and all exterior horizontal surfaces should also be examined visually to make certain that all waste and debris have been removed and that paint chips were not left behind.

Deferrals

Arizona's WAP sub-grantees will follow the lead-based paint "deferral policy" to determine when it is prudent to defer certain Weatherization work in homes that have either tested positive or are assumed to have lead-based painted surfaces.

- First, the subgrantee should assess the following factors:

  1) Is the subgrantee prepared to work with lead-based paint? (i.e., have workers received training in LSW work practices - is the necessary equipment, such as HEPA vacuum cleaners, available; and does the agency's liability insurance cover work with lead-based paint);

  2) What is the condition of the painted surfaces in the house that might be specifically disturbed in the course of an allowable weatherization measure? (i.e., are they *seriously* deteriorated);

  3) What is the extent to which the specific energy efficiency measures determined by the audit will disturb painted surfaces? (i.e., will the disturbance likely generate dust in excess of OSHA minimums); and,

  4) Will the cost of doing LSW work represent a large portion of the total cost, such as to exceed the amount allowed by the state's health and safety plan (which could be the case if large amounts of lead-based paint surfaces will be disturbed)?

- Second, the grantee should determine, based on consideration of the above factors, whether to:

  1) Proceed with all the weatherization work, following LSW work practices; or
  2) Do some of the weatherization tasks, defer others; or
  3) Defer all the weatherization work

Deferral would mean postponing the work either until the Weatherization agency is prepared to work with lead-based paint, or until another funding source has been identified that can finance corrections to the problem LBP area that weatherization can be safely performed.

In cases where extensive LSW would be necessary, agencies are encouraged to arrange with other organizations, which are funded to do lead-based paint hazard control, to perform some of the more costly activities, such as risk assessment or clearance testing. In areas where there are no organizations performing such work, Weatherization agencies may choose to develop their capabilities (purchase of equipment and advanced training for subgrantee crews) for lead-based paint hazard control work, but they may not use DOE Weatherization funds for this purpose. In such a home, regular Weatherization work that does not disturb painted surfaces can be done.

Funding of lead safe weatherization

Whereas DOE funds may be used to pay for Weatherization activities that disturb lead-based painted surfaces while installing energy efficiency measures or for case-by-case testing, the funds may not otherwise be used for abatement, stabilization or control of lead-based paint hazards, or routine entrance and clearance testing.

However, U. S. Department of Housing and Urban Development (HUD) funds such as Community Development Block Grant (CDBG), lead hazard control programs and HOME Repair and Rehabilitation Program funds may be used to do this work. Also, U. S. Department of Health and Human Services' (HHS) Low-Income Home Energy Assistance Program (LIHEAP), may be used for certain expenses related to Lead Safe Weatherization.

Specifically, for DOE funding, agencies should budget LSW costs under health and safety as a separate cost category, excluded from the calculation of average cost per home. Lead Safe Weatherization costs include labor, material, insurance, training, and equipment.

Liability issues

Unless an agency has specifically purchased additional insurance to cover pollution occurrences, they probably do not have sufficient insurance for their work as required by the WAP's Program Year 2002 Annual Guidance, **Weatherization Program Notice 02-1**. It is likely that their general liability insurance has a pollution occurrence exclusion.

All Arizona Sub-grantees must have liability insurance that covers work in a home with lead-based paint before any LSW work is implemented. This liability insurance does not and should not cover lead abatement projects.

Abatement projects are extensive projects designed to permanently eliminate the lead-based paint hazard. Only work that HUD refers to as "interim controls" must be covered. It is important to use this policy to demonstrate to the insurer the limited nature of the paint disturbance and the precautions being taken to avoid liability. The cost of such insurance is an allowable DOE expense, and we urge agencies to seek ways to obtain the coverage at reasonable rates.

For insurance shopping purposes, there are features about Weatherization work that local agencies should use in making the case for the lower risk associated with the nature of Weatherization work, especially when compared to lead-based paint abatement and lead hazard control work:

- Weatherization is different from lead hazard control work and involves lesser levels of work associated with painted surfaces. In fact, the disturbance of painted surfaces, by comparison, is minimal and when it happens, is incidental to the purpose of the work - the installation of energy conserving measures.

- In addition, not all weatherization work involves disturbing painted surfaces and some homes are lead free, and so the *risk basis* for insurance rates - unlike insurance for lead hazard control work - should not be based on one hundred percent operations in a lead paint environment for every home weatherized.

DOE is involved with EPA and HUD in continuing discussions with the insurance industry about ways to qualify Weatherization agencies for more favorable rates. We also welcome suggestions from state and local agencies with experience in obtaining reasonable rates for this kind of work, which we will share with the Arizona subgrantees.

Training

Arizona's WAP requires that *when disturbance of painted surfaces is significant*, Weatherization workers will use LSW practices.

Arizona's WAP will provide or recognize prior participation in the following training opportunities to sub-grantee as required, taking into consideration each subgrantees mix of action items and allowable measures:

- LSW workshops provided by trainers who are certified in The HUD Lead Safe Work Practices.
- Peer-to-Peer training.
- Individual agency training on an as needed basis.

All training will utilize the Lead Safe Weatherization curriculum developed by Montana State University.

7. Building Structure

Building rehabilitation is beyond the scope of the Weatherization Assistance Program; however, Arizona Subgrantees frequently encounter homes in poor structural condition. Dwellings whose structural integrity is in question should be referred to the Arizona Department of Housing.

Weatherization services may need to be delayed until the dwelling can be made safe for crews and occupants (see Deferral Standards).

Incidental repairs necessary for the effective performance or preservation of weatherization materials are allowed if the cost of the weatherization material and incidental repair are cost justified by the audit. Examples of these limited repairs include sealing minor roof leaks to preserve new attic insulation and repairing water-damaged flooring as part of replacing a water heater.

8. Electrical Issues

The two primary energy-related health and safety electrical concerns are

1) insulating homes that contain knob-and-tube wiring and
2) identifying overloaded electrical circuits.

Older electric wiring, primarily knob-and-tube wiring, located in a wall cavity or exposed on an attic floor was originally intended by code to have *free air movement* for that would cool the wire when carrying an electric current. Laboratory tests have shown that retrofitting thermal insulation around electric wiring can cause it to overheat, resulting in a fire hazard.

Arizona program policy requires that subgrantees ensure that insulation around knob-and-tube wiring conforms with applicable codes in jurisdictions where the work is being performed.

Serious electrical hazards exist when gross overloads are present. Should auditors and crews find such existing problems, they must notify the owner verbally and in writing by the subgrantee WAP program manager.

Weatherization measures that involve the installation of new equipment such as air conditioners, heat pumps, or electric water heaters can exacerbate previously marginal overload problems to hazardous levels. The problem must also be noted in the client file. To the extent that these problems prevent adequate weatherization, the agency should consider repairing them on a case-by-case basis.

9. Refrigerant Issues

The replacement of air conditioners requires subgrantees to ensure that the requirements of the Clean Air Act 1990, section 608, as amended by 40 CFR 82, 5/14/93, be enforced. The appliance vendor, de-manufacturing center, or other entity recovering the refrigerant must possess EPA-approved section 608 types I or universal certification. Subgrantees must ensure they have appropriate protocols in place that comply with all standards relating to the disposal of the existing appliances.

10. Other Code Compliance Issues

It is the subgrantee's responsibility to ensure that weatherization-related work conforms with applicable codes in jurisdictions where the work is being performed.

[illegible]

The decision to defer work in a dwelling is difficult, but necessary, in some cases. This does not mean that assistance will never be available, but that work must be postponed until the problems can be resolved and/or alternative sources of help are found. Note that subgrantees, including crews and contractors, are expected to pursue reasonable options on behalf of the client, including referrals, and to use good judgment in dealing with difficult situations.

Subgrantees will develop guidelines and a standardized form for such situations. The form will include the client's name and address, dates of the audit/assessment and when the client was informed, a clear description of the problem, conditions under which weatherization could continue, the responsibility of all parties involved, and the client(s) signature(s) indicating that they understand and have been informed of their rights and options.

Deferral conditions may include:

- The client has known health conditions that prohibit the installation of insulation and other weatherization materials.
- The building structure or its mechanical systems, including electrical and plumbing, are in such a state of disrepair that failure is imminent and the conditions cannot be resolved cost-effectively.
- The house has sewage or other sanitary problems that would further endanger the client and weatherization installers if weatherization work were performed.
- The house has been condemned or electrical, heating, plumbing, or other equipment has been "red tagged" by local or state building officials or utilities.
- Moisture problems are so severe they cannot be resolved under existing health and safety measures and with minor repairs.
- Dangerous conditions exist due to high carbon monoxide levels in combustion appliances, and cannot be resolved under existing health and safety measures.
- The client is uncooperative, abusive, or threatening to the crew, subcontractors, auditors, inspectors, or others who must work on or visit the house.
- The extent and condition of lead-based paint in the house would potentially create further health and safety hazards.
- In the judgment of the energy auditor, any condition exists which may endanger the health and/or safety of the work crew or subcontractor, the work should not proceed until the condition is corrected.

REFRIGERATOR REPLACEMENT POLICY

The following criterion applies to replacement refrigerators:

ELIGIBILITY FOR REFRIGERATOR

Weatherization Program Notice 00-5 lists the types of refrigerators that may be installed with U.S. Department of Energy (DOE) funds. Refrigerators and refrigerator-freezers with manual, automatic, or partial automatic defrost are eligible. Units must comply with UL-250 and with energy efficiency standards established in the National Appliance Energy Conservation Act of 1987 that are periodically updated. [illegible] use.

To qualify for replacement, the refrigerator replacement unit must result in a savings-to-investment ratio (SIR) of 1.0 or greater.

To determine the SIR, one of the following methods must be used to determine the energy use of the existing unit:

- Refrigerator replacement analysis tools that utilize the Association of Home Appliance Manufacturers or other approved refrigerator databases.
- Meter electric usage of the existing unit utilizing an approved meter. [redacted]

[redacted]

- Meter at least 10% of units replaced — It is not required to meter every existing refrigerator that is replaced. Initially, as the program gains experience, DOE will require metering on at least 10% of the units replaced. Units that cannot be located in the Association of Home Appliance Manufacturers, or other refrigerator databases, may make up all or most of the 10% requirement.

- [redacted] — The minimum metering duration required to obtain results accurate enough to make a reliable replacement decision has been debated for several years. DOE believes a two-hour minimum metering duration is an appropriate compromise.

MATERIALS

- New refrigerators shall:
  - Not exceed the size of the replaced unit.
  - Have a minimum 1-year warranty.

INSTALLATION

- The electrical outlet shall:
  - Provide the voltage specified on the ID plate of the new refrigerator.
  - Be properly grounded and/or protected with a properly functioning GFCI device.
  - Be located within reach of the refrigerator without the use of an extension cord.
  - Be in good condition with nothing visibly wrong (e.g., not cracked or broken, and no spark, smoke, or burn marks, etc.).
  - Meet refrigerator manufacturer's specifications for space and clearances.

- The contractor shall:
  - Deliver and install the new refrigerator.
  - Level the unit to ensure proper operation.
  - Ensure that door hinges are on the appropriate side.
  - Instruct the customer on refrigerator operation.
  - Deliver warranties and operating manuals to the customer.
  - Set temperature controls appropriately.

[redacted]

- The contractor shall:
  - Take unit out of service. Make sure the existing refrigerator, removed from the house, and **DOES NOT** find its way back onto the electric grid.
  - Dispose of unit in an environmentally responsible manner. All refrigerators replaced must be properly disposed of according to the environmental standards in the Clean Air Act of 1990, section 608, as amended by Final Rule 40 CFR 82, May 14, 1993.
  - Take unit to a de-manufacturing facility or incorporate disposal requirements in vendor contract.
  - Remove all packing materials from the customer's premises.

[redacted]

- The sub-grantee shall record the following information for both the existing and replacement refrigerators:

- Manufacturer (for years available)
- Brand
- Year of manufacture
- Model number
- Type (e.g., side-by-side, top freezer)
- Database estimated kWh/yr

- On metered units, the sub-grantee shall provide an estimated annual kWh usage and the duration of metered data.
- Provide saving to Investment Ratio for the replacement refrigerator.

WRITTEN AUTHORIZATION

There may be cases where it is the best interest of the client that a refrigerator be installed that does not meet the requirements of the Weatherization Assistance Program Refrigerator Replacement Policy. In these cases, written authorization must be obtained from the Energy Office.

GILA COUNTY ATTORNEY
Daisy Flores

Re: County Attorney's Office approval of IGA pursuant to A.R.S. § 11-952(D).

To whom it may concern:

The County Attorney's Office has reviewed the Intergovernmental Agreement attached to this agenda item and has determined that it is in its "proper form" and "is within the powers and authority granted under the laws of this state to such public agency or public procurement unit" pursuant to A.R.S. § A.R.S. § 11-952(D).

Explanation of the Gila County Attorney's Office Intergovernmental Agreement (IGA) Review

A.R.S. § 11-952(D) requires that

> every agreement or contract involving any public agency or public procurement unit of this state . . . before its execution, shall be submitted to the attorney for each such public agency or public procurement unit, who shall determine whether the agreement is in proper form and is within the powers and authority granted under the laws of this state to such public agency or public procurement unit.

In performing this review, the County Attorney's Office reviews IGAs to see that they are in "proper form" prior to their execution. "Proper form" means that the contract conforms to fundamental contract law, conforms to specific legislative requirements, and is within the powers and authority granted to the public agency. It does not mean that the County Attorney's Office approves of or supports the policy objectives contained in the IGA. That approval is solely the province of the public agency through its elected body.

Likewise, this approval is not a certification that the IGA has been properly executed. Proper execution can only be determined after all the entities entering into the IGA have taken legal action to approve the IGA. There is no statutory requirement for the County Attorney's Office to certify that IGAs are properly executed.

Nonetheless, it is imperative for each public agency to ensure that each IGA is properly executed because A.R.S. § 11-952(F) requires that "[a]ppropriate action … applicable to the governing bodies of the participating agencies approving or extending the duration of the … contract shall be necessary before any such agreement, contract or extension may be filed or become effective." This can be done by ensuring that the governing body gives the public proper notice of the meeting wherein action will be taken to approve the IGA, that the item is adequately described in the agenda accompanying the notice, and that the governing body takes such action. Any questions regarding whether the IGA has been properly executed may be directed to the County Attorney's Office.

Proper execution of IGAs is important because A.R.S. § 11-952(H) provides that "[p]ayment for services under this section shall not be made unless pursuant to a fully approved written contract." Additionally, A.R.S. § 11-952(I) provides that "[a] person who authorizes payment of any monies in violation of this section is liable for the monies paid plus twenty per cent of such amount and legal interest from the date of payment."

The public agency or department submitting the IGA for review has the responsibility to read and understand the IGA in order to completely understand its obligations under the IGA if it is ultimately approved by the public entity's board. This is because while the County Attorney's Office can approve the IGA as to form, the office may not have any idea whether the public agency has the capacity to actually comply with its contractual obligations. Also, the County Attorney's Office does not monitor IGA compliance. Hence the public entity or submitting department will need to be prepared to monitor their own compliance. A thorough knowledge of the provisions of the IGA will be necessary to monitor compliance.

Before determining whether an IGA contract "is in proper form," the County Attorney's Office will answer any questions or concerns the public agency has about the contract. It is the responsibility of the public agency or department submitting the IGA for review to ask any specific questions or address any concerns it has about the IGA to the County Attorney's Office at the same time they submit the IGA for review. Making such an inquiry also helps improve the County Attorney's Office review of the IGA because it will help focus the review on specific issues that are of greatest concern to the public agency. Failing to make such an inquiry when the agency does have issues or concerns will decrease the ability of the County Attorney's Office to meaningfully review the IGA.

ARF-982 **Consent Agenda Item 4- B**

Regular BOS Meeting

Meeting Date: 12/06/2011

Submitted For:	Paula Horn, Deputy Director of Prevention Services	Submitted By:	Paula Horn, Deputy Director of Prevention Services, Health & Emergency Services Division
Department:	Health & Emergency Services Division	Division:	Prevention Services
Fiscal Year:	2011-2012	Budgeted?:	Yes
Contract Dates Begin & End:	01/01/11 through 12/31/15	Grant?:	Yes
Matching Requirement?:	No	Fund?:	Replacement
Presenter's Name:			

Information

Request/Subject

Amendment No. 1 to Intergovernmental Agreement Contract No. HG161095 with Arizona Department of Health Services.

Background Information

The Gila County Office of Health has been providing the Community Health Grant for the past year. The objectives of the Intergovernmental Agreement (IGA) are to improve the health of women prior to pregnancy and to reduce the rate of injuries, both intentional and unintentional. The agreement will address a variety of strategies designed to impact health at the community, organizational, individual and policy levels in order to promote a holistic approach to improving the health of individuals, their families and their communities.

Evaluation

The amendment was issued to change the contract number due to the transition to the ProcureAZ electronic procurement system and to change some of the terms and conditions within the contract.

Conclusion

By the Board of Supervisors signing the amendment, it will allow the contract to continue with the modifications needed by the Arizona Department of Health Services.

Recommendation

The Director of Health & Emergency Services recommends the Board of Supervisors approve the Intergovernmental Agreement Amendment No. 1 Contract No. HG161095 between Gila County and the Arizona Department of Health Services to continue to provide injury prevention services and allow the changes needed to the contract.

Suggested Motion

Approval of Amendment No. 1 to an Intergovernmental Agreement (Contract No. HG161095) between Gila County and the Arizona Department of Health Services to continue to provide injury prevention services and allow the changes needed to the contract.

Attachments

Original contract

Amendment No. 1

Legal explanation

INTERGOVERNMENTAL AGREEMENT (IGA)

Contract No. HG161095

ARIZONA DEPARTMENT OF HEALTH SERVICES
1740 West Adams, Room 303
Phoenix, Arizona 85007
(602) 542-1040
(602) 542-1741 FAX

Project Title: Community Health Grant

Begin Date: January 1, 2011

Geographic Service Area: Gila County

Termination Date: December 31, 2015

Arizona Department of Health Services has authority to contract for services specified herein in accordance with A.R.S. §§ 11-951, 11-952, 36-104 and 36-132. The Contractor represents that it has authority to contract for the performance of the services provided herein pursuant to:

- [X] **Counties:** A.R.S. §§ 11-201, 11-951, 11-952 and 36-182.
- [ ] **Indian Tribes:** A.R.S. §§ 11-951, 11-952 and the rules and sovereign authority of the contracting Indian Nation.
- [ ] **School Districts:** A.R.S. §§ 11-951, 11-952, and 15-342.
- [ ] **City of Phoenix:** Chapter II, §§ 1 & 2, Charter, City of Phoenix.
- [ ] **City of Tempe:** Chapter 1, Article 1, §§ 1.01 & 1.03, Charter, City of Tempe.

Amendments signed by each of the parties and attached hereto are hereby adopted by reference as a part of this Contract, from the effective date of the Amendment, as if fully set out herein.

Arizona Transaction (Sales) Privilege: _____

Federal Employer Identification No.: _____

Tax License No.: _____

Contractor Name: Gila County Health Department

Address: 1400 East Ash
Globe, Arizona 85501

FOR CLARIFICATION, CONTACT:

Name: Paula Horn

Phone: 928-402-8813

FAX No: 928-425-0794

Email: phorn@co.gila.az.us

CONTRACTOR SIGNATURE:

The Contractor agrees to perform all the services set forth in the Agreement and Work Statement. In accordance with A.R.S. 35-391.06 and A.R.S. 35-393.06, the Contractor hereby certifies that the Contractor does not have scrutinized business operations in Sudan or Iran.

Michael A. Pastor 2/1/11

Signature of Person Authorized to Sign — Date

Michael A. Pastor, Chairman of the Board of Supervisors

Print Name and Title

This Contract shall henceforth be referred to as Contract No. HG161095 **The Contractor is hereby cautioned not to commence any billable work or provide any material, service or construction under this Contract until Contractor receives a fully executed copy of the Contract.**

State of Arizona

Signed this 23 **day of** February, **2011**

Procurement Officer

CONTRACTOR ATTORNEY SIGNATURE:

Pursuant to A.R.S. § 11-952, the undersigned Contractor's Attorney has determined that this Intergovernmental Agreement is in proper form and is within the powers and authority granted under the laws of Arizona.

2/1/11

Signature of Person Authorized to Sign — Date

Bryan B. Chambers

Print Name and Title

Attorney General Contract, No. PIGA2011000344, which is an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952 by the undersigned Assistant Attorney General, who has determined that it is in the proper form and is within the powers granted under the laws of the State of Arizona to those parties to the Agreement represented by the Attorney General.

The Attorney General, BY:

2/17/11

Signature — **Date**

Assistant Attorney General: Ronald E. Johnson

RESERVED FOR USE BY THE SECRETARY OF STATE

Under House Bill 2011, A.R.S. § 11-952 was amended to remove the requirement that Intergovernmental Agreements be filed with the Secretary of State.

1. **Definition of Terms.** As used in this Contract, the terms listed below are defined as follows:

1.1 *"Attachment"* means any document attached to the Contract and incorporated into the Contract.

1.2 *"ADHS"* means Arizona Department of Health Services.

1.3 *"Budget Term"* means the period of time for which the contract budget has been created and during which funds should be expended.

1.4 *"Change Order"* means a written order that is signed by a Procurement Officer and that directs the Contractor to make changes authorized by the Uniform Terms and Conditions of the Contract.

1.5 *"Contract"* means the combination of the Uniform and Special Terms and Conditions, the Specifications and Statement or Scope of Work, Attachments, Referenced Documents, any Contract Amendments and any terms applied by law.

1.6 *"Contract Amendment"* means a written document signed by the Procurement Officer and the Contractor that is issued for the purpose of making changes in the Contract.

1.7 *"Contractor"* means any person who has a Contract with the Arizona Department of Health Services.

1.8 *"Cost Reimbursement"* means a contract under which a contractor is reimbursed for costs, which are reasonable, allowable and allocable in accordance with the contract terms and approved by ADHS.

1.9 *"Days"* means calendar days unless otherwise specified.

1.10 *"Fixed Price"* establishes a set price per unit of service. The set price shall be based on costs, which are reasonable, allowable and allocable.

1.11 *"Gratuity"* means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

1.12 *"Materials"* unless otherwise stated herein, means all property, including but not limited to equipments, supplies, printing, insurance and leases of property.

1.13 *"Procurement Officer"* means the person duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.

1.14 *"Purchase Order"* means a written document that is signed by a Procurement Officer, that requests a vendor to deliver described goods or services at a specific price and that, on delivery and acceptance of the goods or services by ADHS, becomes an obligation of the State.

1.15 *"Services"* means the furnishing of labor, time or effort by a Contractor or Subcontractor.

1.16 *"Subcontract"* means any contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of this Contract.

1.17 *"State"* means the State of Arizona and/or the ADHS. For purposes of this Contract, the term "State" shall not include the Contractor.

2. **Contract Type.**

This Contract shall be: (check one)

Fixed Price
X Cost Reimbursement
Not to Exceed

3. **Contract Interpretation.**

3.1 Arizona Law. The law of Arizona applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona.

3.2 Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.

3.3 Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:

3.3.1 Terms and Conditions;

3.3.2 Statement or Scope of Work;

3.3.3 Attachments;

3.3.4 Referenced Documents.

3.4 Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

3.5 Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.

3.6 No Parole Evidence. This Contract 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 used in this document.

3.7 No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract 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 to it.

3.8 Headings. Headings are for organizational purposes only and shall not be interpreted as having legal significance or meaning.

4. **Contract Administration and Operation.**

4.1 Term. As indicated on the signature page of the Contract, the Contract shall be effective as of the Begin Date and shall remain effective until the Termination Date.

4.2 Contract Renewal. This Contract shall not bind, nor purport to bind, the State for any contractual commitment in excess of the original Contract period. The term of the Contract shall not exceed five years. However, if the original Contract period is for less than five years, the State shall have the right, at its sole option, to renew the Contract, so long as the original Contract period together with the renewal periods does not exceed five years. If the State exercises such rights, all terms, conditions and provisions of the original Contract shall remain the same and apply during the renewal period with the exception of price and Scope of Work, which may be renegotiated.

4.3 New Budget Term. If a budget term has been completed in a multi-term Contract, the parties may agree to change the amount and type of funding to accommodate new circumstances in the next budget term. Any increase or decrease in funding at the time of the new budget term shall coincide with a change in the Scope of Work or change in cost of services as approved by the Arizona Department of Health Services.

4.4 Non-Discrimination. The Contractor shall comply with State Executive Order No. 09-09, as applicable, and all other applicable Federal and State non-discrimination laws, rules and regulations, including, but not limited to Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1975, Federal Executive Order 11246, Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, Title VI of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act of 1990 (Public Law 101-366), and all other acts required for compliance with the federal funding source.

4.5 Records and Audit. Under A.R.S. § 35-214 and A.R.S. § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other records ("records") relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State and where applicable the Federal Government at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

4.6 Financial Management. For all contracts, the practices, procedures, and standards specified in and required by the Accounting and Auditing Procedures Manual for the ADHS funded programs shall be used by the Contractor in the management of Contract funds and by the State when performing a Contract audit. Funds collected by the Contractor in the form of fees, donations and/or charges for the delivery of these Contract services shall be accounted for in a separate fund.

4.6.1 *Federal Funding.* Contractors receiving federal funds under this Contract shall comply with the certified finance and compliance audit provision of the Office of Management and Budget (OMB) Circular A-133, if applicable. The federal financial assistance information shall be stated in a Change Order or Purchase Order.

4.6.2 *State Funding.* Contractors receiving state funds under this Contract shall comply with the certified compliance provisions of A.R.S. § 35-181.03.

4.7 Inspection and Testing. The Contractor agrees to permit access, at reasonable times, to its facilities.

4.8 Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the signature page by the Contractor, unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to an ADHS Procurement Officer, unless otherwise stated in the Contract. An authorized ADHS Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice, and an amendment to the Contract shall not be necessary.

4.9 Advertising and Promotion of Contract. The Contractor shall not advertise or publish information for commercial benefit concerning this Contract without the prior written approval of an ADHS Procurement Officer.

4.10 Property of the State.

4.10.1 *Equipment.* Except as provided below or otherwise agreed to by the parties, the title to any and all equipment acquired through the expenditure of funds received from the State shall remain the property of the State by and through the ADHS and, as such, shall remain under the sole direction, management and control of the ADHS. When this Contract is terminated, the disposition of all such property shall be determined by the ADHS. For Fixed Price contracts, when the Contractor provides the services/materials required by the Contract, any and all equipment purchased by the Contractor remains the property of the Contractor. All purchases of equipment need to be reported to the ADHS Office of Inventory Control.

4.10.2 *Title and Rights to Materials.* As used in this section, the term "Materials" means all products created or produced by the Contractor under this Contract, including, but not limited to: written and electronic information, recordings, reports, research, research findings, conclusions, abstracts, results, software, data and any other intellectual property or deliverables created, prepared, or received by the Contractor in performance of this Contract. Contractor acknowledges that all Materials are the property of the State by and through the ADHS and, as such, shall remain under the sole direction, management and control of the ADHS. The Contractor is not entitled to a patent or copyright on these Materials and may not transfer a patent or copyright on them to any other person or entity. To the extent any copyright in any Materials may originally vest in the Contractor, the Contractor hereby irrevocably transfers to the ADHS, for and on behalf of the State, all copyright ownership. The ADHS shall have full, complete and exclusive rights to reproduce, duplicate, adapt, distribute, display, disclose, publish, release and otherwise use all Materials. The Contractor shall not use or release these Materials without the prior written consent of the ADHS. When this Contract is terminated, the disposition of all such Materials shall be determined by the ADHS. Further, the Contractor agrees to give recognition to the ADHS for its support of any program when releasing or publishing program Materials.

Notwithstanding the above, if the Contractor is a State agency, the following shall apply instead: It is the intention of ADHS and Contractor that all material and intellectual property developed under this Agreement be used and controlled in ways to produce the greatest benefit to the parties to this Contract and the citizens of the State of Arizona. As used in this paragraph, "Material" means all written and electronic information, recordings, reports, findings, research information, abstracts, results, software, data, discoveries, inventions, procedures and processes of services developed by the Contractor and any other materials created, prepared or received by the Contractor and subcontractors in performance of this Agreement. "Material" as used herein shall not include any pre-existing data, information, materials, discoveries, inventions or any form of intellectual property invented, created, developed or devised by Contractor (or its employees, subcontractors or agents) prior to the commencement of the services funded by this Agreement or that may result from Contractor's involvement in other service activities that are not funded by the Agreement.

Title and exclusive copyright to all Material shall vest in the State of Arizona, subject to any rights reserved on behalf of the federal government. As State agencies and instrumentalities, both ADHS and Contractor shall have full, complete, perpetual, irrevocable and non-transferable rights to reproduce, duplicate, adapt, make derivative works, distribute, display, disclose, publish and otherwise use any and all Material. The Contractor's right to use Material shall include the following rights: the right to use the Material in connection with its internal, non-profit research and educational activities, the right to present at academic or professional meetings or symposia and the right to publish in journals, theses, dissertations or otherwise of Contractor's own choosing. Contractor agrees to provide ADHS with a right of review prior to any publication or public presentation of the Material, and ADHS shall be entitled to request the removal of its confidential information or any other content the disclosure of which would be contrary to the best interest of the State of Arizona. Neither party shall release confidential information to the public without the prior expressly written permission of the other, unless required by the State public records statutes or other law, including a court order. Each party agrees to give recognition to the other party in all public presentations or publications of any Material, when releasing or publishing them.

In addition, ADHS and Contractor agree that any and all Material shall be made freely available to the public to the extent it is in the best interest of the State. However, if either party wants to license or assign an intellectual property interest in the material to a third-party for monetary compensation, ADHS and Contractor agree to convene to determine the relevant issues of title, copyright, patent and distribution of revenue. In the event of a controversy as to whether the Material is being used for monetary compensation or in a way that interferes with the best interest of the state or ADHS, then the Arizona Department of Administration shall make the final decision. Notwithstanding the above, "monetary compensation' does not include compensation paid to an individual creator for traditional publications in academia (the copyrights to which are Employee-

Excluded Works under ABOR Intellectual Property Policy Section 6-908C.4.), an honorarium or other reimbursement of expenses for an academic or professional presentation, or an unprofitable distribution of Material.

5. **Costs and Payments**

5.1 Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate Contractor's Expenditure Report for payment from the State within thirty (30) days, as provided in the Accounting and Auditing Procedures Manual for the ADHS.

5.2 Recoupment of Contract Payments.

5.2.1 *Unearned Advanced Funds.* Any unearned State funds that have been advanced to the Contractor and remain in its possession at the end of each budget term, or at the time of termination of the Contract, shall be refunded to the ADHS within forty-five (45) days of the end of a budget term or of the time of termination.

5.2.2 *Contracted Services.* In a fixed price contract, if the number of services provided is less than the number of services for which the Contractor received compensation, funds to be returned to the ADHS shall be determined by the Contract price. Where the price is determined by cost per unit of service or material, the funds to be returned shall be determined by multiplying the unit of service cost by the number of services the Contractor did not provide during the Contract term. Where the price for a deliverable is fixed, but the deliverable has not been completed, the Contractor shall be paid a pro rata portion of the completed deliverable. In a cost reimbursement contract, the ADHS shall pay for any costs that the Contractor can document as having been paid by the Contractor and approved by ADHS. In addition, the Contractor will be paid its reasonable actual costs for work in progress as determined by Generally Accepted Accounting Procedures up to the date of contract termination.

5.2.3 *Refunds.* Within forty-five (45) days after the end of each budget term or of the time of termination of the Contract, the Contractor shall refund the greater of: i) the amount refundable in accordance with paragraph 4.2.1, Unearned Advanced Funds; or ii) the amount refundable in accordance with paragraph 5.2.2, Contracted Services.

5.2.4 *Unacceptable Expenditures.* The Contractor agrees to reimburse the ADHS for all Contract funds expended, which are determined by the ADHS not to have been disbursed by the Contractor in accordance with the terms of this Contract. The Contractor shall reimburse ADHS within 45 days of the determination of unacceptability.

5.3 Unit Costs/Rates or Fees. Unit costs/rates or fees shall be based on costs, which are determined by ADHS to be reasonable, allowable and allocable as outlined in the Accounting and Auditing Procedures Manual for the ADHS.

5.4 Applicable Taxes.

5.4.1 *State and Local Transaction Privilege Taxes.* The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect taxes from the buyer does not relieve the seller from its obligation to remit taxes.

5.4.2 *Tax Indemnification.* The Contractor and all subcontractors shall pay all federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs, including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

5.4.3 *I.R.S. W9 Form.* In order to receive payment under any resulting Contract, the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona.

5.5 Availability of Funds for the Next Fiscal Year. Funds may not be presently available for performance under this Contract beyond the first year of the budget term or Contract term. The State may reduce payments or terminate this Contract without further recourse, obligation or penalty in the event that insufficient funds are appropriated in the subsequent budget term. The State shall not be liable for any purchases or Subcontracts entered into by the Contractor in anticipation of such funding. The Procurement Officer shall have the discretion in determining the availability of funds.

5.6 Availability of Funds for the Current Contract Term. Should the State Legislature enter back into session and decrease the appropriations through line item or general fund reductions, or for any other reason these goods or services are not funded as determined by ADHS, the following actions may be taken by ADHS:

5.6.1 Accept a decrease in price offered by the Contractor;

5.6.2 Reduce the number of goods or units of service and reduce the payments accordingly;

5.6.3 Offer reductions in funding as an alternative to Contract termination; or

5.6.4 Cancel the Contract.

6. Contract Changes

6.1 Amendments, Purchase Orders and Change Orders. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment, Purchase Order and/or Change Order within the scope of the Contract, unless the change is administrative or otherwise permitted by the Special Terms and Conditions. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by an unauthorized State employee or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized Contract Amendments, Purchase Orders and/or Change Orders, shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

6.2 Subcontracts. The Contractor shall not enter into any subcontract under this Contract without the advance written approval of the Procurement Officer. The subcontract shall incorporate by reference all material and applicable terms and conditions of this Contract.

6.3 Assignments and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

7. Risk and Liability

7.1 Risk of Loss. The Contractor shall bear all loss of conforming material covered under this Contract until received and accepted by authorized personnel at the location designated in the Purchase Order, Change Order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

7.2 Mutual Indemnification. Each party (as "indemnitor") agrees to indemnify, defend 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.

7.3 Indemnification - Patent and Copyright. To the extent permitted by A.R.S. § 41-621 and A.R.S. § 35-154, the Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of performance of the Contract or use by the State of materials furnished by or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph.

7.4 Force Majeure.

7.4.1 *Liability and Definition*. Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; acts of terrorism; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-interventions not caused by or resulting from the act or failure to act of the parties; failures or refusals to act by government authority not caused by or resulting from the act or failure to act of the parties; and other similar occurrences beyond the control of the party declaring force majeure, which such party is unable to prevent by exercising reasonable diligence.

7.4.2 *Exclusions*. Force Majeure shall not include the following occurrences:

7.4.2.1 Late delivery of Materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

7.4.2.2 Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

7.4.2.3 Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

7.4.3 *Notice*. If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day of the commencement thereof, and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that the results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

7.4.4 *Default*. Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that, such delay or failure is caused by force majeure.

7.5 Third Party Antitrust Violations. The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor for or toward the fulfillment of this Contract.

8. **Description of Materials** The following provisions shall apply to Materials only:

8.1 Liens. The Contractor agrees that the Materials supplied under this Contract are free of liens. In the event the Materials are not free of liens, Contractor shall pay to remove the lien and any associated damages or replace the Materials with Materials free of liens.

8.2 Quality. Unless otherwise modified elsewhere in these terms and conditions, the Contractor agrees that, for one year after acceptance by the State of the Materials, they shall be:

8.2.1 Of a quality to pass without objection in the Contract description;

8.2.2 Fit for the intended purposes for which the Materials are used;

8.2.3 Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;

8.2.4 Adequately contained, packaged and marked as the Contract may require; and

8.2.5 Conform to the written promises or affirmations of fact made by the Contractor.

8.3 Inspection/Testing. Subparagraphs 8.1 through 8.2 of this paragraph are not affected by inspection or testing of or payment for the Materials by the State.

8.4 Compliance With Applicable Laws. The Materials and services supplied under this Contract shall comply with all applicable federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

8.5 Survival of Rights and Obligations After Contract Expiration and Termination.

8.5.1 *Contractor's Representations.* All representations and warranties made by the Contractor under this Contract in paragraphs 7 and 8 shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12.510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S. Title 12, Chapter 5.

8.5.2 *Purchase Orders and Change Orders.* Unless otherwise directed in writing by the Procurement Officer, the Contractor shall fully perform and shall be obligated to comply with all Purchase Orders and Change Orders received by the Contractor prior to the expiration or termination hereof, including, without limitation, all Purchase Orders and Change Orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

9. **State's Contractual Remedies**

9.1 Right to Assurance. If the State, in good faith, has reason to believe that the Contractor does not intend to, or is unable to, perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract.

9.2 Stop Work Order.

9.2.1 *Terms.* The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part of the work called for by this Contract for a period up to ninety (90) Days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

9.2.2 *Cancellation or Expiration.* If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

9.3 Non-exclusive Remedies. The rights and remedies of ADHS under this Contract are not exclusive, and ADHS is entitled to all rights and remedies available to it, including those under the Arizona Uniform

Commercial Code and Arizona common law.

9.4 Right of Offset. The State shall be entitled to offset against any sums due the Contractor in any Contract with the State or damages assessed by the State because of the Contractor's non-conforming performance or failure to perform this Contract. The right to offset may include, but is not limited to, a deduction from an unpaid balance and a collection against the bid and/or performance bonds. Any offset taken for damages assessed by the State shall represent a fair and reasonable amount for the actual damages and shall not be a penalty for non-performance.

10. **Contract Termination**

10.1 Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is, or becomes at any time while the Contract or an extension of the Contract is in effect, an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation, unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.

10.2 Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement, securing the Contract or an Amendment to the Contract, or receiving favorable treatment concerning the Contract, including the making of any determination or decision about Contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

10.3 Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor or its subcontractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body.

10.4 Termination Without Cause.

10.4.1 Both the State and the Contractor may terminate this Contract at any time with thirty (30) days notice in writing specifying the termination date. Such notices shall be given by personal delivery or by certified mail, return receipt requested.

10.4.2 If the Contractor terminates this Contract, any monies prepaid by the State, for which no service or benefit was received by the State, shall be refunded to the State within 5 days of the termination notice. In addition, if the Contractor terminates the Contract, the Contractor shall indemnify the State for any sanctions imposed by the funding source as a result of the Contractor's failure to complete the Contract.

10.4.3 If the State terminates this Contact pursuant to this Section, the State shall pay the Contractor the Contract price for all Services and Materials completed up to the date of termination. In a fixed price contract, the State shall pay the amount owed for the Services or Materials by multiplying the unit of service or item cost by the number of unpaid service units or items. In a cost reimbursement contract, the ADHS shall pay for any costs that the Contractor can document as having been paid by the Contractor and approved by ADHS. In addition, the Contractor will be paid its reasonable actual costs for work in progress as determined by GAAP up to the date of termination. Upon such termination, the Contractor shall deliver to the ADHS all deliverables completed. ADHS may require Contractor to negotiate the terms of any remaining deliverables still due.

10.5 Mutual Termination. This Contract may be terminated by mutual written agreement of the parties

specifying the termination date and the terms for disposition of property and, as necessary, submission of required deliverables and payment therein.

10.6 Termination for Default. The State reserves the right to terminate the Contract in whole or in part due to the failure of the Contractor to comply with any material obligation, term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. In the event the ADHS terminates the Contract in whole or in part as provided in this paragraph, the ADHS may procure, upon such terms and in such manner as deemed appropriate, Services or Materials, similar to those terminated, and Contractor shall be liable to the ADHS for any excess costs incurred by the ADHS in obtaining such similar Services or Materials.

10.7 Continuation of Performance Through Termination. Upon receipt of the notice of termination and until the effective date of the notice of termination, the Contractor shall perform work consistent with the requirements of the Contract and, if applicable, in accordance with a written transition plan approved by the ADHS. If the Contract is terminated in part, the Contractor shall continue to perform the Contract to the extent not terminated. After receiving the notice of termination, the Contractor shall immediately notify all subcontractors, in writing, to stop work on the effective date of termination, and on the effective date of termination, the Contractor and subcontractors shall stop all work.

10.8 Disposition of Property. Upon termination of this Contract, all property of the State, as defined herein, shall be delivered to the ADHS upon demand.

11. **Arbitration** Pursuant to A.R.S. § 12-1518, disputes under this Contract shall be resolved through the use of arbitration when the case or lawsuit is subject to mandatory arbitration pursuant to rules adopted under A.R.S. § 12 -133.

12. **Communication**

12.1 Program Report. When reports are required by the Contract, the Contractor shall provide them in the format approved by ADHS.

12.2 Information and Coordination. The State will provide information to the Contractor pertaining to activities that affect the Contractor's delivery of services, and the Contractor shall be responsible for coordinating their activities with the State's in such a manner as not to conflict or unnecessarily duplicate the State's activities. As the work of the Contractor progresses, advice and information on matters covered by the Contract shall be made available by the Contractor to the State throughout the effective period of the Contract.

13. **Client Grievances** If applicable, the Contractor and its subcontractors shall use a procedure through which clients may present grievances about the operation of the program that result in the denial, suspension or reduction of services provided pursuant to this Contract and which is acceptable to and approved by the State.

14. **Sovereign Immunity** Pursuant to A.R.S. § 41-621(O), the obtaining of insurance by the State shall not be a waiver of any sovereign immunity defense in the event of suit.

15. **Fingerprint and Certification Requirements/Juvenile Services.**

15.1 Paid and Unpaid Personnel. The Contractor shall ensure that all paid and unpaid personnel who are required or are allowed to provide Services directly to juveniles have obtained fingerprint clearance cards in accordance with A.R.S. § 41-1758 et. seq.

15.2 Costs. The Contractor shall assume the costs of fingerprint certifications and may charge these costs to its fingerprinted personnel.

16. **Administrative Changes** The Procurement Officer, or authorized designee, reserves the right to correct any obvious clerical, typographical or grammatical errors, as well as errors in party contact information (collectively, "Administrative Changes"), prior to or after the final execution of a Contract or Contract Amendment.

Administrative Changes subject to permissible corrections include: misspellings, grammar errors, incorrect addresses, incorrect Contract Amendment numbers, pagination and citation errors, mistakes in the labeling of the rate as either extended or unit, and calendar date errors that are illogical due to typographical error. The Procurement Office shall subsequently send to the Contractor notice of corrections to administrative errors in a written confirmation letter with a copy of the corrected Administrative Change attached.

17. **Survival of Terms After Termination or Cancellation of Contract** All applicable Contract terms shall survive and apply after Contract termination or cancellation to the extent necessary for Contractor to complete and for the ADHS to receive and accept any final deliverables that are due after the date of the termination or cancellation.

18. **Health Insurance Portability and Accountability Act of 1996 (HIPAA)** The Contractor warrants that it is familiar with the requirements of HIPAA and HIPAA's accompanying regulations and will comply with all applicable HIPAA requirements in the course of this Contract. Contractor warrants that it will cooperate with the Arizona Department of Health Services (ADHS) in the course of performance of the Contract so that both the ADHS and Contractor will be in compliance with HIPAA, including cooperation and coordination with the ADHS Privacy Officer and other compliance officials required by HIPAA and its regulations. Contractor will sign any documents that are reasonably necessary to keep the ADHS and Contractor in compliance with HIPAA, including, but not limited to, business associate agreements.

    If requested by the ADHS, Contractor agrees to sign the "Arizona Department of Health Services Pledge To Protect Confidential Information" and to abide by the statements addressing the creation, use and disclosure of confidential information, including information designated as protected health information and all other confidential or sensitive information as defined in policy. In addition, if requested, Contractor agrees to attend or participate in HIPAA training offered by the ADHS or to provide written verification that the Contractor has attended or participated in job related HIPAA training that is: (1) intended to make the Contractor proficient in HIPAA for purposes of performing the services required and (2) presented by a HIPAA Privacy Officer or other person or program knowledgeable and experienced in HIPAA and who has been approved by the ADHS HIPAA Compliance Officer.

19. **Compliance Requirements for A.R.S. § 41-4401, Government Procurement: E-Verify Requirement**

    19.1 The Contractor 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.)

    19.2 A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the Contract and the Contractor may be subject to penalties up to and including termination of the Contract.

    19.3 Failure to comply with a State audit process to randomly verify the employment records of Contractors and subcontractors shall be deemed a material breach of the Contract and the Contractor may be subject to penalties up to and including termination of the Contract.

    19.4 The State Agency retains the legal right to inspect the papers of any employee who works on the Contract to ensure that the Contractor or subcontractor is complying with the warranty under paragraph 1.

20. **A.R.S. 35-393 and A.R.S. 35-391** In accordance with A.R.S. 35-393 and A.R.S. 35-391, the Contractor shall not have scrutinized business operations in Iran or Sudan.

21. **Comments Welcome** The ADHS Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: ADHS Procurement Administrator, Arizona Department of Health Services, 1740 West Adams, Suite 303, Phoenix, Arizona, 85007.

SCOPE OF WORK

1. BACKGROUND

The Arizona Department of Health Services (ADHS), Bureau of Women's and Children's Health (BWCH), mission is to strengthen the family and the community by promoting and improving the health and safety of women, infants, and children. This is accomplished through the provision of community-based services and the facilitation of systems development. BWCH manages and distributes funding that provides services to reduce the mortality and morbidity among women and children, increase access to health care, and reduce health disparities. For more information on the specific programs, go to www.azdhs.gov/phs/owch/.

BWCH administers the Title V Maternal and Child Health (MCH) Block Grant. Title V of the Social Security Act of 1935 is a federal program that focuses on improving the health of all mothers and children. Each year states apply for the block grant in an application that includes a report on past performance, plan for meeting needs, and a description of how the funds will be used.

Every five (5) years, State Title V MCH agencies are required to conduct a comprehensive needs assessment to identify state MCH needs and prioritize them for strategic planning. While needs assessment is always part of an ongoing planning cycle, the five-year needs assessment is an opportunity to formally examine trends and issues, review progress, and set priorities for the next five (5) years. Although statewide needs have been identified based on data, public input, and a comprehensive needs assessment, the Women's and Children's Community Health Intergovernmental Agreements (Agreement) allow Counties to prioritize efforts based on the severity of these issues within their own County. By zeroing in on the most critical issues impacting women's and children's health in a particular County and, in turn, the State, ADHS BWCH has the best chance of making an impact and long term change.

The Women's and Children's Community Health Agreements will fund collaborative efforts at the County level that can result in improvements to specific women's and children's health outcomes. The County level efforts shall emphasize partnership building with those entities that can most effectively contribute to improving the health outcomes listed below. The chosen statewide priorities were derived from Arizona's 2010 comprehensive needs assessment. The Maternal, Infant, and Early Childhood Home Visiting Program Needs Assessment was also utilized to identify communities at greater risk of poor health outcomes.

2. OBJECTIVE

2.1 Implement multi-faceted strategies at the community level that work to:

2.1.1 Improve the health of women prior to pregnancy; and

2.1.2 Reduce the rate of injuries, both intentional and unintentional.

3. SCOPE OF SERVICE

3.1 The Agreement will address a variety of strategies designed to impact health at the community, organizational, individual and policy levels in order to promote a holistic approach to improving the health of individuals, their families and their communities. The "Spectrum of Prevention" (Spectrum) serves as a guideline for addressing complex issues at a number of levels as a means of instituting systemic and effective prevention strategies. The Spectrum identifies multiple levels of intervention and helps people/communities view prevention from a broader perspective than merely personal behavior decisions. The Spectrum is a framework for a more comprehensive understanding of prevention that includes six (6) levels for strategy development. These levels, delineated below, are complementary and when used together produce a synergy that results in greater effectiveness than would be possible by implementing any single activity or linear initiative. At each level, the most important activities related to prevention objectives should be identified. As these activities are identified they will lead to interrelated actions at other levels of the Spectrum.

http://www.preventioninstitute.org/component/ilibrary/article/id-105/127.html The levels of the Spectrum are as follows:

3.1.1 Influencing Policy and Legislation – Developing strategies to change laws and policies to influence outcomes;

3.2.1 Changing Organizational Practices – Adopting regulations and shaping norms to improve health and safety;

3.3.1 Fostering Coalitions and Networks – Convening groups and individuals for broader goals and greater impact;

3.4.1 Educating Providers – Informing providers who will transmit skills and knowledge to others;

3.5.1 Promoting Community Education – Reaching groups of people with information and resources to promote health and safety; and

3.6.1 Strengthening Individual Knowledge and Skills – Enhancing an individual's capability of preventing injury or illness and promoting safety and health.

3.2 Counties are expected to implement strategies at multiple levels of the Spectrum in accordance with local community needs. Strategies that influence policy, change organizational practices, and foster coalitions are required. BWCH encourages and supports integration with existing county public health programs as appropriate. Evidence-based strategies should be utilized whenever available and appropriate.

3.2.1 **Priority 1:** Improve the health of women prior to pregnancy. Promote improvement of preconception health, utilizing the Life Course Perspective. The Centers for Disease Control and Prevention is a valuable resource for learning more about preconception heath and their website provides comprehensive information regarding preconception health http://www.cdc.gov/ncbddd/preconception/default.htm. Research continues to support the concept that the most effective means of improving birth outcomes is by improving the health of the mother before she becomes pregnant. The life course perspective promotes looking at life as a continuum versus periodic life events and takes into account the various risk and protective factors that impact an individual's health. A life course toolkit is available on the CityMatCH website to assist with integrating the life course perspective into maternal and child health programs. http://www.citymatch.org/lifecoursetoolbox/. Preconception health takes into account physical, mental and social wellbeing of men and women of childbearing age. Examples of health factors that impact preconception health include healthy weight, stress management, management of chronic diseases, reproductive health, smoking and physical activity. Interconception health or the heath of a woman between pregnancies is also referred to as preconception health. During the summer of 2010 the BWCH convened a task force charged with developing a Preconception Health Strategic Plan for Arizona. The Spectrum was one of several guiding tools used during the development of the plan. Activities funded through this Agreement should utilize multiple strategies as a means of not only supporting the strategic plan but meeting the requirements regarding components of the Spectrum. BWCH also encourages the utilization of Every Woman, Arizona, preconception health materials developed as an educational tool for use with clients/patients http://www.azdhs.gov/phs/owch/publicat.htm. Interventions shall target women of childbearing age but can also include children, adolescents and male family members.

3.2.2 **Priority 2:** Reduce the rate of injuries, both intentional and unintentional. Counties should review local data to determine which injury areas are in most need of intervention. Examples of injury areas that may be addressed include, but are not limited to: motor vehicles crashes, falls, drowning, poisoning, fire/burns, firearm-related injuries, domestic violence, self-inflicted injuries, and suicide. BWCH encourages addressing adolescent suicide, adolescent motor vehicle crash injuries, bullying, childhood injuries, and infant safe sleep. Counties should utilize strategies from The Arizona Injury Surveillance and Prevention Plan, 2006-2010 (http://www.azdhs.gov/phs/owch/pdf/injury_plan_06-10.pdf) and/or the draft update of the plan as it becomes available. Interventions shall target adolescents and younger children, but can also include families.

4. TASKS

The Contractor shall:

4.1 Complete a logic model outlining project design based on the Spectrum;

4.2 Submit narrative description of how project activities fit with the Spectrum;

4.4 Identify specific target populations and/or communities;

4.4 Annually submit a revised logic model plan implementation plan based on the Spectrum;

4.5 Implement approved strategies;

4.6 Work with tribal communities present in the County;

4.7 Participate in any statewide evaluation lead by BWCH;

4.8 Participate in contractor meetings;

4.9 Participate in training organized by BWCH;

4.10 Develop and submit a proposed budget for the coming year and each subsequent year;

4.11 Submit monthly report;

4.12 Submit monthly Contractor's Expenditure Report;

4.13 Submit Annual Report based on findings that includes cumulative year to date data of services provided; and

4.14 Submit annual Title V unduplicated numbers form.

5. REQUIREMENTS

5.1 County shall provide a copy of all printed or broadcast media or any other educational materials developed using funds awarded under this Agreement to the ADHS Program Manager for approval. Media and/or printed educational materials shall adhere to the required wording as follows: "Funded in part by the Bureau of Women's and Children's Health as made available through the Arizona Department of Health Services." Additionally, media and/or printed educational materials shall also adhere to the required wording as follows: "This project is supported by funds from the Department of Health and Human Services (DHHS), Health Resources and Services Administration, Maternal and Child Health Bureau, under Grant number 93.994 and title for $ (to be filled in by County upon receipt of Agreement and awarded amount). The information or content and conclusions are those of the author and should not be construed as the official position or policy of, nor should be any endorsements be inferred by the U.S. Government, DHHS, or HRSA."

5.2 MCH Block Grant funds shall not be used for:

5.2.1 Inpatient services, other than inpatient services provided to children with special health care needs or to high-risk pregnant women and infants and such other inpatient services approved by the Secretary of the Department of Health and Human Services (DHHS);

5.2.2 Cash payments to intended service recipients of Health Services;

5.2.3 The purchase or improvements of land; the purchase, construction or permanent improvement (other than minor remodeling) of any building or other facility; or the purchase of major medical equipment – unless the State has obtained a waiver from the Secretary of DHHS;

5.2.4 Satisfying any requirement for the expenditure of non-federal funds as a condition for the receipt of federal funds;

5.2.5 Providing funds for research or training to any entity other than a public or non-profit private entity; and

5.2.6 Payment for any item of service (other than an emergency item or service) furnished by or at the medical direction or prescription of an ineligible or uncertified individual or entity.

5.3 Sub Contracts. The County shall not enter into any Subcontract under this Agreement for the performance of this Agreement without the advance written approval of the ADHS Program Manager and the ADHS Procurement Office. The County shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the Terms and Conditions of this Agreement.

6. REFERENCE DOCUMENTS

6.1 Title V Maternal and Child Health Block Grant 2010 Needs Assessment and 2011 Block Grant Application (http://www.azdhs.gov/phs/owch/index.htm);

6.2 Maternal, Infant, and Early Childhood Home Visiting Program Needs Assessment http://www.azdhs.gov/phs/owch/index.htm;

6.3 Every Woman Arizona Preconception Materials http://www.azdhs.gov/phs/owch/publicat.htm#mchblockgrant ;

6.4 Arizona Nutrition & Physical Activity State Plan (http://www.eatsmartgetactive.org/);

6.5 The Arizona Injury Surveillance and Prevention Plan, 2006-2010, http://www.azdhs.gov/phs/owch/pdf/injury_plan_06-10.pdf);

6.6 The Prevention Institute Spectrum of Prevention, http://www.preventioninstitute.org/component/jlibrary/article/id-105/127.html; and

6.7 Contra Costa Health Services Spectrum of Prevention, http://cchealth.org/topics/prevention/spectrum.php.

7. STATE PROVIDED ITEMS

ADHS will provide:

7.1 Contractor Expenditure Report;

7.2 Monthly Report Format;

7.3 Annual Report Format;

7.4 Title V Unduplicated Count Report Format;

7.5 Logic Model Format;

7.6 DVD of Preconception Health Summit, April 30, 2010 (upon execution of Agreement);

7.7 Draft Arizona Preconception Health Plan (upon availability); and

7.8 Draft 2011-2015 Arizona Injury Prevention Plan (upon availability).

8. APPROVALS

8.1 The Logic Model that will be implemented during the next Agreement period shall be submitted to ADHS for approval. County shall include the specific target populations and/or communities;

8.2 The narrative description of how project activities fit with the Spectrum of Prevention shall be submitted to ADHS for approval;

8.3 Strategies shall be approved;

8.4 Annually submit a proposed budget for approval;

8.5 The Monthly Report to include activities performed for each of the specified tasks, a year to date cumulative report of the services provided, as well as problems encountered and potential solutions shall be approved by ADHS prior to reimbursement;

8.6 The monthly Contractor's Expenditure Report (invoice) shall be approved by ADHS prior to reimbursement;

8.7 The Annual Report based on findings that includes cumulative year to date data of services provided shall be approved by ADHS;

8.8 Title V Unduplicated Numbers; and

8.9 All marketing materials (brochures, posters, public service announcements, videos, etc.) which have been written, published or recorded by the County and paid for with Title V funds shall first be approved by ADHS. This approval must be made by the ADHS Public Information Officer prior to the dissemination of such materials or airing of such announcements.

9. DELIVERABLES

The Contractor shall or shall provide:

9.1 The name, phone numbers, and resume of program staff if replaced, due within thirty (30) days of hire;

9.2 An annual Logic Model plan and narrative description including the specific target populations and/or communities due forty-five (45) days after the beginning of each contract period;

9.3 Strategies;

9.4 Documentation of work with Tribal communities present in the County;

9.5 Participate in any statewide evaluation lead by BWCH;

9.6 Participate in contractor meetings;

9.7 Participate in training organized by BWCH;

9.8 Annually develop and submit a proposed budget;

9.9 A Monthly report of program activity, including cumulative data of services rendered due thirty (30) days following the month of service;

9.10 A monthly Contractor's Expenditure Report due thirty (30) days following each month of service;

9.11 An Annual report including evaluation data and analysis due forty-five (45) days following the contract period; and.

9.12 Title V Unduplicated Numbers, due with the annual report.

10. NOTICES, CORRESPONDENCE, AND REPORTS

Notices, correspondence, reports and invoices/CERs from the contractor to ADHS shall be sent to:

Arizona Department of Health Services
Bureau of Women's and Children's Health
Community Health Program Manager
150 North 18th Avenue, Suite 320
Phoenix, AZ 85007
Telephone: 602-364-1400
Facsimile: 602-364-1496
E-Mail: kuhfusk@azdhs.gov

Notices, correspondence, and reports (and payments if sent to same address) from ADHS to the contractor shall be sent to:

David Fletcher, Director
Gila County Health Department
Location: 5515 South Apache Avenue, Suite 100
Mailing: 1400 East Ash Street
Globe, Arizona 85501
Tel: 928-402-8801
Fax: 928-425-0794
Email: dfletcher@co.gila.az.us

Payments from ADHS to the Contractor will be sent to:

PRICE SHEET

Cost Reimbursement

ACCOUNT CLASSIFICATION	AMOUNT
Personnel	$30,673.36
ERE	$8,855,48
Professional & Outside Services	$1,000.00
Travel Expense	$4,955.00
Out of state travel	$0.00
Operating Expenses	$22,697.98
Other	$0.00
Indirect (if authorized)	$6,818.18
TOTAL	**$75,000.00**

With prior written approval from the Program manager, the Contractor is authorized to transfer up to a maximum of Ten Percent (10%) of the total budget amount between line items. Transfers of funds are only allowed between funded line items. Transfers exceeding Ten Percent (10%) or to a non-funded line item shall require a Contract Amendment.

	INTERGOVERNMENTAL AGREEMENT (IGA) AMENDMENT		ARIZONA DEPARTMENT OF HEALTH SERVICES 1740 W. Adams, Room 303 Phoenix, Arizona 85007 (602) 542-1040 (602) 542-1741 Fax
	Contract No: HG161095	Amendment No. 1	Procurement Specialist Tracy Chisler/kh

Community Health Grant

It is mutually agreed that the Intergovernmental Agreement referenced is amended as follows:

1. Pursuant to page Six (6), Terms and Conditions, Provision Six (6), **Contract Changes**, Item 6.1, Amendments, Purchase Orders and Change Orders, Contract **HG161095** is hereby changed to **ADHS12-010923**. The contract number change is due to the transition to the ProcureAZ electronic procurement system.

2. Add the following to Terms and Conditions, Page Five (5), Provision Four (4), Contract Administration and Operation:

   4.11 Federal Immigration and Nationality Act. The Contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the Contract. Further, the Contractor shall flow down this requirement to all subcontractors utilized during the term of the Contract. The State shall retain the right to perform random audits of Contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the Contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the Contract for default and suspension and/or debarment of the Contractor.

All other provisions of this agreement remain unchanged.

Gila County Health Department
Contractor Name

1400 East Ash
Address

Globe AZ 85501
City State Zip

CONTRACTOR SIGNATURE
In accordance with A.R.S. 35-391.06 and A.R.S. 35-393.06, the Contractor hereby certifies that the Contractor does not have scrutinized business operations in Sudan or Iran.

Contractor Authorized Signature **Date**

Tommie C. Martin
Printed Name

Chairman of the Board of Supervisors
Title

CONTRACTOR ATTORNEY SIGNATURE
Pursuant to A.R.S. § 11-952, the undersigned public agency attorney has determined that this Intergovernmental Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

Signature **Date**

Bryan Chambers, Chief Deputy
Printed Name

This Intergovernmental Agreement Amendment shall be effective the date indicated. The Public Agency is hereby cautioned not to commence any billable work or provide any material, service or construction under this IGA until the IGA has been executed by an authorized ADHS signatory.

State of Arizona

Signed this _____ day of _____ 2011

Procurement Officer

Attorney General Contract No. PIGA2011000344, which is an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952 by the undersigned Assistant Attorney General, who has determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

Signature Date
Assistant Attorney General

Printed Name: Ronald E. Johnson

RESERVED FOR USE BY THE SECRETARY OF STATE

Under House Bill 2011, A.R.S. § 11-952 was amended to remove the requirement that Intergovernmental Agreements be filed with the Secretary of State.

4.12 E-Verify Requirements. In accordance with A.R.S. § 41-4401, Contractor 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.

4.13 Scrutinized Businesses. In accordance with A.R.S. § 35-391 and A.R.S. § 35-393, Contractor certifies that the Contractor does not have scrutinized business operations in Sudan or Iran.

4.14 Offshore. Any services that are described in the Specifications or Scope of Work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or overhead services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

3. Delete in its entirety, Terms and Conditions, Page Eleven (11), Provision Eighteen (18), Health Insurance Portability and Accountability Act of 1996 (HIPAA) and replace it with the following:

The Contractor warrants that it is familiar with the requirements of HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH Act) of 2009, and accompanying regulations and will comply with all applicable HIPAA requirements in the course of this Contract. Contractor warrants that it will cooperate with the Arizona Department of Health Services (ADHS) in the course of performance of the Contract so that both ADHS and Contractor will be in compliance with HIPAA, including cooperation and coordination with the Government Information Technology Agency (GITA), Statewide Information Security and Privacy Office (SISPO) Chief Privacy Officer and HIPAA Coordinator and other compliance officials required by HIPAA and its regulations. Contractor will sign any documents that are reasonably necessary to keep ADHS and Contractor in compliance with HIPAA, including, but not limited to, business associate agreements.

If requested by the ADHS Procurement Office, Contractor agrees to sign a "Pledge To Protect Confidential Information" and to abide by the statements addressing the creation, use and disclosure of confidential information, including information designated as protected health information and all other confidential or sensitive information as defined in policy. In addition, if requested, Contractor agrees to attend or participate in HIPAA training offered by ADHS or to provide written verification that the Contractor has attended or participated in job related HIPAA training that is: (1) intended to make the Contractor proficient in HIPAA for purposes of performing the services required and (2) presented by a HIPAA Privacy Officer or other person or program knowledgeable and experienced in HIPAA and who has been approved by the GITA/SISPO Chief Privacy Officer and HIPAA Coordinator.

4. Delete in its entirety, Terms and Conditions, Page Eleven (11), Provisions Nineteen (19) and Twenty (20).

GILA COUNTY ATTORNEY
Daisy Flores

Re: County Attorney's Office approval of IGA pursuant to A.R.S. § 11-952(D).

To whom it may concern:

The County Attorney's Office has reviewed the Intergovernmental Agreement attached to this agenda item and has determined that it is in its "proper form" and "is within the powers and authority granted under the laws of this state to such public agency or public procurement unit" pursuant to A.R.S. § A.R.S. § 11-952(D).

Explanation of the Gila County Attorney's Office Intergovernmental Agreement (IGA) Review

A.R.S. § 11-952(D) requires that

> every agreement or contract involving any public agency or public procurement unit of this state . . . before its execution, shall be submitted to the attorney for each such public agency or public procurement unit, who shall determine whether the agreement is in proper form and is within the powers and authority granted under the laws of this state to such public agency or public procurement unit.

In performing this review, the County Attorney's Office reviews IGAs to see that they are in "proper form" prior to their execution. "Proper form" means that the contract conforms to fundamental contract law, conforms to specific legislative requirements, and is within the powers and authority granted to the public agency. It does not mean that the County Attorney's Office approves of or supports the policy objectives contained in the IGA. That approval is solely the province of the public agency through its elected body.

Likewise, this approval is not a certification that the IGA has been properly executed. Proper execution can only be determined after all the entities entering into the IGA have taken legal action to approve the IGA. There is no statutory requirement for the County Attorney's Office to certify that IGAs are properly executed.

Nonetheless, it is imperative for each public agency to ensure that each IGA is properly executed because A.R.S. § 11-952(F) requires that "[a]ppropriate action … applicable to the governing bodies of the participating agencies approving or extending the duration of the … contract shall be necessary before any such agreement, contract or extension may be filed or become effective." This can be done by ensuring that the governing body gives the public proper notice of the meeting wherein action will be taken to approve the IGA, that the item is adequately described in the agenda accompanying the notice, and that the governing body takes such action. Any questions regarding whether the IGA has been properly executed may be directed to the County Attorney's Office.

Proper execution of IGAs is important because A.R.S. § 11-952(H) provides that "[p]ayment for services under this section shall not be made unless pursuant to a fully approved written contract." Additionally, A.R.S. § 11-952(I) provides that "[a] person who authorizes payment of any monies in violation of this section is liable for the monies paid plus twenty per cent of such amount and legal interest from the date of payment."

The public agency or department submitting the IGA for review has the responsibility to read and understand the IGA in order to completely understand its obligations under the IGA if it is ultimately approved by the public entity's board. This is because while the County Attorney's Office can approve the IGA as to form, the office may not have any idea whether the public agency has the capacity to actually comply with its contractual obligations. Also, the County Attorney's Office does not monitor IGA compliance. Hence the public entity or submitting department will need to be prepared to monitor their own compliance. A thorough knowledge of the provisions of the IGA will be necessary to monitor compliance.

Before determining whether an IGA contract "is in proper form," the County Attorney's Office will answer any questions or concerns the public agency has about the contract. It is the responsibility of the public agency or department submitting the IGA for review to ask any specific questions or address any concerns it has about the IGA to the County Attorney's Office at the same time they submit the IGA for review. Making such an inquiry also helps improve the County Attorney's Office review of the IGA because it will help focus the review on specific issues that are of greatest concern to the public agency. Failing to make such an inquiry when the agency does have issues or concerns will decrease the ability of the County Attorney's Office to meaningfully review the IGA.

ARF-983 **Consent Agenda Item 4- C**

Regular BOS Meeting

Meeting Date: 12/06/2011

Submitted For:	Lorraine Dalrymple, Health Services Program Manager	Submitted By:	Lorraine Dalrymple Health Services Program Manager Health & Emergency Services Division
Department:	Health & Emergency Services Division	Division:	Health Services
Fiscal Year:	2011-2012	Budgeted?:	Yes
Contract Dates Begin & End:	10/1/2011 until changes needed	Grant?:	No
Matching Requirement?:	No	Fund?:	Replacement
Presenter's Name:			

Information

Request/Subject

Amendment to contract with University Physicians Healthcare to bill Arizona Health Care Cost Containment System (AHCCCS) clients.

Background Information

The Gila County Health Department has an agreement with University Physicians Healthcare to bill administration fees for vaccinations for their AHCCCS clients.

Evaluation

This amendment was issued to cover required contract changes. This amendment does not require the Board of Supervisors' signatures, but only to acknowledge the change.

Conclusion

This contract allows additional revenues to cover administration fees for vaccines.

Recommendation

The Director of Health & Emergency Services recommends that the Board of Supervisors acknowledge these required changes to the contract between Gila County and University Physicians Healthcare.

Suggested Motion

Acceptance of an Amendment to a contract between Gila County and University Physicians Healthcare for required contract changes as outlined in Exhibit 5-Subcontract Provision that takes effect on October 1, 2011. This Contract and Amendment allows Gila County to continue to submit for reimbursement of administration fees for immunizations provided to AHCCCS clients.

Attachments

Original Contract

UPH Amendment

Legal explanation

UNIVERSITY PHYSICIANS HEALTHCARE dba UNIVERSITY PHYSICIANS HEALTH PLANS

PHYSICIANS SERVICES AGREEMENT

Gila County Health Department

Effective: 10/6/09

UNIVERSITY PHYSICIANS HEALTHCARE dba UNIVERSITY PHYSICIANS HEALTH PLANS

PHYSICIAN SERVICES AGREEMENT

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UNIVERSITY PHYSICIANS HEALTHCARE dba UNIVERSITY PHYSICIANS HEALTH PLANS

PHYSICIAN SERVICES AGREEMENT

This Physician Services Agreement (the "Agreement") is entered into effective _____, between University Physicians, Inc. dba University Physicians Health Plans (an Arizona non-profit corporation) including University Family Care, KidsCare, University Physicians Care Advantage ("Plan") and Gila County Health Department ("Provider").

RECITALS

A. Plan has entered into contracts with the Arizona Health Care Cost Containment System ("AHCCCS") to offer various products such as KidsCare and other like products of the AHCCCS program.

B. Plan has entered into a contract with a Medicare Advantage Organization to provide services to Medicare beneficiaries who are Members of a Medicare Advantage Special Needs Plan.

C. Plan will provide services under the products of University Family Care, KidsCare, University Physicians Care Advantage and any other like products offered by University Physicians Health Plans, AHCCCS and Medicare Advantage Organization.

D. Provider and all affiliated with Provider identified in Exhibit 1 provide certain ancillary medical services in Arizona for all products of the Plan.

E. Plan wishes to contract with Provider as a subcontractor to provide certain covered medical and related services to eligible Plan members for all products.

AGREEMENTS

The parties hereby agree as follow:

SECTION 1. DEFINITIONS

The following terms shall have the meanings set forth below unless the context otherwise requires. All non-defined terms shall have the meanings established by AHCCCS rules and regulations.

1.1 Adverse Action/Decision means any action for which a party may file a grievance or request for hearing, such as a claim or prior authorization denial.

1.2 AHCCCS means the Arizona Health Care Cost Containment System, as authorized by A.R.S. § 36-2901 et seq., which is composed of the Administration, contractors, and other arrangement through which health care services are provided to a member.

1.3 Administration means the Arizona Health Care Cost Containment System Administration.

1.4 Advance Directive means written documents or instructions, such as living wills or health care proxies, made in advance of an incapacitating illness that states Member's treatment decisions, or identifies the person to make such treatment decisions if Member is unable to make it.

1.5 Alternative Resolution means a process by which a grievance can be satisfactorily resolved within ten (10) days by means other than the formal procedures.

1.6 Capitation Payment means a predetermined periodic payment made to Provider by Plan for providing Covered Services based on the number of assigned Members.

1.7 Clean Claim means a claim that can be processed without obtaining additional information from the provider of the service or from a third party. It does not include a claim from a provider who is under investigation for fraud or abuse, or a claim under review for medical necessity.

1.8 Complainant means a provider or member exercising their rights to file a grievance or Request for Hearing regarding a denial or adverse action/decision issued by the Plan.

1.9 Copayment means an amount specified by the Director that a Member pays directly to a contractor or provider at the time Covered Services are rendered.

1.10 Covered Services means the specific medical and surgical services in Providers area of specialty as designated in Exhibit 1 provided by Provider under AHCCCS rules and regulations and this Agreement, and for which the Provider assumes responsibility and agrees to provide to or obtain for Members.

1.11 EPSDT means Early and Periodic Screening, Diagnosis, and Treatment services for persons under twenty-one (21) years of age. EPSDT services are synonymous with "well-check" services provided to patients with commercial types of insurance.

1.12 Emergency Medical Services means services provided after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could be expected to result in placing the patient's health in serious jeopardy, serious impairment of bodily functions, or serious dysfunction of any bodily organ or part.

1.13 Encounter means a record of medical services, submitted by a contractor and processed by AHCCCS that is rendered by a provider registered with AHCCCS to a member who is enrolled with the contractor on the date of service for which the contractor incurs any financial liability.

1.14 Fee-For-Service Payment means a method of retrospective payment to subcontractors by Plan for certain Covered Services based on a fee-for-service schedule.

1.15 Grievance means a complaint that initiates an administrative review that does not involve a hearing. A party may request a hearing after an administrative review.

1.16 Inpatient Services means Covered Services provided to Members admitted to a Participating Hospital.

1.17 KidsCare a program implemented by AHCCCS a Title XXI Children's Health Insurance Program to provide health care coverage statewide to eligible children under age 19 provided through existing AHCCCS health plans.

1.18 Medical Director means a physician licensed in Arizona appointed by Plan to manage the administration of Covered Services, Utilization Management and Quality Management and other matters relating to the provision of services to Members.

1.19 Medically Necessary means a Covered Service provided by the physician or other licensed medical practitioner of the healing arts and within the scope of practice under state law to prevent disease, disability, and other adverse health conditions or their progression or prolong life.

1.20 Members means AHCCCS eligible persons enrolled with Plan, and assigned to receive Covered Services from Providers pursuant to this Agreement.

1.21 Outpatient Hospital Services means a service provided in an outpatient hospital setting that does not result in an admission.

1.22 Participating Health Professional (PHP) means those physicians, doctors, Physician assistants, nurse practitioners, and other professionals: (a) who is employed by, contracted with, associated with or otherwise represented by Provider and is identified in Exhibit 1 to this Agreement (b) who is authorized by Provider to provide Medically Necessary Covered Services pursuant to this Agreement (c) who has been offered and completed all Plan application and credentialling requirements and has been approved by the Plan for participation under this agreement; and (d) who agrees to comply with all requirements and provisions of this Agreement.

1.23 Participating Provider means any person/organization who contracts with Plan for the provision of hospitalization and medical care to members (i.e., specialty care providers, hospitals, outpatient facilities, DME, etc).

1.24 Physician means any person M.D. or D.O. licensed in the state of Arizona

1.25 Primary Care Physician (PCP) means a physician who is a family practitioner, general practitioner, pediatrician, general internist or obstetrician or gynecologist with an assigned panel of members.

1.26 Prior Authorization means the process by which the Administration or contractor, whichever is applicable, authorizes, in advance, the delivery of covered services contingent on their medical necessity.

1.27 Provider means the person/organization contracting with the Plan to provide healthcare services to Plan members in accordance with this Agreement. Provider includes all PHP's.

1.28 **Provider Reference Manual** means the manual that contains the policies and procedures, and operating guidelines instituted by Plan for the use in providing services to Plan Members.

1.29 **Quality Management** means a methodology and activity used by professional health personnel through a formal program involving multiple organization components and committees to assess the degree of conformance to desired medical standards and practices and improve or maintain quality service and care

1.30 **Referral** mean the process by which a member is directed by a primary care provider or an attending physician to another appropriate provider or resource for diagnosis or treatment.

1.31 **Replacement PHP** a credentialed PHP, not necessarily contracted with the Plan, but who is approved to cover members in the absence of the member's Provider.

1.32 **Request for Hearing** means the review process through State AHCCCS Administration that occurs upon written request by a complainant dissatisfied with the Plan's decision/resolution to a filed grievance.

1.33 **Respondent** means a party responsible for the adverse action that is the subject of a grievance or request for hearing.

1.34 **Specialty Care Obstetrician ("SCO")** means a physician, SCP, nurse practitioner, or certified nurse midwife practicing in the field of obstetrics/gynecology who assumes primary responsibility for supervising, coordinating and providing Medically Necessary Covered Services relating to initial, antepartum, delivery and postpartum care to Members and for maintaining continuity of care with Member's PCP.

1.35 **Specialty Care Physician ("SCP")** means a qualified physician who practices a specific medical or surgical specialty and who contracts with Plan to accept referrals from PCPs for the purpose of providing Medically Necessary Covered Services in that specialty to Members.

1.36 **Utilization Management** means a methodology used by professional health personnel that assesses the medical indications, appropriateness, and efficiency of care provided.

SECTION 2. RIGHTS, RESPONSIBILITIES AND OBLIGATIONS OF PROVIDER AND PARTICIPATING HEALTH PROFESSIONALS

2.1 Services and Standards.

2.1.1 Only those PCP's and PHP's listed in Exhibit 1 will be allowed to render services under this agreement. If Provider wishes to add any PHP to Exhibit 1 of this agreement, such must be done as amendments to this contract with a 90 day advance notice to enable the added PHP to be properly credentialed. Provider shall ensure that all PHP's listed in Exhibit 1 comply with the terms, conditions and requirements of this Agreement.

2.1.2 Provider and its PHP's, if any, (hereafter collectively "Provider" except where noted) agree to provide, arrange for and coordinate all Medically Necessary Covered Services for Members in accordance with the provisions of this Agreement, including Emergency Medical Services twenty-four (24) hours a day, seven (7) days a week, including holidays. In the event Provider arranges for back up or temporary replacement coverage by another provider ("Replacement PHP"), Provider shall notify Plan for such Replacement PHP in accordance with 2.1.1 above.

2.1.3 Provider shall provide Medically Necessary Covered Services to Members through office visits during regular office hours, after hour office visits, skilled nursing facility visits, home visits or other appropriate non-office visits such as emergency and inpatient.

2.1.4 Provider shall provide Medically Necessary Covered Services to Members with the same professional standards of care, skill and diligence customarily used by similar physicians in the community in which such services are rendered.

2.1.5 Provider shall render Medically Necessary Covered Services to Members in the same manner, in accordance with the same standards and with the same availability as offered to other patients.

2.1.6 Provider shall comply with all federal and state law relating to Advance Directives. Provider shall:

(a) Maintain written policies that address the rights of adult members to make decisions about medical care, including the right to accept or reject medical care, and the right to execute an advance directive. If the provider has a conscientious objection to carrying out an advance directive, it must be explained in the policies.

(b) Provide written information to adult members regarding each individual's right under state law to make decisions about medical care, and the provider's written policies concerning advance directives (including any conscientious objections).

(c) Document in the member's medical record whether the adult member has been provided the information and whether an advance directive has been exercised.

(d) Not discriminate against a member because of his or her decision to execute or not to execute an advance directive, and not make it a condition for the provision of care.

(e) Provide education to staff on issues concerning advance directives including notification of direct care providers of services, such as home health care and personal care, of any advance directives executed by members to whom they are assigned to provide services.

2.1.7 Provider shall comply with Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination In Employment Act, State Executive Order 75-5 and Federal Executive Order 11246 which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation, shall have equal access to employment opportunities. If applicable, Provider shall comply with Section 503 of the Rehabilitation Act of 1973, as amended which prohibits discrimination in the employment or advancement of the employment of qualified persons because of physical or mental handicap. If applicable, Provider shall comply with Title VI of the Civil Rights Act of 1964, which prohibits the denial of benefits of or participation in Covered Services on the basis of race, color or national origin. If applicable, Provider shall comply with the requirement of Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap in delivering Covered Services.

2.1.8 The Contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, the Contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to, suspension of work, termination of the contract for default and suspension and/or debarment of the Contractor.

2.1.9 Provider shall comply with federal regulations of the Occupational Safety and Health Administration including, without limitation, the regulations concerning Blood Borne Pathogens Standards at 29 C.F.R. Part 1910.1030, as amended.

2.1.10 Provider shall ensure that all handicapped persons have access to Provider facilities as required by applicable federal, state and local law.

2.1.11 If Provider is a PCP as set forth in Exhibit 1, Provider shall coordinate the provision of Medically Necessary Covered Services to Members through the following mechanisms:

(a) Counsel Members and their families regarding the Member's medical care needs, including family planning and advance directives;

(b) Initiate referrals for Medically Necessary Covered Services to Plan's contracted Participating Providers, in accordance with generally accepted standards of medical practice in the community and the Provider Reference Manual.

2.1.12 If Provider is a PCP as set forth in Exhibit 1, Provider shall provide preventive health services in accordance with AHCCCS rules and regulations, and Plan policies, as applicable. Preventive health services shall include, but not be limited to:

(a) Periodic health assessments for all Members twenty-one (21) years of age and over that include major medical, social history and family history within a two (2) year period;

(b) Immunization and tuberculosis screening (but not immunizations solely for travel) and other measures for the prevention and detection of disease, including instruction in personal healthcare measures and information on proper and timely use of medical resources;

(c) EPSDT services for all Members up to the age of twenty-one (21) years in accordance with Plan policies and utilizing AHCCCS EPSDT periodicity schedules, tracking forms and specific behavioral health services for certain eligible Members. Provider shall comply with all AHCCCS records and audit

requirements for EPSDT services. EPSDT Periodicity Tables are located in the EPSDT Section of the Provider Manual.

(d) Provider will strive to meet or exceed the AHCCCS Minimum Standard for each Performance Indicator. If the Provider has met or exceeded the Performance Standard, the Provider will strive to meet or exceed the AHCCCS Goal, and then Benchmark. The Plan Quality Improvement Department will measure these Performance Indicators on a yearly basis.

2.2 Capacity and Appointment Availability. To ensure that Provider can provide continued high quality care and adequate access to Members, Provider agrees to maintain the following standards or such subsequent standards adopted by Plan pursuant to Section 9.3 of this Agreement which allows Plan to amend this Agreement.

2.2.1 Each PCP shall accept a panel of no less than 100 Members.

2.2.2 If Provider is a PCP as set forth in Exhibit 1, Provider shall maintain the following appointment availability:

(a) Same day availability of appointments for emergency care;

(b) Two (2) day availability of appointments for urgent care; and

(c) Twenty-one (21) day availability of appointments for routine physical exams or health maintenance visits.

2.2.3 If Provider is an SCP as set forth in Exhibit 1, Provider shall maintain the following appointment availability:

(a) Within 24 hours of referral for emergency care;

(b) Within 3 days of referral for urgent care; and

(c) Within 45 days of referral for routine care.

2.2.4 Wait Times. Wait time for a member in a providers' office shall be no longer than forty-five minutes (45) unless due to an emergency.

2.3 Formulary. If available, Provider shall prescribe generic medications and medications listed in Plan's formulary in accordance with Plan policies. If not available or listed in the formulary, Provider shall obtain approval before prescribing medications in accordance with Prior Authorization policies. Provider understands not all medications are covered by the Plan.

2.4 Provider Facility Locations. Provider shall provide Medically Necessary Covered Services at locations approved by Plan. The approved locations are listed in Exhibit One. Provider shall not add, eliminate or change a location without sixty (60) days advance written notice to Plan and any affected Member and PHP.

2.5 Prior Authorization for Referrals and Other Services. Except for Emergency Medical Services, Provider shall obtain Prior Authorization for specified procedures and shall complete referral forms for Covered Services to be referred to a physician other than Members' assigned PCP, according to Plan policies and procedures. Except for Emergency Medical Services, or as otherwise authorized by the Medical Director (or designee) or required by AHCCCS, all referrals shall be to Participating Providers.

2.5.1 Provider shall initiate referrals at the time Provider determines the need which will enable the Member to receive care (a) within the same day for Emergency Medical Services, (b) within 2 days to receive Urgent Care services, and (c) within 30 days to receive routine care services.

2.5.2 If Provider is not Member's PCP, Provider shall provide to Member's PCP medical information in writing, within thirty (30) days of initial date of service, describing all Covered Services provided to Member.

2.5.3 If Provider is not contracted to provide obstetrical care, Provider shall refer pregnant Members to a participating SCO who is able to provide initial prenatal care appointments within the time requirements of AHCCCS rules and regulations as set forth in Section 2.5.3(d) below.

2.5.4 In the event Provider includes obstetrics within Provider's scope of practice as set for on Exhibit 1, the following provisions shall apply:

(a) Provider shall have training and experience in obstetrics/gynecology, have completed an approved training program, or be generally recognized by the physician community as being skilled in obstetrical/gynecological practice.

(b) Provider shall provide medically necessary obstetrical/gynecological Covered Services to members with the same standard of care, skill and diligence customarily used by licensed Obstetricians/Gynecologists in the community in which such services are rendered.

(c) Provider shall obtain Prior Authorization in accordance with the Plan's list of obstetrical services requiring Prior Authorization/Notification.

(d) Provider shall make provisions and schedule appointments for enrolled pregnant Members to obtain initial and ongoing prenatal care within the following time framework:

(i) First trimester – within fourteen (14) days of a request for an appointment.

(ii) Second trimester – within seven (7) days of a request for an appointment.

(iii) Third trimester – within three (3) days of a request for an appointment.

(iv) High risk prenatal care shall be initiated within three (3) days of identification of high risk, or immediately if an emergency exists.

(v) Provider shall schedule office visits during an uncomplicated pregnancy based upon the following recommended standards promulgated by the American College of Obstetrics and Gynecology (ACOG): every four (4) weeks for the first twenty-eight (28) weeks of pregnancy; every two (2) – three (3) weeks until thirty-six (36) weeks of gestation; and weekly thereafter.

(vi) Provider shall maintain responsibility for care for sixty (60) days after delivery with a minimum of one (1) postpartum visit at approximately six (6) weeks postpartum.

(vii) Provider shall schedule high risk patients as appropriate to their individual needs.

(e) Provider, upon the receipt of a PCP referral for continued obstetrical care, shall report the referral to the Plan patient coordinator (the "Coordinator") within two (2) working days. Provider shall report all multiparity pregnancies to the Coordinator within one (1) week of identification of multiparity. PCP Providers providing continued obstetrical care shall report any pregnancy to the Coordinator within (2) working days and shall report all multiparity pregnancies to the Coordinator within one (1) week of identification of multiparity.

(f) Referrals by PCPs to Provider are valid through the termination of pregnancy and for the number of days postpartum required by AHCCCS or the applicable Commercial Plan, provided Member has continued Plan enrollment.

(g) Provider may refer Members to a Plan participating perinatologist for consultation and/or continued obstetrical care upon Prior Authorization from Plan.

(h) Provider shall cooperate with perinatal case management and other perinatal support programs that may be authorized by Plan.

(i) Plan shall pay Provider for the provision of all Medically Necessary obstetrical Covered Services as provided in Exhibit 4B.

2.6 Staff Membership at Participating Hospitals.

2.6.1 Provider shall maintain staff membership and admission privileges in good standing with at least one of the hospitals with which Plan has contracted as a Participating Provider; or have a Hospitalist Agreement with at least one of the hospitals with which the plan has contracted as a Participating Provider, or as otherwise permitted by Plan.

2.6.2 Provider shall admit Members only to contracted Hospitals except (a) as otherwise approved by Plan; (b) if Emergency Medical Services are required; (c) as otherwise described in the Provider Reference Manual; or (d) as otherwise required by law or AHCCCS regulation.

2.7 Utilization Management

2.7.1 Provider shall comply with and cooperate in Plan's Utilization Management review activities as set forth in Section 3.6.

2.7.2 Plan may conduct medical and utilization review of claims submitted by Provider to ascertain Medical Necessity and appropriateness of costs.

2.7.3 Provider shall designate appropriate personnel to facilitate Plan's Utilization Management reviews (including Prior Authorization, concurrent and retrospective review) and Quality Management. Provider shall provide Plan with timely access to Member's medical records to facilitate Utilization Management review and Quality Management.

2.7.4 Provider shall compile and provide utilization and quality review information to Plan, subject to applicable laws, in a manner intended to assess and enhance performance with regard to quality of care, quality of service and cost effectiveness as required by Plan and AHCCCS.

2.8 Quality Management Compliance. Provider shall comply with the Plan Quality Management program and other programs as may be adopted by Plan, and the National Committee for Quality Assurance (NCQA), or required by regulatory agencies such as AHCCCS or HCFA. Provider shall allow Plan or its agents to conduct periodic audits and site surveys upon reasonable notice and during regular office hours for the purpose of evaluating compliance with Quality Management standards.

2.9 Licensure and Credentialing

2.9.1 Provider shall comply with, and shall ensure that all PHP's, if any, comply with, Plan's standards and procedures regarding the credentialing and approval of Provider and PHP's for participation under this Agreement. Provider shall comply with, and shall ensure that all PHP's comply with, all federal and state laws and regulations regarding licensure, Medicare and AHCCCS certification and Drug Enforcement Administration number(s) and Plan requirements regarding credentialing.

2.9.2 Provider shall give immediate written notice to Plan if Provider or any PHP's license to practice or ability to participate in AHCCCS Plans is lost, suspended or limited in any way that affects Provider or PHP's ability to provide services under this Agreement. Provider shall furnish to Plan such evidence of hospital privileges, malpractice history, licensure history, and specialty certifications as Plan may request.

2.9.3 If Provider is licensed, certified or accredited by an agency, such as the Occupational Safety and Health Administration (OSHA) or Clinical Laboratory Improvement Act (CLIA), Joint Commission on the Accreditation of Healthcare Organizations (JCAHO), National Committee on Quality Assurance (NCQA) or AAHC, Provider shall furnish such evidence of licensure, certification or accreditation to Plan. Provider shall give immediate written notice to Plan if such licensure, certificate or accreditation is lost, suspended or limited in any way.

2.9.4 Provider and PHP's shall at all times be registered with AHCCCS as an authorized AHCCCS provider in good standing. Provider may not provide or bill for services if not registered with AHCCCS.

2.9.5 Complaint, Inquiry, Investigation or Review. Provider shall notify Plan immediately of the initiation of any lawsuit, complaint, inquiry, investigation, review or action by any licensing or regulatory authority, organization or body which directly or indirectly evaluates or focuses on the quality of care provided by Provider or Affiliated Physicians, either in any specific instance or in general, or which may, if sustained, materially impede Provider or PHP's ability to meet its duties and obligations under this Agreement.

2.10 Member Eligibility. Pursuant to the procedures set forth in Plan Policy, and based on eligibility lists supplied to Provider by Plan and the eligibility verification procedure set forth in Section 3.1 below, Provider shall determine whether Members are eligible for Covered Services. It is Provider's responsibility to verify the enrollment and assignment of all Members with Plan on the date of service, and failure to do so may result in a claim being denied. Receipt of an approved referral does not verify member's eligibility at the time of service with the Provider.

2.10.1 Provider will notify Plan of any Member activity that causes suspicion of fraud against the Plan.

2.11 New Members. Provider shall accept all Members who select that Provider as their PCP. Panel size is to be no less than 100 members.

2.12 Panel Closure – Member Access. Provider shall not close a patient panel without sixty (60) days' advance written notice to Plan and without written approval of Plan. Provider will comply and cooperate with all requests for records needed to transition members to other providers in accordance with Plan and AHCCCS policy.

2.13 Management and Services Responsibilities. The operation and maintenance of the offices, facilities and equipment of Provider and the provision of all Covered Services, shall be solely and exclusively under the professional control and supervision of Provider. Plan shall have no right of control over the selection of support staff, the supervision of personnel, or the financial operation of Provider's practice. Nothing contained in this Agreement shall be construed as giving Plan any right to manage or conduct the practice of Provider as manager, proprietor, lessor or otherwise. The Provider is required to meet all AHCCCS Plan requirements for facilities and member services.

2.14 Prohibitions on Member Billing. Provider agrees that in no event, including, but not limited to, nonpayment by Plan, Plan's insolvency or breach of this Agreement, shall Provider bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from, or have any recourse against a Member or persons other than Plan acting on a Member's behalf for Covered Services provided pursuant to this Agreement. This provision shall not prohibit collection of Copayment in accordance with the terms of Arizona Administrative Code, Title 9, Chapter 22, R9-22-711 as amended. However, Provider shall not refuse to provide Covered Services to members who are unable to pay a Copayment. Provider further agrees that (a) this provision shall survive the termination of this Agreement regardless of the cause giving rise to termination and shall be construed to be for the benefit of the Member, and (b) this provision supersedes any oral or written contrary agreement now existing or hereafter entered into between Provider and Member or persons acting on their behalf.

2.14.1 Non-covered services may be billed to the Member only if a waiver has been signed by the member and all costs associated with the services have been disclosed in advance to the Member. The Member must understand that the service will not be covered by the Plan.

2.15 Encounter Claims/Utilization Data. Provider shall submit a claim for all covered services, whether capitated or not, per CMS guidelines including the Vaccine For Children Program immunizations for all members for whom Provider receives payments. Such claims data shall be submitted on a CMS 1500 form within ninety (90) days after the Covered Services are rendered. Claims data elements shall include, but not be limited to the items set forth in Section 2.2 on Exhibits 3 and 4 to ensure Plan is in compliance with all AHCCCS reporting requirements related to claims data.

2.15.1 Plan reserves the right to audit provider's billing procedures and claims at any time, and provider agrees to fully cooperate and provide necessary records for such audit.

2.15.2 Provider agrees to have procedures in place that will insure proper coding, billing, and documentation is occurring within the Provider office.

2.16 Orientation. Provider or designee shall attend a Plan orientation. In addition the provider or designee are required to attend one (1) Provider Update meeting per year with the Plan Medical Director. If the provider chooses to send a designee, the Provider is responsible for all information disseminated, written or oral, at Orientation and Provider Update meetings.

2.17 Laws, Rules and Regulations; Policies and Procedures. Provider shall comply with all laws relating to AHCCCS and all AHCCCS regulations, provisions or policies, and Plan rules and regulations, policies and procedures governing performance of duties under this Agreement, including those in the AHCCCS Standard Subcontract Terms and Conditions attached as Exhibit 5. Provider shall comply with all federal, state and local laws, regulations, standards and executive orders governing performance of duties under this Agreement, including, but not limited to, all provisions relating to Provider participation in AHCCCS, prohibitions on kickbacks or improper practices under 42 U.S.C. § 1320a-7 et seq. and 42 U.S.C. § 1395nn (the Anti-Fraud and Abuse and Stark Laws) and provisions for physician incentive arrangements pursuant to 42 U.S.C. § 1395mm(i) and related regulations. Provider will appropriately report all incidents of suspected child and vulnerable adult abuse to proper authorities and to Plan.

2.18 Facility Inspection. Provider shall allow Plan or its agents to inspect Provider premises and operations upon reasonable notice and during regular office hours to ensure that such premises and operations are adequate to meet Member's needs. The facility will be inspected prior to the Provider beginning to see patients.

2.19 Member Information. All information about and concerning Members, including their names and addresses ("Information") is considered confidential and proprietary to Plan. Except as otherwise required by Section 5, as is Medically Necessary or as required by the physician-patient relationship, Provider shall not use any Information or contact Members without the advance written consent of Plan. Changes in practice (location, PHP termination with

Provider, etc) must all be communicated to the Member by the Plan. The provisions of this Section 2.19 shall survive the termination of this Agreement. Nothing in this Section shall be construed to limit communications between Provider and Members necessary for the provision of Covered Services.

2.20 Data Exchange Requirement. Provider shall meet any AHCCCS Plan required technical and procedural requirements for data exchange interfaces between or among AHCCCS, Plan and Provider. Provider shall comply with any technical requirements as mandated by AHCCCS from time to time. Provider shall implement any applicable ANSI electronic data interchange ("EDI") standards required by AHCCCS or the Plan.

2.21 Cultural Competency. All providers must offer high quality services in a culturally competent manner. In providing this care, the provider must be aware of and sensitive to the patient's cultural needs. Factors that influence culture include but are not limited to: race, ethnicity, where one was raised, language, age, gender, socioeconomic status, religion, values and beliefs, family structure, sexual orientation, homelessness, physical and mental ability.

2.22 Interpretative Services. The Plan, in conjunction with the provider, shall provide interpretive services to those members needing such services. If the provider is aware that a member is in need of interpretive services, the provider shall assist the member in contacting the Plan to arrange for these services.

SECTION 3. RIGHTS, RESPONSIBILITIES AND OBLIGATIONS OF PLAN

3.1 Administration. Plan agrees to administer the provisions of this Agreement according to AHCCCS requirements. This includes Prior Authorization, Utilization Management, Quality Management, Member Services, Provider Services, fiscal services, claims processing and information reporting.

3.1.1 Member Eligibility Verification. Plan shall maintain a 24-hour per day, seven day a week telephone or on-line service to assist Provider in verifying the eligibility of a Member.

3.1.2 Eligibility List. Plan shall provide to Provider monthly a list of all Members eligible to receive Covered Services under this Agreement who have selected Provider or a PHP as their PCP.

3.2 Orientation, Education and Communication. Plan will assign a Provider representative to provide initial orientation, ongoing education and operational assistance to Provider regarding participation with Plan.

3.3 Policies and Procedures. Plan shall develop and maintain policies and procedures and shall make copies of these policies, procedures and the Provider Reference Manual available to Provider. During the term of this Agreement, Plan shall notify Provider of any modifications to the policies and procedures.

3.4 Compensation

3.4.1 Provider. Plan shall compensate Provider for Medically Necessary Covered Services delivered under this Agreement as set forth in Exhibit 3 (pertaining to PCP Compensation) or Exhibit 4 (pertaining to Specialty Compensation). Provider shall accept the compensation set forth in this Agreement and Exhibits 3 and 4, including the coordination of benefits provisions, less applicable Copayments, deductibles and coinsurance, as payment in full for all Covered Services provided by Provider to Members pursuant to this Agreement. Plan shall have no obligation or responsibility to make any compensation directly to any PHP.

3.4.2 Back-up Coverage. Provider shall compensate Replacement Physician who, upon the request of Provider, provides Medically Necessary Covered Services included under the Capitation Payment set forth in Exhibits 3 or 4. Payment for these services shall be decided between Provider and Replacement Physician, and is not the financial responsibility of Plan. The Replacement Physician shall fulfill all Prior Authorization and reporting requirements of Provider.

3.5 Utilization Information. Plan will compile and provide utilization review information to Provider in a manner intended to assess and enhance performance with regard to quality of care, quality of service and cost effectiveness.

3.6 Utilization Management. Plan or its designee shall perform Utilization Management services, including but not limited to, the following:

3.6.1 Selective Prospective Review. Through its Prior Authorization process, Plan shall confirm Member's eligibility and ensure proposed services are Medically Necessary Covered Services and are provided at the most appropriate level of care and site.

3.6.2 Inpatient Case Management. Plan's reviewers for Inpatient Services shall provide on-site or telephonic nurse reviewers for Utilization Management and discharge planning.

3.6.3. Outpatient Case Management. Plan's case reviewers for Outpatient Services shall assess, plan, coordinate, monitor and evaluate options and care relating to Outpatient Services to meet a Member's health needs.

3.6.4 Retrospective Review. Plan may conduct retrospective review of all Covered Services including Inpatient, Outpatient, Emergency Services provided by Provider and any PHP to determine appropriateness and medical necessity of such services. If review shows provision of inappropriate, not medically necessary services, recoupment may occur.

SECTION 4. JOINT OBLIGATIONS

4.1 Relationship.

4.1.1 Independent Contractors. This Agreement is not intended to create nor shall be construed to create any relationship between Plan and Provider other than that of independent contractors. Neither Plan nor Provider is acting as the agents, employers, employees or representatives of the other.

4.1.2 Nothing in this Agreement, including Provider's participation in the Quality Management and Utilization Management programs, shall be construed to interfere with or in any way affect Provider's obligation to exercise independent medical judgment in rendering Covered Services to Members.

4.1.3 Provider and its employees and independent contractors shall be solely responsible for the payment of any and all taxes, penalties, assessments and interest thereon which may be due or assessed by any governmental entity or agency, and shall hold Plan, AHCCCS harmless therefore, which taxes, penalties, assessments and interest may arise out of monies earned, collected, paid to or charged by Provider for Covered services rendered to Members.

4.1.4 No educational program or audit process shall be construed to substitute for provider's responsibility for their own actions and/or interpretation of such educational materials.

4.2 Member Grievances and Request for Hearing. Provider acknowledges receipt of the Plan grievance procedure for Plan Members and shall cooperate with Plan in the implementation of that procedure and shall assist Plan in taking appropriate corrective action. Provider agrees to comply with all final determinations pursuant to AHCCCS, Plan grievance policies and procedures, as applicable. Within five (5) days of receipt of a grievance, Provider shall provide Plan with a copy of that grievance and the Provider's written response.

4.2.1 Provider agrees to conduct a good faith investigation of all Member complaints, to make every effort to resolve complaints informally, and to notify Plan promptly of any Member grievances known by Provider.

4.2.2 Each party shall promptly notify the other in writing of any claim or lawsuit which has been asserted or is suspected or anticipated which involves a Plan Member or which may affect the other party.

SECTION 5. RECORDS

5.1 Member Records. Provider shall maintain records and information including, but not limited to, medical records for Members related to the provision of Covered Services to Members, billed charges, payments received by Provider from Plan or Members, and all records described in Exhibit 5 (collectively, the "Records"), in accordance with general standards applicable to such records.

5.1.1 Provider shall make the Records available to other medical providers, subject to applicable confidentiality requirements, when such Records are necessary for treating a Member. Provider shall retain all Records for a minimum of ten (10) years from the date of service.

5.1.2 During the term of this Agreement and at any time thereafter that such access is reasonably required in connection with a Member's health care or review of Provider's compliance under this Agreement, Provider shall provide Plan or its designee, or its designee and AHCCCS or designee with reasonable access during regular business hours to the Records maintained by Provider. Provider shall allow Plan or its designee, and AHCCCS or designee reasonable access to review, copy or obtain specified records or documents at no charge. Further, Provider agrees to furnish to Plan at no charge copies of all medical records, x-rays, laboratory reports or any other patient care information within ten (10) working days of receipt of request.

5.1.3 Provider shall maintain and furnish such records and documents, both medical and non-medical, as required by applicable federal and state laws, rules and regulations including if applicable 42 U.S.C. §1395x(v)(1)(I) and Plan medical record standards and as specifically required by Arizona Administrative Code, Title 9, Chapter 22, R9-22-402 (10) as amended. Provider agrees to cooperate with Plan to facilitate the record and information exchanges necessary for the Quality Management program, Utilization Management, peer review, billing compliance, or other programs required for Plan, or AHCCCS operations.

5.2 Confidentiality. Plan and Provider agree that medical records of Members, as well as quality and utilization management records, shall be regarded as confidential and both shall comply with all applicable federal and state laws and regulations regarding such records, including Arizona Administrative Code, Title 9, Chapter 22, R9-22-402 (11), as amended.

SECTION 6. TERM OF AGREEMENT, RENEWAL AND TERMINATION

6.1 Term of Agreement. This Agreement shall begin on the effective date set forth above and shall continue for two (2) years unless continued or terminated as set forth below.

6.2 Renewal. This Agreement shall be automatically renewed under the same terms and conditions for additional two (2) year terms unless either Plan or Provider gives written notice to the other no less than sixty (60) days before the expiration of the Term or any renewal Term.

6.3 Termination.

6.3.1 For Cause. Provider or Plan may terminate this Agreement at any time for cause. Cause includes, but is not limited to:

(a) Failure of Plan to secure an AHCCCS contract or cancellation, termination or material modification of Plan's contract with AHCCCS.

(b) Failure of Plan to make required payments to Provider.

(c) Initiation of bankruptcy proceedings by or against either party.

(d) Material breach of this Agreement by either party.

(e) Failure by Provider to maintain licenses, federal certification, designation or registration required to perform Provider's duties under this Agreement, or to comply with applicable laws or regulations.

(f) Any misrepresentation or falsification of any information on any PHP's application and/or any other relevant document provided by Provider to Plan.

(g) Any suspension, termination, limitation or reduction of any Provider's privileges at any hospital or any Provider's failure to obtain or remain in good standing for privileges at a hospital.

(h) Commission or omission of any act or any conduct or allegation of conduct for which any Provider's license or ability to participate in Medicare or AHCCCS may be subject to revocation, suspension or limitation, whether or not actually revoked, suspended or limited, or if Provider is otherwise disciplined by any licensing, regulatory, professional entity, or any professional organization with jurisdiction over Provider.

(i) Failure of any Provider to maintain required insurance and liability coverage protection, or failure of Provider to maintain such coverage on behalf of any PHP.

(j) Commission or omission of any act or conduct by Provider which is detrimental to a Member's health or safety as determined by Plan.

(k) Billing, coding, and/or documentation which do not comply with relevant Medicaid guidelines, relevant state requirements, and/or relevant Plan requirements.

(l) Failure of provider to meet with Plan representatives upon reasonable Request to discuss any/all Plan requirements.

Any occurrence under paragraphs (e) through (l) above shall be grounds for immediate termination of PHP. Termination for any other reason set forth above shall be upon thirty (30) days advance written notice by the terminating party.

6.3.2 Without Cause. This Agreement may be terminated at any time without cause or prejudice upon ninety (90) days advance written notice by either party.

6.4 Rights and Obligations Upon Termination. Upon termination of this Agreement, regardless of cause or reason, AHCCCS shall be notified and all rights and obligations of the parties relating to services during the term of and under this Agreement shall survive the termination.

6.4.1 Upon termination, Provider's obligations or right to render Covered Services to Members or right to receive payment in accordance with this Agreement shall immediately cease, except for any payments due before such termination. Notwithstanding anything contained herein to the contrary, Plan shall continue to pay Provider in accordance with the provisions of this Agreement for Medically Necessary Covered Services provided by Provider to any Members required for continuity of care or hospitalized at the time of termination of this Agreement, pending discharge or transfer of such Member to a Plan Participating Hospital when medically appropriate as determined solely by Plan. In continuing to provide such Covered Services, Provider shall abide by the applicable terms and conditions of this Agreement.

6.4.2 Provider shall refund that portion of Capitation Payments, if any, received by Provider applicable to periods following termination of this Agreement. In addition, Provider shall refund to Plan any monies paid for Covered Services not rendered or not delivered in compliance with applicable laws, rules and regulations.

6.4.3 Provider has no obligation under this Agreement to provide services to individuals who cease to be eligible and enrolled Members nor does Plan have any obligation to make payment for any services provided to such individuals.

6.4.4 Upon termination of this Agreement for any reason, the rights of each party under this Agreement shall terminate. Any such termination, however, shall not release Provider or Plan from obligations under this Agreement in effect before the effective date of termination.

SECTION 7. INSURANCE AND LIABILITY

7.1 Insurance. Provider shall be responsible for providing all health, accident, workers' compensation, general liability and other appropriate insurance for Provider and all PHP's (including employees) in connection with or under this Agreement. Provider shall provide Plan with certificates of insurance annually.

7.2 Provider Professional Liability. Throughout the term of this Agreement, Provider shall maintain at Provider's expense, for Provider and all PHP's, if any, general and professional liability coverage in a form and amounts acceptable to Plan. At a minimum coverage will be $1,000,000 per occurrence and $3,000,000 in aggregate. Certificates of insurance to be provided to the Plan annually. In the event such coverage is claims-made insurance, Provider shall maintain such coverage continuously, and in the event of PHP leaving Provider, or termination of this Agreement, Provider shall secure, or require each such PHP to secure, tail coverage with agreed limits of liability to provide continuous coverage for the period of the relevant statute of limitations for any claims that may arise against Plan as a result of the act or omission of Provider or any PHP under this Agreement. Provider shall give Plan thirty (30) days prior written notice of cancellation, modification or termination of any such insurance. Provider shall give Plan prompt written notice of any claims against Provider's or any PHP's professional liability coverage.

7.3 Indemnification. Provider shall hold harmless the State of Arizona, all State officers and employees, AHCCCS and employees of AHCCCS and all AHCCCS members in the event of nonpayment by Plan to Provider. Provider shall further indemnify and hold harmless Plan, its officers and directors, the State and AHCCCS, and their agents, officers and employees, against all injuries, deaths, losses, damages, claims, suits, liabilities, judgments, costs and expenses (including attorneys' fees) which may in any manner accrue against Plan, the State or AHCCCS, or their agents, officers or employees, through the intentional conduct, negligence or omission of Provider, its agents, officers, employees or contractors, arising out of or relating to this Agreement or the provision of Covered Services under this Agreement. Provider agrees that Plan, its officers and directors, the State and AHCCCS, and their agents, officers and employees shall have no responsibility or liability for any such taxes or insurance coverage described in this Agreement.

7.4 Survival. The provisions of this Section 7 shall survive the termination of this Agreement.

SECTION 8. REPRESENTATIONS

8.1 Provider Representation. Provider represents and warrants that the information set forth in the Plan Provider application is true and correct and that all such information regarding PHP's, if any, is true and correct. Provider shall promptly notify Plan in writing of any changes in the information contained in the application within thirty (30) days of such change.

8.2 Member Guarantees. Plan makes no representations or guarantees concerning the number of Members it can or will refer to Provider under this Agreement. Plan reserves the right to direct business to selected PHPs at specified medical facilities or in specified geographic areas.

8.3 Marketing and Signage.

8.3.1 Provider agrees that Provider's and each PHP's name, office telephone number, address, specialty, board certification, hospital affiliation, education, schools attended, language fluency and special interests may be included in literature distributed by Plan to existing or potential Members and Participating Providers.

8.3.2 Plan may use Provider's and each PHP's name and affiliation with Plan in advertising, promoting and soliciting Members in an effort to increase membership and to otherwise carry out the terms of this Agreement and Plan's contract with AHCCCS.

8.3.3 Except as set forth above, Provider's or PHP's use of Plan's name, or of Provider or PHP's name by Plan, shall be upon advance written consent, such consent not to be unreasonably withheld.

SECTION 9. GENERAL PROVISIONS

9.1 Assignment and Delegation of Duties. Neither Plan nor Provider may assign duties, rights or interests under this Agreement without the advance written approval of the other party and AHCCCS; provided, however, that any reference to Plan shall include any successor in interest and that Plan may assign its duties, rights and interests under this Agreement in whole or in part to a Plan affiliate, subsidiary or other entity controlled by Plan or may delegate any and all of its duties in the ordinary course of business, subject to AHCCCS laws, rules and regulations.

9.2 Interpretation. This Agreement shall be governed by and construed in accordance with all applicable federal and Arizona laws, rules and contractual obligations of Plan.

9.3 Amendments. Plan may amend this Agreement, the exhibits and the Provider Reference Manual by providing advance written notice to Provider and AHCCCS in accordance with applicable policies and procedures as established by Plan and AHCCCS.

9.3.1 Failure of Provider to object in writing to any such proposed amendment within thirty (30) days following receipt of notice shall constitute Provider's acceptance of the amendment.

9.3.2 In the event that state or federal law or regulations should change, alter or modify the present services, levels of payments to Plan, standards of eligibility of Members, or any operations of Plan, such that the terms, benefits and conditions of this Agreement must be changed accordingly, then upon notice from Plan, Provider shall continue to perform services under this Agreement as modified.

9.3.3 In the event that any updates or revisions to the most current HCFA Common Procedure Coding System (HCPCS), Current Procedural Terminology (CPT) or International Classification of Diseases (ICD)-9 Codes should occur during the term of this Agreement, Provider agrees to employ the most recent update or revisions without request by Plan.

9.4 Exhibits. The Exhibits are a part of this Agreement and their terms shall supersede those of other parts of this Agreement in the event of a conflict.

9.5 Entire Agreement. This Agreement, its Exhibits and the documents referred to in this Agreement constitute the entire agreement between the parities, and supersede all other understandings, express or implied, oral or written.

9.6 Notice. Any notice required under this Agreement shall be in writing and shall be sent by United States mail, postage prepaid, to the Executive Director of Plan at:

University Physicians Health Plans
Executive Director

2701 E. Elvira Rd
Tucson, Arizona 85756

and to Provider at the first address set forth on the signature page of this Agreement. The date of receipt shall be five (5) calendar days from the date of mailing.

9.7 Enforceability and Waiver. The invalidity and non-enforceability of any term or provision of this Agreement shall in no way affect the validity or enforceability of any other term or provision. The waiver by either party of a breach of any provision of this Agreement shall not operate as or be construed as a waiver of any subsequent breach thereof.

9.8 Regulatory Approval. In the event that Plan has not been licensed or has not received any applicable regulatory approval for use of this Agreement prior to the execution of this Agreement, this Agreement shall be deemed to be a binding letter of intent. In such event, the Agreement shall become effective on the date that such regulatory approval is obtained. If Plan is unable to obtain such licensure or approval after due diligence, Plan shall notify Provider and both parties shall be released from any liability under this Agreement; provided, however, that if such licensure or approval is obtained upon the condition of Plan's amendment of this Agreement, then this Agreement shall continue and Plan shall amend pursuant to Section 9.3.

9.9 Dispute Resolution. All disputes under this Agreement shall be resolved through the relevant AHCCCS dispute resolution procedures, including but not limited to those set forth in Arizona Administrative Code, Title 9, Chapter 22, R9-22-804, or the Plan's Member Grievances Policy and Procedure, depending upon whether the Member is enrolled in AHCCCS.

SECTION 10. CONFIDENTIALITY OF THIS AGREEMENT AND PLAN OPERATIONS

Unless otherwise required by AHCCCS or other rules or regulations, the terms and conditions of this Agreement, including financial rates and information relating to Plan operations, are proprietary information and shall not be disclosed or disseminated by Provider or any of its agents or representatives whether during negotiation, during the term of this Agreement, or after its termination.

SECTION 11. PROVIDER APPEALS AND REQUEST FOR STATE FAIR HEARING

11.1 Right to File an Appeal and Request for State Fair Hearing. The Provider has the right to file an Appeal and Request for State Fair Hearing in response to any adverse action or decision made by the Plan. Both the Provider and the Plan agree to attempt to resolve the disputes informally prior to initiating a formal appeal. If the Parties are unable to reach a resolution, both the Provider and the Plan agree to follow the appeals process defined by AHCCCS Arizona Administrative Code R9-22-801 et. seq.

11.2 The Appeals Process.

11.2.1 Non-claims issue. A Provider has the right to file an appeal on any adverse decisions or actions made by the Plan. An Appeal must be submitted to the Plan in writing within sixty (60) days of the adverse action/decision and must include the requestor's name, address, telephone number, the member name, identification number, the adverse action and an explanation as to the reason for filing.

Once the Provider has submitted a written appeal to the Plan, the Plan will send an acknowledgement letter within five (5) days by certified mail. The Plan will respond to all appeals within thirty (30) days from the date the Plan receives the appeal. The Plan will mail a final written decision by certified mail. The decision letter will clearly specify the nature of the appeal, issues involved, the contractual provisions, or policies and an explanation of the complainant's right to Request for State Fair Hearing decision to AHCCCS Administration, in writing, no later than thirty (30) days following the date of the final decision. This information will be provided to the complainant regardless of whether the decision is reversed or upheld. If an extension is necessary, the Plan will forward the notification.

11.2.2 Claims Issues. All provider resubmissions challenging claims denials will be processed through the Claims Department Customer Service Representative as a resubmission with a final decision within thirty (30) calendar days. If after the resubmission decision the provider is dissatisfied, a formal appeal may be submitted. The Provider must notify the Plan in writing. The Provider may submit a claims appeal within twelve (12) months from the date of service, twelve (12) months after the date of eligibility posting or within sixty (60) days after the date of a timely submission, whichever is later. All claims appeals from providers will be researched and a final decision will be rendered within thirty (30) days. The provider must include a copy of the claim and supporting documentation for the billed charges.

11.2.3 How to File an Appeal. All formal Appeals should be submitted in writing to the Plan Appeals Manager at the address listed below:

University Physicians Health Plans
Attention: Appeals Manager
2701 E. Elvira Rd
Tucson, AZ. 85756

The following documentation must be submitted with the written grievance:

- Cover letter stating the problem and a proposal for resolving the dispute;
- Provider name, address, phone number and a description explaining the grievance;
- A copy of the claim (if billing issue); and
- A copy of all supporting documentation to support the billed charges
- Member name and Identification Number

11.3 Filing a Request for State Fair Hearing Decision. If the Provider is not satisfied with the appeal decision, the provider may file a written notice for a Request for State Fair Hearing. The Request for State Fair Hearing notice must be received by the Plan within thirty (30) calendar days from the date of the postmark of the appeals decision. The Request for State Fair Hearing only needs to state that the requestor does not agree with the decision. The Plan will forward a copy of the Request for State Fair Hearing and the Plan's file to the State AHCCCS Office of Appeals and State Fair Hearings within five (5) working days. AHCCCS will either issue an informal decision or schedule a hearing. The provider filing a request for hearing will need to appear at the hearing in person or telephonically. A hearing date will be scheduled by AHCCCS.

(Remainder of this page left blank intentionally)

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the effective date.

UNIVERSITY PHYSICIANS HEALTHCARE
dba UNIVERSITY PHYSICIANS HEALTH PLANS

Date: 9/8/09

By: _____
(Signature)

Kathleen Oestreich
(Please print or type name)

Title: Chief Executive Officer

Gila County Health Department

Date: 10/6/09

By: _____
(Signature)

Shirley Dawson
(Please print or type name)

Title: Chairman, Board of Supervisors

NPI #	1700941507 (Globe) 1760547566 (Payson)
AHCCCS ID #	479718 (Globe) 486250 (Payson)
Federal Tax I.D. Number:	86-6000444
Tax I.D. Registered Name:	Gila County
Telephone Number:	928-425-3231
Fax Number:	928-425-0794
Billing Address:	5515 S Apache Ave Ste 100 Globe, AZ 85501

Approved as to form
Bryan B. Chambers
Chief Deputy County Attorney

EXHIBIT SCHEDULE
For
Gila County Health Department

Exhibits Included in this Contract are marked with an "X"

Providers:

- ☒ Exhibit 1 Provider Identification
- ☒ Exhibit 3 Compensation – Primary Care
- ☐ Exhibit 3A Payment Schedule – Primary Care
- ☐ Exhibit 4 Compensation – Specialist
- ☐ Exhibit 4B Compensation – Obstetrics
- ☐ Exhibit 4C Compensation – Radiology
- ☒ Exhibit 5 AHCCCS Subcontract Provision (all providers)
- ☒ Exhibit 6 University Physicians Care Advantage (all providers)

Facilities:

- ☐ Exhibit 1 Provider Identification
- ☐ Exhibit 2 Facility Compensation
- ☐ Exhibit 3 Scope of Services
- ☐ Exhibit 5 AHCCCS Subcontract Provision (all providers)
- ☐ Exhibit 6 University Physicians Care Advantage (all providers)

Ancillary:

- ☐ Exhibit 1 Provider Identification
- ☐ Exhibit 2 Ancillary Compensation
- ☐ Exhibit 2A Fee Schedule
- ☐ Exhibit 4C Compensation – Radiology
- ☐ Exhibit 5 AHCCCS Subcontract Provision (all providers)
- ☐ Exhibit 6 University Physicians Care Advantage (all providers)

Hospital:

- ☐ Exhibit 1 Provider Identification
- ☐ Exhibit 2 Compensation
- ☐ Exhibit 3 Scope of Service
- ☐ Exhibit 5 AHCCCS Subcontract Provision (all providers)
- ☐ Exhibit 6 University Physicians Care Advantage (all providers)

EXHIBIT 1
FOR
Gila County Health Department

Check One:

Provider is ☒ Primary Care Physician

☐ Primary Care Physician including Obstetrics

☐ Specialty Care Physician (Specialty: _ _____)

☐ Specialty Care Obstetrician

☐ Ancillary Service Provider _____

☐ Other_____

List of all Participating Health Providers (PHP) and Practice Areas to provide Covered Services under this Agreement:

Name	Practice Specialty	AHCCCS ID#	NPI #
Michael R Durham MD	General Pediatrics	046559	1730130022

List all locations for Provider under this Agreement:

5515 S Apache Ave Ste 100
Globe, AZ 85501

107 W Frontier Ste A
Payson, AZ 85541

Phone (928) 402-8812
Fax (928) 425-0794

NOTE: Provider must notify plan of additions or changes in locations and providers, to get paid for services.

*** If additional space is needed, please attach a sheet indicating providers and locations. Please indicate on the exhibit that there is an additional attachment.

EXHIBIT 3
COMPENSATION – PRIMARY CARE PHYSICIAN
For
Gila County Health Department

THIS EXHIBIT 3 ONLY APPLIES TO THOSE PROVIDERS CLASSIFIED AS PRIMARY CARE PHYSICIANS AS INDICATED IN EXHIBIT 1

SECTION 1. METHOD OF PAYMENT

1.1 Fee-for-Service Services. Plan will reimburse Provider on a fee for service basis according to the fee schedule in 1.1.1. and 1.1.2, less applicable copayments, for Medically Necessary Covered Services provided to Member. Plan shall pay Provider for these services if such services are Medically Necessary and Prior Authorized by the Plan, based upon the lessor of the billed charge or the Plan fee schedule.

1.1.1 ***University Family Care and KidsCare*** enrollees, Plan Fee Schedule is ninety percent (90%) of the AHCCCS fee schedule less applicable copayment, coinsurance and deductible as determined by the AHCCCS Administration. Upon complying with the Notice requirements of Section 9.4 in the Agreement, Plan reserves the right to change the percentage indicated above at its discretion. In the event that a procedure is not listed on the AHCCCS fee schedule, or the service is not assigned an amount, Plan will reimburse Provider at sixty-five percent (65%) of billed charges, whichever is less, not to exceed usual, reasonable, and customary charges, less any applicable copayment, coinsurance and deductible. No payment will be made for Covered Services that are determined to be unallowable, excessive or inappropriate after retrospective review by Plan.

Usual, reasonable, and customary means the usual charge made by a physician or supplier of services, medicine, or supplies. This fee will not exceed the general level of charge determined by others rendering or furnishing such services, medicines, or supplies within an area in which the charge is incurred for sickness or injuries comparable in severity and nature to the sickness or injury being treated. The term "area", as it would apply to any particular service, medicine, or supply, means a county or such greater areas as is necessary to obtain a representative cross section of level of charges.

1.2 Ineligible Covered Persons: Negative Retroactivity. In the event Plan determines, at any time, that a Member is ineligible or terminated from coverage by AHCCCS or the Plan, Provider shall return to Plan any capitation or fee for service payments paid by Plan for that Member on or after the effective date of Member's termination or ineligibility. Provider may seek payment for Medically Necessary Covered Services provided to an ineligible or terminated Member after loss of eligibility or the termination date from either a new third party payor or from the individual.

1.3 Prior Authorization. Provider must receive Prior Authorization from Plan for any fee-for-service Medically Necessary Covered Services provided to the Member in accordance with Plan policies. Failure to follow Plan's Prior Authorization/Notification policy may result in denial of payment. Prior authorization is not a guarantee of payment. Provider must meet all terms and conditions of provision of care, documentation, and billing.

1.4 In-Area Services.

1.4.1 Provider shall provide "in-area" Medically Necessary Covered Services to Members assigned to the Provider.

1.4.2 Provider shall assist with timely discharges of Members receiving "in-area" inpatient services.

1.4.3 Plan shall assist in concurrent review and discharge planning services to Members assigned to Provider who are receiving "in-area" inpatient services.

1.5 Out-of-Area Services.

1.5.1 Plan shall assume payment responsibility for all "out-of-area" Medically Necessary Covered Services provided to Members assigned to Provider when such services cannot be performed "in-area" and Prior Authorization requirements have been met. "Out-of-Area" means all Medically Necessary Covered Services provided outside service area.

1.5.2 Plan and Provider shall oversee concurrent review and discharge planning services to Members assigned to Provider who are receiving "out-of-area" inpatient services.

1.5.3 Plan and Provider shall coordinate and facilitate timely discharges back to Member's service area.

1.5.4 Provider agrees to assist in the nursing home placements utilizing Plan contracted facilities.

1.5.5 Provider and Plan shall arrange for inter-facility transfers of Members back into "in-area" service and Plan shall assume financial responsibility.

1.6 Excluded Services. The Provider is not responsible for providing, and the Plan is not responsible for paying costs for, the Member Services set forth below:

1.6.1 No Legal Obligation. Medical Services for which neither the recipient nor any other person or organization incurs a legal obligation to pay. Such non-covered services may include, but are not limited to:

- Free chest x-ray provided by voluntary health organization.
- Free samples of items received at no cost.

1.6.2 Non-Covered Services. Services that are not covered with Participating Plans or Services that AHCCCS does not cover, include, but are not limited to:

- Services mandated for purposes of meeting non-medical requirements, such as employment physicals and Physician visits required for a license, certificate, or for obtaining third party liability or disability payments.
- Services provided by or under the direction of naturopaths.
- Personal comfort items or services.
- Cosmetic surgery intended solely to improve the physical appearance of a recipient and which does not restore bodily function or correct a deformity.
- Reconstructive surgical procedures intended to improve function and appearance of any body that has been altered by disease, trauma, congenital or developmental anomalies or previous surgical processes unless the services are Covered Services that are Medically Necessary and Prior Authorized. Clear and precise documentation substantiating Medical Necessity for reconstructive surgery is required for a Covered Service determination.
- Therapeutic legally induced abortions and abortion counseling unless the pregnancy termination is the result of rape or incest, or in circumstances where the member suffers from a physical disorder, physical injury, or physical illness, including a life endangering physical condition caused by or arising from the pregnancy itself, that would, if certified by a physician, place the member in danger of death unless the pregnancy is terminated and is prior approved by the Plan.
- Post mastectomy breast reconstruction. An initial prosthesis, including a surgical brassiere, is covered if medically necessary.
- Penile implants for recipients over 21 years of age.
- Infertility services, reversal of surgical sterilization, sex change operations.
- Hysterectomies unless medically necessary.
- Hearing aids, except as allowed under EPSDT program for recipients under 21.
- Eye examination and eyeglasses, except as allowed under EPSDT program for recipients under 21. Glasses and contact lenses are not excluded if they are the sole prosthetic devise after cataract extraction.
- Routine dental care, except as allowed under EPSDT program for recipients under 21.
- Orthognathic surgery for recipients over 21 years of age.
- Outpatient Occupational or Speech therapy except as allowed under EPSDT, ALTCS, and KidsCare.

- Service for items requiring Prior Authorization for which prior authorization has not been obtained or has been denied.
- Services determined to be experimental or provided primarily for the purpose of research.
- Artificial or mechanical hearts or xenografts.
- Heart transplantation and allogeneic and autologous bone marrow transplantation, unless the recipient is categorically eligible.
- Liver transplantation, unless the recipient is categorically eligible and under age 21.
- Behavioral health services for non-categorically eligible acute care recipients, except for limited emergency/crisis stabilization services.
- Behavioral health services for ALTCS recipients ages 21 through 64, except for limited emergency/crisis stabilization services.
- Services to prison inmates or residents of a tuberculosis or Behavioral Health Treatment institution.
- Treatment for drug abuse unless authorized in rules.

1.7 **Vaccines for Children (VFC) Program.** The vaccine portion of childhood immunizations shall be reimbursed through the State of Arizona's VFC Program. It is the responsibility of Provider to submit billings to the VFC Program for reimbursement. The Plan will not reimburse Provider for the administration of the vaccines in excess of the maximum allowable as set by CMS. The Plan will pay ten dollars ($10.00) for the administration of the vaccine.

1.8 **Supplemental Payment Program**. Provider has chosen not to participate in the supplemental payment program.

1.9 **Physician Incentive Regulations**. Notwithstanding any provision in this Agreement to the contrary, Plan and Provider shall comply with all applicable physician incentive plan requirements and conditions set forth in 42 C.F.R. SS417.497, as amended.

1.10 **Risk Pool Sharing.** Provider has chosen not to participate in risk pool arrangements.

SECTION 2. BILLING AND REPORTING REQUIREMENTS

2.1 **General.** Regardless of the payment or reimbursement method (capitation or fee schedule), for every Medically Necessary Covered Service for which Provider seeks reimbursement on behalf of itself and all PHPs, Provider agrees to submit a Clean Claim to Plan on a properly executed, current CMS 1500 form, and an itemized statement upon request of Plan, within ninety (90) days from the date of service. Claims initially received more than ninety (90) days for the date of service will be denied. Plan agrees to pay Provider within forty-five (45) days receipt of a Clean Claim.

2.2 **Required Claim or Encounter Information**. At a minimum, all Claims or Encounters shall provide the information required within the CMS 1500 form and the following information:

- Member's name, sex and date of birth
- Member's AHCCCS Identification Number
- Diagnosis Code (International Classification of Diseases (ICD) – 9 Codes)
- Procedure Code (Current CMS Common Procedure Coding System (HCPCS) Codes including Current Procedural Terminology (CPT))
- Units of service
- Place of service
- Type of service
- Dates of service (must be reported using individual dates of service. Date spans are not acceptable)
- Amount billed (usual and customary)
- COB & subrogation flag (indicate yes/no)
- Plan's Authorization Number
- Provider's name, address and authorized signature

Ø Provider's AHCCCS Identification Number and AHCCCS assigned service locator code

2.2.1 Failure to submit any of the above information and data, failure to respond to a request from Plan for additional information or data, or failure to comply with Plan's Prior Authorization/Notification policy requirements of this Agreement within the described time period may result in delay or denial of payment.

2.2.2 If Plan is subject to penalties or sanctions under its contract with AHCCCS due to failure of Provider to report or submit accurate claim or Encounter information, supported by the medical record, Provider shall either reimburse Plan or Plan shall deduct the amount of the penalty from future payments to Provider, on behalf of Provider or any PHP, at the sole discretion of Plan.

2.2.3 If any Provider's failure to comply with Plan's policies and procedures or this Agreement result in either (1) inappropriate or unauthorized medical expenses, or (2) sanctions to Plan, Plan may deduct such costs from future payments to Provider or demand repayment from Provider.

2.2.4 Encounters and claims are to be mailed to:

University Family Care PO Box 35699 Phoenix, AZ 85069	University Physicians Care Advantage PO Box 38549 Phoenix, AZ 85069

2.3 **Retrospective Review.** Through retrospective review, Plan shall ensure that services rendered were Medically Necessary Covered Services, provided in compliance with AHCCCS Medical Policy Manual (AMPM) guidelines and medical standards of care, and substantiated with documentation supporting the level of services billed as specified by AHCCCS regulations. Plan shall deny any claim not satisfying these criteria. Plan shall conduct retrospective review on both a pre-payment and post-payment basis. Plan may deduct the amount of erroneous payments from future payments to Provider or demand repayment from Provider.

2.4 **Claims Processing.** Plan's date of receipt of claims is the date the claim was received by Plan as indicated by the date stamp on the claim and the claim reference number. Claims will be considered paid on the date indicated on disbursement checks. Denied claims will be considered adjudicated on the date of their denial. Claims that are denied and are resubmitted will receive new date stamps. Claims that are pending for additional supporting documentation from Provider will receive new date stamps upon receipt of the additional documentation except as provided under Section 2.2 of this Exhibit.

SECTION 3. COORDINATION OF BENEFITS

3.1 Plan is the payor of last resort and Provider shall identify and first bill other third-party carriers or insurers.

3.2 If Member has third-party coverage, including, but not limited to, Part A or Part B Medicare, Provider shall identify and seek such payment before submitting claims to Plan in accordance with the following:

3.2.1 Provider shall include a completed copy of the third-party carrier's explanation of benefits (EOB) or remittance advice (RA) when submitting a claim for a non-capitated service for the balance due under non-duplication of benefits. A claim, plus a completed copy of the third-party carrier's EOB or RA for any balance due, must be initially received by the Plan within sixty (60) days from the third-party carrier's EOB or RA date.

3.2.2 For Members, only the difference between the Medicare allowable charges, as shown on the Explanation of Medicare Benefits (EOMB), and the Medicare reimbursement received, will be eligible for payment by Plan. Plan's payment of coinsurance plus any applicable deductibles will constitute payment in full to Provider.

3.2.3 For Plan's non-Medicare Members, the allowed amount will be based upon the Plan fee schedule, less the paid amount of the other third-party carrier(s); any balance of which will be paid by Plan as non-duplication of benefits.

3.2.4 In the event Provider identifies any third party source of payment or liability, Provider shall immediately notify Plan of such source.

SECTION 4. CLAIMS RESUBMISSION

4.1 Provider may resubmit claims that have been denied or adjudicated by Plan, but they must be received by Plan within one hundred and twenty (120) days from the date of the initial Plan EOB.

4.2 Plan will re-adjudicate claims resubmitted by Provider only if an initial claim has been filed within the described submission deadline.

4.3 Claim submissions shall be designated as such and shall consist of the following:

- Copy of claim;
- Copy of Plan remit;
- Supporting documentation; and
- Written explanation as to reasons for resubmission.

Resubmitted claims are to be addressed and mailed to the Plan Claims Department at the following address:

University Family Care	University Physicians Care Advantage
PO Box 35699	PO Box 38549
Phoenix, AZ 85069	Phoenix, AZ 85069

4.4 A tracer claim may be submitted in follow up to claims that have been determined to be "not received" or "not in the system" by the Plan. Tracer claims must be received within (ninety) 90 days from the date of service and must be marked "tracer" or "second submission". Tracer claims should not be submitted less than twenty-one (21) days from the first submission, allowing for processing of the original claim.

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EXHIBIT 5
AHCCCS MINIMUM SUBCONTRACT PROVISIONS
[The following provisions must be included verbatim in every contract.]

For the sole purpose of this Attachment, the following definitions apply:

"*Subcontract*" means any contract between the Contractor and a third party for the performance of any or all services or requirements specified under the Contractor's contract with AHCCCS.

"*Subcontractor*" means any third party with a contract with the Contractor for the provision of any or all services or requirements specified under the Contractor's contract with AHCCCS.

Subcontractors who provide services under the AHCCCS ALTCS and or the Acute Care Program must comply with the following applicable rules and statutes:

- Rules for the ALTCS are found in Arizona Administrative Code (AAC) Title 9, Chapter 28. AHCCCS statutes for long term care are generally found in Arizona Revised Statue (ARS) 36, Chapter 29, Article 2.

- Rules for the Acute Care Program are found in AAC Title 9, Chapter 22. AHCCCS statutes for the Acute Care Program are generally found in ARS 36, Chapter 29, Article 1. Rules for the KidsCare Program are found in AAC Title 9, Chapter 31 and the statutes for KidsCare Program may be found in ARS 36, Chapter 29, Article 4.

All statutes, rules and regulations cited in this attachment are listed for reference purposes only and are not intended to be all inclusive.

1. ASSIGNMENT AND DELEGATION OF RIGHTS AND RESPONSIBILITIES

No payment due the Subcontractor under this subcontract may be assigned without the prior approval of the Contractor. No assignment or delegation of the duties of this subcontract shall be valid unless prior written approval is received from the Contractor. (AAC R2-7-305)

2. AWARDS OF OTHER SUBCONTRACTS

AHCCCS and/or the Contractor may undertake or award other contracts for additional or related work to the work performed by the Subcontractor and the Subcontractor shall fully cooperate with such other contractors, subcontractors or state employees. The Subcontractor shall not commit or permit any act which will interfere with the performance of work by any other contractor, subcontractor or state employee. (AAC R2-7-308)

3. CERTIFICATION OF COMPLIANCE – ANTI-KICKBACK AND LABORATORY TESTING

By signing this subcontract, the Subcontractor certifies that it has not engaged in any violation of the Medicare Anti-Kickback statute (42 USC §§1320a-7b) or the "Stark I" and "Stark II" laws governing related-entity referrals (PL 101-239 and PL 101-432) and compensation there from. If the Subcontractor provides laboratory testing, it certifies that it has complied with 42 CFR §411.361 and has sent to AHCCCS simultaneous copies of the information required by that rule to be sent to the Centers for Medicare and Medicaid Services. (42 USC §§1320a-7b; PL 101-239 and PL 101-432; 42 CFR §411.361)

4. CERTIFICATION OF TRUTHFULNESS OF REPRESENTATION

By signing this subcontract, the Subcontractor certifies that all representations set forth herein are true to the best of its knowledge.

5. CLINICAL LABORATORY IMPROVEMENT AMENDMENTS OF 1988

The Clinical Laboratory Improvement Amendment (CLIA) of 1988 requires laboratories and other facilities that test human specimens to obtain either a CLIA Waiver or CLIA Certificate in order to obtain reimbursement from the Medicare and Medicaid (AHCCCS) programs. In addition, they must meet all the requirements of 42 CFR 493, Subpart A.

To comply with these requirements, AHCCCS requires all clinical laboratories to provide verification of CLIA Licensure or Certificate of Waiver during the provider registration process. Failure to do so shall result in either a termination of an active provider ID number or denial of initial registration. These requirements apply to all clinical laboratories.

Pass-through billing or other similar activities with the intent of avoiding the above requirements are prohibited. The Contractor may not reimburse providers who do not comply with the above requirements (CLIA of 1988; 42 CFR 493, Subpart A).

6. COMPLIANCE WITH AHCCCS RULES RELATING TO AUDIT AND INSPECTION

The Subcontractor shall comply with all applicable AHCCCS Rules and Audit Guide relating to the audit of the Subcontractor's records and the inspection of the Subcontractor's facilities. If the Subcontractor is an inpatient facility, the Subcontractor shall file uniform reports and Title XVIII and Title XIX cost reports with AHCCCS (ARS 41-2548; 45 CFR 74.48 (d)).

7. COMPLIANCE WITH LAWS AND OTHER REQUIREMENTS

The Subcontractor shall comply with all federal, State and local laws, rules, regulations, standards and executive orders governing performance of duties under this subcontract, without limitation to those designated within this subcontract [42 CFR 434.70 and 42 CFR 438.6(l)].

8. CONFIDENTIALITY REQUIREMENT

The Subcontractor shall safeguard confidential information in accordance with federal and state laws and regulations, including but not limited to, 42 CFR Part 431, Subpart F, ARS §36-107, 36-2903, 41-1959 and 46-135, AHCCCS Rules, the Health Insurance Portability and Accountability Act (Public Law 107-191, 110 Statutes 1936), and 45 CFR Parts 160 and 164.

9. CONFLICT IN INTERPRETATION OF PROVISIONS

In the event of any conflict in interpretation between provisions of this subcontract and the AHCCCS Minimum Subcontract Provisions, the latter shall take precedence.

10. CONTRACT CLAIMS AND DISPUTES

Contract claims and disputes arising under A.R.S Title 36, Chapter 29 shall be adjudicated in accordance with AHCCCS Rules and A.R.S. §36-2903.01.

11. ENCOUNTER DATA REQUIREMENT

If the Subcontractor does not bill the Contractor (e.g., Subcontractor is capitated), the Subcontractor shall submit encounter data to the Contractor in a form acceptable to AHCCCS.

12. EVALUATION OF QUALITY, APPROPRIATENESS, OR TIMELINESS OF SERVICES

AHCCCS or the U.S. Department of Health and Human Services may evaluate, through inspection or other means, the quality, appropriateness or timeliness of services performed under this subcontract.

13. FRAUD AND ABUSE

If the Subcontractor discovers, or is made aware, that an incident of suspected fraud or abuse has occurred, the Subcontractor shall report the incident to the prime Contractor as well as to AHCCCS, Office of Program Integrity. All incidents of potential fraud should be reported to AHCCCS, Office of the Director, Office of Program Integrity.

14. GENERAL INDEMNIFICATION

The parties to this contract agree that AHCCCS shall be indemnified and held harmless by the Contractor and Subcontractor for the vicarious liability of AHCCCS as a result of entering into this contract. However, the parties further agree that AHCCCS shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.

15. INSURANCE

[This provision applies only if the Subcontractor provides services directly to AHCCCS members]

The Subcontractor shall maintain for the duration of this subcontract a policy or policies of professional liability insurance, comprehensive general liability insurance and automobile liability insurance in amounts that meet Contractor's requirements.

The Subcontractor agrees that any insurance protection required by this subcontract, or otherwise obtained by the Subcontractor, shall not limit the responsibility of Subcontractor to indemnify, keep and save harmless and defend the State and AHCCCS, their agents, officers and employees as provided herein. Furthermore, the Subcontractor shall be fully responsible for all tax obligations, Worker's Compensation Insurance, and all other applicable insurance coverage, for itself and its employees, and AHCCCS shall have no responsibility or liability for any such taxes or insurance coverage. (45 CFR Part 74) The requirement for Worker's Compensation Insurance does not apply when a Subcontractor is exempt under ARS 23-901, and when such Subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

16. LIMITATIONS ON BILLING AND COLLECTION PRACTICES

Except as provided in federal and state law and regulations, the Subcontractor shall not bill, or attempt to collect payment from a person who was AHCCCS eligible at the time the covered service(s) were rendered, or from the financially responsible relative or representative for covered services that were paid or could have been paid by the System.

17. MAINTENANCE OF REQUIREMENTS TO DO BUSINESS AND PROVIDE SERVICES

The Subcontractor shall be registered with AHCCCS and shall obtain and maintain all licenses, permits and authority necessary to do business and render service under this subcontract and, where applicable, shall comply with all laws regarding safety, unemployment insurance, disability insurance and worker's compensation.

18. NON-DISCRIMINATION REQUIREMENTS

The Subcontractor shall comply with State Executive Order No. 99-4, which mandates that all persons, regardless of race, color, religion, gender, national origin or political affiliation, shall have equal access to employment opportunities, and all other applicable Federal and state laws, rules and regulations, including the Americans with Disabilities Act and Title VI. The Subcontractor shall take positive action to ensure that applicants for employment, employees, and persons to whom it provides service are not discriminated against due to race, creed, color, religion, sex, national origin or disability. (Federal regulations, State Executive order # 99-4)

19. PRIOR AUTHORIZATION AND UTILIZATION MANAGEMENT

The Contractor and Subcontractor shall develop, maintain and use a system for Prior Authorization and Utilization Review that is consistent with AHCCCS Rules and the Contractor's policies.

20. RECORDS RETENTION

The Subcontractor shall maintain books and records relating to covered services and expenditures including reports to AHCCCS and working papers used in the preparation of reports to AHCCCS. The Subcontractor shall comply with all specifications for record keeping established by AHCCCS. All books and records shall be maintained to the extent and in such detail as required by AHCCCS Rules and policies. Records shall include but not be limited to financial statements, records relating to the quality of care, medical records, dental records, prescription files and other records specified by AHCCCS.

The Subcontractor agrees to make available at its office at all reasonable times during the term of this contract and the period set forth in the following paragraphs, any of its records for inspection, audit or reproduction by any authorized representative of AHCCCS, State or Federal government.

The Subcontractor shall preserve and make available all records for a period of five years from the date of final payment under this contract unless a longer period of time is required by law.

If this contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of five years from the date of any such termination. Records which relate to grievances, disputes, litigation or the settlement of claims arising out of the performance of this contract, or costs and expenses of this contract to which exception has been taken by AHCCCS, shall be retained by the Subcontractor for a period of five years after the date of final disposition or resolution thereof unless a longer period of time is required by law. (45 CFR 74.53; 42 CFR 431.17; ARS 41-2548)

21. SEVERABILITY

If any provision of these standard subcontract terms and conditions is held invalid or unenforceable, the remaining provisions shall continue valid and enforceable to the full extent permitted by law.

22. SUBJECTION OF SUBCONTRACT

The terms of this subcontract shall be subject to the applicable material terms and conditions of the contract existing between the Contractor and AHCCCS for the provision of covered services.

23. TERMINATION OF SUBCONTRACT

AHCCCS may, by written notice to the Subcontractor, terminate this subcontract if it is found, after notice and hearing by the State, that gratuities in the form of entertainment, gifts, or otherwise were offered or given by the Subcontractor, or any agent or representative of the Subcontractor, to any officer or employee of the State with a view towards securing a contract or securing favorable treatment with respect to the awarding, amending or the making of any determinations with respect to the performance of the Subcontractor; provided, that the existence of the facts upon which the state makes such findings shall be in issue and may be reviewed in any competent court. If the subcontract is terminated under this section, unless the Contractor is a governmental agency, instrumentality or subdivision thereof, AHCCCS shall be entitled to a penalty, in addition to any other damages to which it may be entitled by law, and to exemplary damages in the amount of three times the cost incurred by the Subcontractor in providing any such gratuities to any such officer or employee. (AAC R2-5-501; ARS 41-2616 C.; 42 CFR 434.6, a. (6))

24. VOIDABILITY OF SUBCONTRACT

This subcontract is voidable and subject to immediate termination by AHCCCS upon the Subcontractor becoming insolvent or filing proceedings in bankruptcy or reorganization under the United States Code, or upon assignment or delegation of the subcontract without AHCCCS's prior written approval.

25. WARRANTY OF SERVICES

The Subcontractor, by execution of this subcontract, warrants that it has the ability, authority, skill, expertise and capacity to perform the services specified in this contract.

26. OFF-SHORE PERFORMANCE OF WORK PROHIBITED

Due to security and identity protection concerns, direct services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in specifications, this definition does not apply to indirect or "overhead" services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

27. FEDERAL IMMIGRATION AND NATIONALITY ACT

The Subcontractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, the Subcontractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of Contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the Contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the contract for default and suspension and/or debarment of the Contractor.

EXHIBIT 6
University Physicians Care Advantage –Compensation
For
Gila County Health Department

INTERPRETATION

To the extent there is a conflict between the terms of this Exhibit and any terms of the Agreement, the terms of this

Exhibit shall govern as they apply to services furnished under a Medicare Advantage Program.

Provider and Plan intend that the terms of the Agreement, as they relate to the provision of services under the Medicare Advantage Program, shall be interpreted in a manner consistent with applicable requirements under Medicare law.

1.0 MEDICARE ADVANTAGE DELEGATION

1.1 Provider acknowledges that a Medicare Advantage Organization has delegated to Plan certain responsibility under its Medicare Advantage contract to provide Medicare Covered Services to its Medicare Advantage Members. In turn, Plan has delegated to Provider its responsibility to provide those Medicare Covered Services within the scope of Providers' licensure or certification and expertise to Medicare Advantage Members. Provider agrees that Plan and the Medicare Advantage Organization may only delegate such responsibilities in a manner consistent with the standards set forth under 42 CFR §422.504(i)(3) and (4). Provider agrees that Plan or the Medicare Advantage Organization may revoke this delegation and thereby terminate this Exhibit if Provider does not perform satisfactorily and if any of Provider's reporting and disclosure obligations are not fully met in a timely manner.

1.2 Provider acknowledges that the Medicare Advantage Organization and Plan shall oversee and monitor Provider's performance on an ongoing basis. Provider further acknowledges that the Medicare Advantage Organization is accountable to CMS for the functions and responsibilities described in the Medicare Advantage contract and regulatory standards.

1.3 Provider agrees to comply, and to require any and all of its subcontractors and employees to comply, with all applicable Medicare laws, regulations, and CMS instructions. Further, Provider agrees that any services provided by Provider or its subcontractors to Medicare Advantage Members will be consistent with, and will comply with, the Medicare Advantage Organization's contractual obligations.

1.4 Provider shall credential Providers on behalf of the Medicare Advantage Organization. Provider agrees to comply with all aspects of the Medicare Advantage Organization's credentialing and recredentialing policies and procedures. Provider agrees that the credentialing process will be reviewed and approved by Medicare Advantage Organization and that Medicare Advantage Organization will audit the credentialing process on an on going basis.

2.0 PLAN RESPONSIBILITIES

2.1 Plan will retain the same responsibilities to the Provider as agreed upon in the Agreement to the extent they do not conflict with Medicare Advantage law and policy.

3.0 PROVIDER RESPONSIBILITIES

3.1 Provider will retain the same responsibilities as agreed upon in the Agreement to the extent they do not conflict with Medicare Advantage law and policy.

3.2 Provider acknowledges that to be eligible to enroll in a Medicare Advantage, Medicare beneficiaries must also be eligible for Medicaid coverage. When services are covered under both the Medicare Advantage and Medicaid programs, both the Medicare Advantage and Medicaid policies and procedures shall apply.

3.3 Provider agrees to cooperate with Plan by providing all information necessary for the Medicare Advantage Organization to meet its reporting obligations under 42 CFR §§422.516 and §§ 422.310, including, but not limited to, providing data necessary to characterize the context and purpose of each service furnished to a Medicare Advantage Member.

3.4 Provider agrees that, notwithstanding the terms of the Agreement, Medicare Advantage Members shall have direct access to women's health specialists within the network for women's routine and preventive health care services that are Medicare Covered Services. In addition, Members shall have direct access to screening mammography and influenza vaccines that are Medicare Covered Services and are furnished by a Participating Provider.

3.5 Provider represents that it has the authority to bind all Providers to comply with the terms of this Exhibit.

3.6 Provider agrees that the Medicare Advantage Organization retains the right to approve, suspend or termination any arrangement between Provider and a Provider or its subcontractors to provide services to Medicare Advantage Members under the terms of this Exhibit.

4.0 COMPENSATION AND PROMPT PAYMENT TO PARTICIPATING PROVIDERS

4.1 Plan shall pay Provider one hundred percent (100%) of current CMS fee schedule for Covered Services furnished to Medicare Advantage Members on a fee-for-service basis.

4.2 Claims are to be mailed to:
University Physicians Care Advantage
PO Box 35699
Phoenix, AZ 85069

4.3 Plan shall make payment to Provider within the prompt payment time frames set forth in the Compensation Exhibit of the Agreement.

4.4 Provider agrees that in no event, including, but not limited to, non-payment by Plan or the Medicare Advantage Organization, insolvency of Plan or the Medicare Advantage Organization or breach of the Agreement, shall the Provider bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from, or have any recourse against a Medicare Advantage Member or persons acting on their behalf other than Plan for services provided pursuant to the Agreement and this Exhibit. This provision does not prohibit the collection of coinsurance or copayments on Plan's or the Medicare Advantage Organization's behalf made in accordance with the terms of the Medicare Advantage Member's evidence of coverage.

Provider agrees that, in the event of Plan's or the Medicare Advantage Organization's insolvency or other cessation of operations, services to Medicare Advantage Members will continue through the period for which payment has been paid to the Medicare Advantage Organization, and services to Medicare Advantage Members confined in an inpatient facility on the date of insolvency or other cessation of operations will continue until their discharge. Provider further agrees that (i) these hold harmless and continuation of benefits provisions shall survive the termination of the Agreement and this Exhibit regardless of the cause giving rise to the termination and shall be construed to be for the benefit of Medicare Advantage Members; and, that (ii) these provisions supersede any oral or written contrary agreement now existing or hereafter entered into between Plan, a subcontractor or Provider and a Medicare Advantage Member or persons acting on their behalf that relates to liability for payment for, or continuation of, Covered Services provided under the terms and conditions of these clauses.

5.0 TERMS AND TERMINATION

5.1 This Exhibit shall remain in effect subject to the Term and Termination provisions of the Agreement.

6.0 RECORDS MAINTENANCE, AVAILABILITY, INSPECTION, AND AUDIT

6.1 Provider agrees to maintain medical, financial and administrative records related to Covered Services rendered by Provider under the Agreement and this Exhibit in an accurate and timely manner. Provider agrees to abide by all applicable Federal and State laws regarding confidentiality and disclosure for medical records, other health information, and Member information, including, but not limited to, Health Insurance Portability and Accountability Act of 1996, and all rules and regulations promulgated there under. In addition, Provider agrees to abide by the confidentiality requirements established by the Medicare Advantage Organization and Plan and the Medicare Advantage Program as set forth at 42 CFR §422.118.

6.2 Provider agrees to maintain records, documents and any other information relating to Medicare Advantage Members and this Exhibit for ten (10) years or such longer period as required by law. Provider acknowledges that United States Department of Health and Human Services (HHS) may evaluate the quality, appropriateness and timeliness of services furnished to Medicare Advantage Members; Provider's and Plan's facilities; and any enrollment and disenrollment records. Provider further acknowledges that HHS, the Comptroller General, or their designees, have the right to inspect any books, contracts, medical records, patient care documentation, and other records of Provider, or its subcontractors or transferees, involving transactions related to the Medicare Advantage Organization's Medicare Advantage contract through ten (10) years from the final date of the contract period or from the date of the completion of any audit, or for such longer period provided for in 42 CFR §422.504(e)(4).

6.3 This Section shall survive the termination of the Agreement and this Exhibit for services rendered while the Agreement and this Exhibit were in effect.

UPH HEALTH PLANS

2701 E. Elvira Rd. • Tucson, Arizona 85756
(520) 874-5290 • (800) 582-8686 • Fax (520) 874-5555
www.uph.org

A division of University Physicians Healthcare

10/26/2011

11-19-920-********AUTO**MIXED AADC 800
Gila County Health Department
5515 S Apache Ave Ste 100
Globe AZ 85501-4429

RE: Mandatory AHCCCS Contract Amendment

Dear Valued UFC Provider,

Enclosed is an amendment to update the contract between your organization and University Physicians Healthcare dba University Physicians Health Plans. Effective October 1, 2011, AHCCCS revised subcontract provisions for all contracted providers.

These changes are reflected in Exhibit 5. Because this exhibit is mandatory for all AHCCCS Subcontracts, no signature is needed for this contract amendment. I ask that you replace the current Exhibit 5 in your contract with the new one attached.

Thank you for your cooperation in this matter. Feel free to contact our office should you have any questions or concerns. We appreciate our continued relationship with your office and look forward to working with you in 2012.

Sincerely,

April Forman
Network Development Manager

AMENDMENT

EXHIBIT 5 – SUBCONTRACT PROVISION

Between

University Physicians Healthcare dba University Physicians Health Plans

And

Gila County Health Department

Whereas, University Physicians Healthcare dba University Physicians Health Plans and **Gila County Health Department** previously entered into an Agreement and;

Whereas, both parties mutually desire to amend said Agreement**;**

Now, Therefore, it is agreed that said Agreement is amended as set forth below, and effective beginning October 1, 2011, all other provisions of said Agreement being confirmed and remaining in effect as long as not inconsistent with this Agreement.

It is hereby agreed that the following be amended:

Exhibit 5; AHCCCS Subcontract Provision

EXHIBIT 5
AHCCCS MINIMUM SUBCONTRACT PROVISIONS CYE 2012
[The following provisions must be included verbatim in every contract.]

For the sole purpose of this Attachment, the following definitions apply:

"*Subcontract*" means any contract between the Contractor and a third party for the performance of any or all services or requirements specified under the Contractor's contract with AHCCCS.

"*Subcontractor*" means any third party with a contract with the Contractor for the provision of any or all services or requirements specified under the Contractor's contract with AHCCCS.

Subcontractors who provide services under the AHCCCS ALTCS and/or the Acute Care Program must comply with the following applicable rules and statutes:

- . Rules for the ALTCS are found in Arizona Administrative Code (AAC) Title 9, Chapter 28. AHCCCS statutes for long term care are generally found in Arizona Revised Statue (ARS) 36, Chapter 29, Article 2.
- . Rules for the Acute Care Program are found in AAC Title 9, Chapter 22. AHCCCS statutes for the Acute Care Program are generally found in ARS 36, Chapter 29, Article 1. Rules for the KidsCare Program are found in AAC Title 9, Chapter 31 and the statutes for KidsCare Program may be found in ARS 36, Chapter 29, Article 4.

All statutes, rules and regulations cited in this attachment are listed for reference purposes only and are not intended to be all inclusive.

1. ASSIGNMENT AND DELEGATION OF RIGHTS AND RESPONSIBILITIES
No payment due the Subcontractor under this subcontract may be assigned without the prior approval of the Contractor. No assignment or delegation of the duties of this subcontract shall be valid unless prior written approval is received from the Contractor. (AAC R2-7-305)

2. AWARDS OF OTHER SUBCONTRACTS
AHCCCS and/or the Contractor may undertake or award other contracts for additional or related work to the work performed by the Subcontractor and the Subcontractor shall fully cooperate with such other contractors, subcontractors or state employees. The Subcontractor shall not commit or permit any act which will interfere with the performance of work by any other contractor, subcontractor or state employee. (AAC R2-7-308)

3. CERTIFICATION OF COMPLIANCE – ANTI-KICKBACK AND LABORATORY TESTING
By signing this subcontract, the Subcontractor certifies that it has not engaged in any violation of the Medicare Anti-Kickback statute (42 USC §§1320a-7b) or the "Stark I" and "Stark II" laws governing related-entity referrals (PL 101-239 and PL 101-432) and compensation there from. If the Subcontractor provides laboratory testing, it certifies that it has complied with 42 CFR §411.361 and has sent to AHCCCS simultaneous copies of the information required by that rule to be sent to the Centers for Medicare and Medicaid Services. (42 USC§§1320a-7b; PL 101-239 and PL 101-432; 42 CFR §411.361)

4. CERTIFICATION OF TRUTHFULNESS OF REPRESENTATION
By signing this subcontract, the Subcontractor certifies that all representations set forth herein are true to the best of its knowledge.

5. CLINICAL LABORATORY IMPROVEMENT AMENDMENTS OF 1988
The Clinical Laboratory Improvement Amendment (CLIA) of 1988 requires laboratories and other facilities that test human specimens to obtain either a CLIA Waiver or CLIA Certificate in order to obtain reimbursement from the Medicare and Medicaid (AHCCCS) programs. In addition, they must meet all the requirements of 42 CFR493, Subpart A.

To comply with these requirements, AHCCCS requires all clinical laboratories to provide verification of CLIA Licensure or Certificate of Waiver during the provider registration process. Failure to do so shall result in either a termination of an active provider ID number or denial of initial registration. These requirements apply to all clinical laboratories. Pass-through billing or other similar activities with the intent of avoiding the above requirements are prohibited. The Contractor may not reimburse providers who do not comply with the above requirements. (CLIA of 1988; 42CFR 493, Subpart A)

6. COMPLIANCE WITH AHCCCS RULES RELATING TO AUDIT AND INSPECTION
The Subcontractor shall comply with all applicable AHCCCS Rules and Audit Guide relating to the audit of the Subcontractor's records and the inspection of the Subcontractor's facilities. If the Subcontractor is an inpatient facility, the Subcontractor shall file uniform reports and Title XVIII and Title XIX cost reports with AHCCCS.ARS 41-2548; 45 CFR 74.48 (d)

7. COMPLIANCE WITH LAWS AND OTHER REQUIREMENTS
The Subcontractor shall comply with all federal, State and local laws, rules, regulations, standards and executive orders governing performance of duties under this subcontract, without limitation to those designated within this subcontract. [42 CFR 434.70] [42 CFR 438.6(l)]

8. CONFIDENTIALITY REQUIREMENT
The Subcontractor shall safeguard confidential information in accordance with Federal and State laws and regulations, including but not limited to, 42 CFR Part 431, Subpart F, ARS §§36-107, 36-2903 (for Acute), 36-2932 (for ALTCS), 41-1959 and 46-135, the Health Insurance Portability and Accountability Act (Public Law 107-191 Statutes 1936), 45 CFR Parts 160 and 164, and AHCCCS Rules.

9. CONFLICT IN INTERPRETATION OF PROVISIONS
In the event of any conflict in interpretation between provisions of this subcontract and the AHCCCS Minimum Subcontract Provisions, the latter shall take precedence.

10. CONTRACT CLAIMS AND DISPUTES
Contract claims and disputes arising under A.R.S. Title 36, Chapter 29 shall be adjudicated in accordance with AHCCCS Rules, ARS §36-2901 et seq. (for Acute) and ARS §36-2931 et seq. (for ALTCS)

11. ENCOUNTER DATA REQUIREMENT
If the Subcontractor does not bill the Contractor (e.g., Subcontractor is capitated), the Subcontractor shall submit encounter data to the Contractor in a form acceptable to AHCCCS.

12. EVALUATION OF QUALITY, APPROPRIATENESS, OR TIMELINESS OF SERVICES
AHCCCS or the U.S. Department of Health and Human Services may evaluate, through inspection or other means, the quality, appropriateness or timeliness of services performed under this subcontract.

13. FRAUD AND ABUSE
If the Subcontractor discovers, or is made aware, that an incident of suspected fraud or abuse has occurred, the Subcontractor shall report the incident to the prime Contractor as well as to AHCCCS, Office of the Inspector General (OIG). All incidents of potential fraud should be reported to the OIG.

14. GENERAL INDEMNIFICATION
The parties to this contract agree that AHCCCS shall be indemnified and held harmless by the Contractor and Subcontractor for the vicarious liability of AHCCCS as a result of entering into this contract. However, the parties further agree that AHCCCS shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.

15. INSURANCE
[This provision applies only if the Subcontractor provides services directly to AHCCCS members]

The Subcontractor shall maintain for the duration of this subcontract a policy or policies of professional liability insurance, comprehensive general liability insurance and automobile liability insurance in amounts that meet Contractor's requirements. The Subcontractor agrees that any insurance protection required by this subcontract, or otherwise obtained by the Subcontractor, shall not limit the responsibility of Subcontractor to indemnify, keep and save harmless and defend the State and AHCCCS, their agents, officers and employees as provided herein. Furthermore, the Subcontractor shall be fully responsible for all tax obligations, Worker's Compensation Insurance, and all other applicable insurance coverage, for itself and its employees, and AHCCCS shall have no responsibility or liability for any such taxes or insurance coverage. (45 CFR Part 74) The requirements for Worker's Compensation Insurance doesn't apply when a Subcontractor is exempt under ARS 23-901, and when such Subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

16. LIMITATIONS ON BILLING AND COLLECTION PRACTICES
Except as provided in federal and state law and regulations, the Subcontractor shall not bill, or attempt to collect payment from a person who was AHCCCS eligible at the time the covered service(s) were rendered, or from the financially responsible relative or representative for covered services that were paid or could have been paid by the System.

17. MAINTENANCE OF REQUIREMENTS TO DO BUSINESS AND PROVIDE SERVICES
The Subcontractor shall be registered with AHCCCS and shall obtain and maintain all licenses, permits and authority necessary to do business and render service under this subcontract and, where applicable, shall comply with all laws regarding safety, unemployment insurance, disability insurance and worker's compensation.

18. NON-DISCRIMINATION REQUIREMENTS
The Subcontractor shall comply with State Executive Order No. 99-4, which mandates that all persons, regardless of race, color, religion, gender, national origin or political affiliation, shall have equal access to employment opportunities, and all other applicable Federal and state laws, rules and regulations, including the Americans with Disabilities Act and Title VI. The Subcontractor shall take positive action to ensure that applicants for employment, employees, and persons to whom it provides service are not discriminated against due to race, creed, color, religion, sex, national origin or disability. (Federal regulations, State Executive order # 99-4)

19. PRIOR AUTHORIZATION AND UTILIZATION MANAGEMENT
The Contractor and Subcontractor shall develop, maintain and use a system for Prior Authorization and Utilization Review that is consistent with AHCCCS Rules and the Contractor's policies.

20. RECORDS RETENTION
The Subcontractor shall maintain books and records relating to covered services and expenditures including reports to AHCCCS and working papers used in the preparation of reports to AHCCCS. The Subcontractor shall comply with all specifications for record keeping established by AHCCCS. All books and records shall be maintained to the extent and in such detail as required by AHCCCS Rules and policies. Records shall include but not be limited to financial statements, records relating to the quality of care, medical records, prescription files and other records specified by AHCCCS.

The Subcontractor agrees to make available at its office at all reasonable times during the term of this contract and the period set forth in the following paragraphs, any of its records for inspection, audit or reproduction by any authorized representative of AHCCCS, State or Federal government.
The Subcontractor shall preserve and make available all records for a period of five years from the date of final payment under this contract unless a longer period of time is required by law.
If this contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of five years from the date of any such termination. Records which relate to grievances, disputes, litigation or the settlement of claims arising out of the performance of this contract, or costs and expenses of this contract to which exception has been taken by AHCCCS, shall be retained by the Subcontractor for a period of five years after the date of final disposition or resolution thereof unless a longer period of time is required by law. (45 CFR 74.53; 42 CFR 431.17; ARS 41-2548)

21. SEVERABILITY
If any provision of these standard subcontract terms and conditions is held invalid or unenforceable, the remaining provisions shall continue valid and enforceable to the full extent permitted by law.

22. SUBJECTION OF SUBCONTRACT
The terms of this subcontract shall be subject to the applicable material terms and conditions of the contract existing between the Contractor and AHCCCS for the provision of covered services.

23. TERMINATION OF SUBCONTRACT
AHCCCS may, by written notice to the Subcontractor, terminate this subcontract if it is found, after notice and hearing by the State, that gratuities in the form of entertainment, gifts, or otherwise were offered or given by the Subcontractor, or any agent or representative of the Subcontractor, to any officer or employee of the State with a view towards securing a contract or securing favorable treatment with respect to the awarding, amending or the making of any determinations with respect to the performance of the contractor; provided, that the existence of the facts upon which the state makes such findings shall be in issue and may be reviewed in any competent court.

If the subcontract is terminated under this section, unless the Contractor is a governmental agency, instrumentality or subdivision thereof, AHCCCS shall be entitled to a penalty, in addition to any other damages to which it may be entitled by law, and to exemplary damages in the amount of three times the cost incurred by the Subcontractor in providing any such gratuities to any such officer or employee. [AAC R2-5-501; ARS 41-2616 C.; 42 CFR 434.6, a. (6)]

24. VOIDABILITY OF SUBCONTRACT
This subcontract is voidable and subject to immediate termination by AHCCCS upon the Subcontractor becoming insolvent or filing proceedings in bankruptcy or reorganization under the United States Code, or upon assignment or delegation of the subcontract without AHCCCS' prior written approval.

25. WARRANTY OF SERVICES
The Subcontractor, by execution of this subcontract, warrants that it has the ability, authority, skill, expertise and capacity to perform the services specified in this contract.

26. OFF-SHORE PERFORMANCE OF WORK PROHIBITED
Due to security and identity protection concerns, direct services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in specifications, this definition does not apply to indirect or "overhead" services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

27. FEDERAL IMMIGRATION AND NATIONALITY ACT
The Subcontractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, the Subcontractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of Contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the Contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the contract for default and suspension and/or debarment of the Contractor.

Compliance with the Federal Immigration and Nationality Act (FINA) and All Other Federal Immigration Laws and Regulations related to Immigration Status of its Employees:
By entering into the Contract, the subcontractor warrants compliance with the Federal Immigration and Nationality Act (FINA) and all other Federal immigration laws and regulations related to the immigration status of its employees. The subcontractor shall obtain statements from any of its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer, upon request. These warranties shall remain in effect through the term of the Contract. The subcontractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the U.S. Department of Labor's Immigration and Control Act, for all employees performing work under the Contract. I-9 forms are available for download at USACIS.GOV. The State may request verification of compliance for any subcontractor or its subcontractor performing work under the Contract. Should the Contractor suspect or find that the subcontractor or any of its subcontractors are not in compliance, the Contractor may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the subcontractor. All costs necessary to verify compliance are the responsibility of the subcontractor.

Compliance Requirements for A.R.S. 41-4401, Government Procurement: E-Verify Requirement:
The subcontractor 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.") A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract and the subcontractor may be subject to penalties up to and including termination of the contract.

Failure to comply with a State or Contractor audit process to randomly verify the employment records of subcontractors and any of its subcontractors shall be deemed a material breach of the contract and the subcontractor may be subject to penalties up to and including termination of the contract. The State Agency and Contractor retains the legal right to inspect the papers of any employee who works on the contract to ensure that the contractor or subcontractor is complying with the warranty.

(The remainder of this Page was left blank intentionally)

GILA COUNTY ATTORNEY

Daisy Flores

Re: County Attorney's Office "approval as to form" of contract or agreement.

To whom it may concern:

The County Attorney's Office has reviewed the contract or agreement attached to this agenda item and has determined that it is in its proper form and is within the powers and authority granted under the laws of this state to the public agency requesting the County Attorney's Office review.

Explanation of the Gila County Attorney's Office "Approval as to Form" Review

The Gila County Attorney's Office is often called upon to review contracts and other agreements between public entities represented by the County Attorney and private venders, contractors, and individuals.

In performing this review, the County Attorney's Office reviews these contracts to see that they are in "proper form" prior to their execution. "Proper form" means that the contract conforms to fundamental contract law, conforms to specific legislative requirements, and is within the powers and authority granted to the public agency. It does not mean that the County Attorney's Office approves of or supports the policy objectives contained in the contract. That approval is solely the province of the public agency through its elected body.

The public agency or department submitting the contract for review has the responsibility to read and understand the contract in order to completely understand its obligations under the contract if it is ultimately approved by the public entity's board. This is because while the County Attorney's Office can approve the contract as to form, the office may not have any idea whether the public agency has the capacity to actually comply with its contractual obligations. Also, the County Attorney's Office does not monitor contract compliance. Hence the public entity or

submitting department will need to be prepared to monitor their own compliance. A thorough knowledge of the provisions of the contract will be necessary to monitor compliance.

Before signing a contract "approved as to form," the County Attorney's Office will answer any questions or concerns the public agency has about the contract. It is the responsibility of the public agency or department submitting the contract for review to ask any specific questions or address any concerns it has about the contract to the County Attorney's Office at the same time they submit the contract for review. Making such an inquiry also helps improve the County Attorney's Office review of the contract because it will help focus the review on specific issues that are of greatest concern to the public agency. Failing to make such an inquiry when the agency does have issues or concerns will decrease the ability of the County Attorney's Office to meaningfully review the agreement.

ARF-951 **Consent Agenda Item 4- D**

Regular BOS Meeting

Meeting Date: 12/06/2011

Submitted For:	Michael O'Driscoll, Health & Emergency Services Division Director	Submitted By:	Debra Williams, Deputy Director of Emergency Services, Health & Emergency Services Division
Department:	Health & Emergency Services Division	Division:	Emergency Services
Fiscal Year:	CoFY2010 and Co FY2013	Budgeted?:	No
Contract Dates Begin & End:	08/31/2011 thru 08/30/2016	Grant?:	Yes
Matching Requirement?:	No	Fund?:	Replacement
Presenter's Name:			

Information

Request/Subject

Approval for Public Health Emergency Preparedness Intergovernmental Agreement (IGA) (Contract ADHS12-007886)

Background Information

IGA (Contract No. ADHS12-007886) between the Division of Health & Emergency Services and the Arizona Department of Health Services is a renewal of the Public Health Emergency Preparedness (PHEP) program (formerly Bioterrorism Preparedness and Response)from August 31, 2011,to August 30, 2016.

Evaluation

Attachment A (the estimated budget) of the contract changes from year to year. Included in this renewal is the 2011-2012 estimated budget for $155,256 between August 31, 2011, through August 30, 2012.

Conclusion

The PHEP program is funded by the Centers for Disease Control and Prevention (CDC) to assist state and local public health offices in securing the nation from public health threats.

The Gila County PHEP program focuses on advancing public health preparedness through community preparedness, public health surveillance, epidemiological investigation, and volunteer coordination.

Recommendation

The Director of Gila County Health & Emergency Services recommends the Board approve the Chairman's signature on Intergovernmental Agreement (IGA) (Contract ADHS12-007886) between the Division of Health & Emergency Services and the Arizona Department of Health Services for a period starting August 31, 2011, and ending August 30, 2016.

Suggested Motion

Approval of the Chairman's signature on Intergovernmental Agreement (IGA) (Contract ADHS12-007886) between the Division of Health & Emergency Services and the Arizona Department of Health Services for a period starting August 31, 2011, and ending August 30, 2016.

Attachments

IGA Renewal

IGA-Expiring

BOS Agenda 2007 Consent Item K

Legal Explanation

INTERGOVERNMENTAL AGREEMENT (IGA)

Contract No. ADHS12-007886

ARIZONA DEPARTMENT OF HEALTH SERVICES
1740 West Adams. Room 303
Phoenix, Arizona 85007
(602) 542-1040
(602) 542-1741 FAX

Project Title: Emergency Preparedness **Begin Date:** 8/31/11

Geographic Service Area: Arizona **Termination Date:** 8/30/16

Arizona Department of Health Services has authority to contract for services specified herein in accordance with A R S §§ 11-951. 11-952. 36-104 and 36-132 The Contractor represents that it has authority to contract for the performance of the services provided herein pursuant to:

- [X] **Counties:** A.R.S. §§ 11-201, 11-951, 11-952 and 36-182.
- [ ] **Indian Tribes:** A.R.S. §§ 11-951, 11-952 and the rules and sovereign authority of the contracting Indian Nation.
- [ ] **School Districts:** A.R.S. §§ 11-951, 11-952, and 15-342.
- [ ] **City of Phoenix:** Chapter II, §§ 1 & 2, Charter, City of Phoenix.
- [ ] **City of Tempe:** Chapter 1, Article 1, §§ 1.01 & 1.03, Charter, City of Tempe.

Amendments signed by each of the parties and attached hereto are hereby adopted by reference as a part of this Contract. from the effective date of the Amendment, as if fully set out herein.

Arizona Transaction (Sales) Privilege: _____

Federal Employer Identification No : _____

Tax License No : _____

Contractor Name: Gila County Health and Emergency Services

Address: 5515 S. Apache Ave, Suite 400

Globe, AZ 85501

FOR CLARIFICATION, CONTACT:

Name: Michael O'Driscoll, Director

Phone: 928-402-8767

FAX No: 928-425-7714

CONTRACTOR SIGNATURE:

The Contractor agrees to perform all the services set forth in the Agreement and Work Statement. In accordance with A.R S 35-391.06 and A R S 35-393 06. the Contractor hereby certifies that the Contractor does not have scrutinized business operations in Sudan or Iran

Signature of Person Authorized to Sign Date

Tommie C. Martin, Chairman

Print Name and Title

Gila County Board of Supervisors

This Contract shall henceforth be referred to as Contract

No. ADHS12-007886 The Contractor is hereby cautioned not to commence any billable work or provide any material. service or construction under this Contract until Contractor receives a fully executed copy of the Contract

State of Arizona

Signed this _____ day of _____. 2011

Procurement Officer

CONTRACTOR ATTORNEY SIGNATURE:

Pursuant to A.R S. § 11-952, the undersigned Contractor's Attorney has determined that this Intergovernmental Agreement is in proper form and is within the powers and authority granted under the laws of Arizona

Signature of Person Authorized to Sign Date

Bryan Chambers, Chief Deputy County Attorney

Print Name and Title

Attorney General Contract, No. PIGA2011000344. which is an Agreement between public agencies, has been reviewed pursuant to A R S § 11-952 by the undersigned Assistant Attorney General. who has determined that it is in the proper form and is within the powers granted under the laws of the State of Arizona to those parties to the Agreement represented by the Attorney General

The Attorney General, BY:

Signature Date

Assistant Attorney General: Ronald E. Johnson

RESERVED FOR USE BY THE SECRETARY OF STATE

Under House Bill 2011, A.R.S. § 11-952 was amended to remove the requirement that Intergovernmental Agreements be filed with the Secretary of State.

1. **Definition of Terms.** As used in this Contract, the terms listed below are defined as follows:

1.1 *"Attachment"* means any document attached to the Contract and incorporated into the Contract.

1.2 *"ADHS"* means Arizona Department of Health Services.

1.3 *"Budget Term"* means the period of time for which the contract budget has been created and during which funds should be expended.

1.4 *"Change Order"* means a written order that is signed by a Procurement Officer and that directs the Contractor to make changes authorized by the Uniform Terms and Conditions of the Contract.

1.5 *"Contract"* means the combination of the Uniform and Special Terms and Conditions, the Specifications and Statement or Scope of Work, Attachments, Referenced Documents, any Contract Amendments and any terms applied by law.

1.6 *"Contract Amendment"* means a written document signed by the Procurement Officer and the Contractor that is issued for the purpose of making changes in the Contract.

1.7 *"Contractor"* means any person who has a Contract with the Arizona Department of Health Services.

1.8 *"Cost Reimbursement"* means a contract under which a contractor is reimbursed for costs, which are reasonable, allowable and allocable in accordance with the contract terms and approved by ADHS.

1.9 *"Days"* means calendar days unless otherwise specified.

1.10 *"Fixed Price"* establishes a set price per unit of service. The set price shall be based on costs, which are reasonable, allowable and allocable.

1.11 *"Gratuity"* means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

1.12 *"Materials"* unless otherwise stated herein, means all property, including but not limited to equipments, supplies, printing, insurance and leases of property.

1.13 *"Procurement Officer"* means the person duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.

1.14 *"Purchase Order"* means a written document that is signed by a Procurement Officer, that requests a vendor to deliver described goods or services at a specific price and that, on delivery and acceptance of the goods or services by ADHS, becomes an obligation of the State.

1.15 *"Services"* means the furnishing of labor, time or effort by a Contractor or Subcontractor.

1.16 *"Subcontract"* means any contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of this Contract.

1.17 *"State"* means the State of Arizona and/or the ADHS. For purposes of this Contract, the term "State" shall not include the Contractor.

2. **Contract Type.**

This Contract shall be: (check one)

_____ Fixed Price
__X__ Cost Reimbursement
_____ Not to Exceed

3. **Contract Interpretation.**

3.1 Arizona Law The law of Arizona applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona.

3.2 Implied Contract Terms Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it

3.3 Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:

3.3.1 Terms and Conditions;

3.3.2 Statement or Scope of Work;

3.3.3 Attachments;

3.3.4 Referenced Documents.

3.4 Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

3.5 Severability The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract

3.6 No Parole Evidence This Contract 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 used in this document.

3.7 No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract 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 to it

3.8 Headings Headings are for organizational purposes only and shall not be interpreted as having legal significance or meaning

4. **Contract Administration and Operation.**

4.1 Term. As indicated on the signature page of the Contract, the Contract shall be effective as of the Begin Date and shall remain effective until the Termination Date.

4.2 Contract Renewal This Contract shall not bind, nor purport to bind, the State for any contractual commitment in excess of the original Contract period. The term of the Contract shall not exceed five years. However, if the original Contract period is for less than five years, the State shall have the right, at its sole option, to renew the Contract, so long as the original Contract period together with the renewal periods does not exceed five years. If the State exercises such rights, all terms, conditions and provisions of the original Contract shall remain the same and apply during the renewal period with the exception of price and Scope of Work, which may be renegotiated

4 3 New Budget Term If a budget term has been completed in a multi-term Contract, the parties may agree to change the amount and type of funding to accommodate new circumstances in the next budget term. Any increase or decrease in funding at the time of the new budget term shall coincide with a change in the Scope of Work or change in cost of services as approved by the Arizona Department of Health Services.

4.4 Non-Discrimination The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

4.5 Records and Audit Under A.R.S § 35-214 and A.R.S § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other records ("records") relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State and where applicable the Federal Government at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records

4.6 Financial Management For all contracts, the practices, procedures, and standards specified in and required by the Accounting and Auditing Procedures Manual for the ADHS funded programs shall be used by the Contractor in the management of Contract funds and by the State when performing a Contract audit. Funds collected by the Contractor in the form of fees, donations and/or charges for the delivery of these Contract services shall be accounted for in a separate fund

4.6 1 *Federal Funding* Contractors receiving federal funds under this Contract shall comply with the certified finance and compliance audit provision of the Office of Management and Budget (OMB) Circular A-133, if applicable. The federal financial assistance information shall be stated in a Change Order or Purchase Order

4.6 2 *State Funding* Contractors receiving state funds under this Contract shall comply with the certified compliance provisions of A.R.S. § 35-181.03

4 7 Inspection and Testing The Contractor agrees to permit access, at reasonable times, to its facilities.

4 8 Notices Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the signature page by the Contractor, unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to an ADHS Procurement Officer, unless otherwise stated in the Contract. An authorized ADHS Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice, and an amendment to the Contract shall not be necessary.

4.9 Advertising and Promotion of Contract The Contractor shall not advertise or publish information for commercial benefit concerning this Contract without the prior written approval of an ADHS Procurement Officer

4.10 Property of the State

4.10.1 *Equipment* Except as provided below or otherwise agreed to by the parties, the title to any and all equipment acquired through the expenditure of funds received from the State shall remain the property of the State by and through the ADHS and, as such, shall remain under the sole direction, management and control of the ADHS When this Contract is terminated, the disposition of all such property shall be determined by the ADHS For Fixed Price contracts, when the Contractor provides the services/materials required by the Contract, any and all equipment purchased by the Contractor remains the property of the Contractor All purchases of equipment need to be reported to the ADHS Office of Inventory Control.

4 10 2 *Title and Rights to Materials* As used in this section, the term "Materials" means all products created or produced by the Contractor under this Contract, including, but not limited to: written and

electronic information, recordings, reports, research, research findings, conclusions, abstracts, results, software, data and any other intellectual property or deliverables created, prepared, or received by the Contractor in performance of this Contract Contractor acknowledges that all Materials are the property of the State by and through the ADHS and, as such, shall remain under the sole direction, management and control of the ADHS. The Contractor is not entitled to a patent or copyright on these Materials and may not transfer a patent or copyright on them to any other person or entity To the extent any copyright in any Materials may originally vest in the Contractor, the Contractor hereby irrevocably transfers to the ADHS, for and on behalf of the State, all copyright ownership. The ADHS shall have full, complete and exclusive rights to reproduce, duplicate, adapt, distribute, display, disclose, publish, release and otherwise use all Materials. The Contractor shall not use or release these Materials without the prior written consent of the ADHS. When this Contract is terminated, the disposition of all such Materials shall be determined by the ADHS Further, the Contractor agrees to give recognition to the ADHS for its support of any program when releasing or publishing program Materials.

Notwithstanding the above, if the Contractor is a State agency, the following shall apply instead: It is the intention of ADHS and Contractor that all material and intellectual property developed under this Agreement be used and controlled in ways to produce the greatest benefit to the parties to this Contract and the citizens of the State of Arizona As used in this paragraph, "Material" means all written and electronic information, recordings, reports, findings, research information, abstracts, results, software, data, discoveries, inventions, procedures and processes of services developed by the Contractor and any other materials created, prepared or received by the Contractor and subcontractors in performance of this Agreement. "Material" as used herein shall not include any pre-existing data, information, materials, discoveries, inventions or any form of intellectual property invented, created, developed or devised by Contractor (or its employees, subcontractors or agents) prior to the commencement of the services funded by this Agreement or that may result from Contractor's involvement in other service activities that are not funded by the Agreement

Title and exclusive copyright to all Material shall vest in the State of Arizona, subject to any rights reserved on behalf of the federal government As State agencies and instrumentalities, both ADHS and Contractor shall have full, complete, perpetual, irrevocable and non-transferable rights to reproduce, duplicate, adapt, make derivative works, distribute, display, disclose, publish and otherwise use any and all Material. The Contractor's right to use Material shall include the following rights: the right to use the Material in connection with its internal, non-profit research and educational activities, the right to present at academic or professional meetings or symposia and the right to publish in journals, theses, dissertations or otherwise of Contractor's own choosing Contractor agrees to provide ADHS with a right of review prior to any publication or public presentation of the Material, and ADHS shall be entitled to request the removal of its confidential information or any other content the disclosure of which would be contrary to the best interest of the State of Arizona Neither party shall release confidential information to the public without the prior expressly written permission of the other, unless required by the State public records statutes or other law, including a court order. Each party agrees to give recognition to the other party in all public presentations or publications of any Material, when releasing or publishing them.

In addition, ADHS and Contractor agree that any and all Material shall be made freely available to the public to the extent it is in the best interest of the State However, if either party wants to license or assign an intellectual property interest in the material to a third-party for monetary compensation, ADHS and Contractor agree to convene to determine the relevant issues of title, copyright, patent and distribution of revenue In the event of a controversy as to whether the Material is being used for monetary compensation or in a way that interferes with the best interest of the state or ADHS, then the Arizona Department of Administration shall make the final decision. Notwithstanding the above, "monetary compensation' does not include compensation paid to an individual creator for traditional publications in academia (the copyrights to which are Employee-Excluded Works under ABOR Intellectual Property Policy Section 6-908C.4.), an honorarium or other reimbursement of expenses for an academic or professional presentation, or an unprofitable distribution of Material

4 11 Federal Immigration and Nationality Act. The Contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the Contract. Further, the Contractor shall flow down this requirement to all subcontractors utilized during the term of the Contract. The State shall retain the right to perform random audits of Contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the Contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the Contract for default and suspension and/or debarment of the Contractor.

4 12 E-Verify Requirements. In accordance with A.R.S. § 41-4401, Contractor 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.

4.13 Scrutinized Businesses. In accordance with A.R.S. § 35-391 and A.R.S. § 35-393, Contractor certifies that the Contractor does not have scrutinized business operations in Sudan or Iran.

5 Costs and Payments

5.1 Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate Contractor's Expenditure Report for payment from the State within thirty (30) days, as provided in the Accounting and Auditing Procedures Manual for the ADHS.

5 2 Recoupment of Contract Payments.

5 2 1 *Unearned Advanced Funds.* Any unearned State funds that have been advanced to the Contractor and remain in its possession at the end of each budget term, or at the time of termination of the Contract, shall be refunded to the ADHS within forty-five (45) days of the end of a budget term or of the time of termination.

5 2 2 *Contracted Services.* In a fixed price contract, if the number of services provided is less than the number of services for which the Contractor received compensation, funds to be returned to the ADHS shall be determined by the Contract price. Where the price is determined by cost per unit of service or material, the funds to be returned shall be determined by multiplying the unit of service cost by the number of services the Contractor did not provide during the Contract term. Where the price for a deliverable is fixed, but the deliverable has not been completed, the Contractor shall be paid a pro rata portion of the completed deliverable. In a cost reimbursement contract, the ADHS shall pay for any costs that the Contractor can document as having been paid by the Contractor and approved by ADHS. In addition, the Contractor will be paid its reasonable actual costs for work in progress as determined by Generally Accepted Accounting Procedures up to the date of contract termination.

5 2 3 *Refunds.* Within forty-five (45) days after the end of each budget term or of the time of termination of the Contract, the Contractor shall refund the greater of: i) the amount refundable in accordance with paragraph 4 2 1, Unearned Advanced Funds; or ii) the amount refundable in accordance with paragraph 5.2 2, Contracted Services.

5 2 4 *Unacceptable Expenditures.* The Contractor agrees to reimburse the ADHS for all Contract funds expended, which are determined by the ADHS not to have been disbursed by the Contractor in accordance with the terms of this Contract. The Contractor shall reimburse ADHS within 45 days of the determination of unacceptability.

5 3 Unit Costs/Rates or Fees. Unit costs/rates or fees shall be based on costs, which are determined by ADHS to be reasonable, allowable and allocable as outlined in the Accounting and Auditing Procedures Manual for the ADHS.

5.4 Applicable Taxes

5.4.1 *State and Local Transaction Privilege Taxes* The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect taxes from the buyer does not relieve the seller from its obligation to remit taxes.

5.4.2 *Tax Indemnification* The Contractor and all subcontractors shall pay all federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs, including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

5.4.3 *I.R.S. W9 Form* In order to receive payment under any resulting Contract, the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona.

5.5 Availability of Funds for the Next Fiscal Year. Funds may not be presently available for performance under this Contract beyond the first year of the budget term or Contract term. The State may reduce payments or terminate this Contract without further recourse, obligation or penalty in the event that insufficient funds are appropriated in the subsequent budget term. The State shall not be liable for any purchases or Subcontracts entered into by the Contractor in anticipation of such funding. The Procurement Officer shall have the discretion in determining the availability of funds.

5.6 Availability of Funds for the Current Contract Term. Should the State Legislature enter back into session and decrease the appropriations through line item or general fund reductions, or for any other reason these goods or services are not funded as determined by ADHS, the following actions may be taken by ADHS.

5.6.1 Accept a decrease in price offered by the Contractor,

5.6.2 Reduce the number of goods or units of service and reduce the payments accordingly;

5.6.3 Offer reductions in funding as an alternative to Contract termination; or

5.6.4 Cancel the Contract.

6. Contract Changes

6.1 Amendments, Purchase Orders and Change Orders. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment, Purchase Order and/or Change Order within the scope of the Contract, unless the change is administrative or otherwise permitted by the Special Terms and Conditions. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by an unauthorized State employee or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized Contract Amendments, Purchase Orders and/or Change Orders, shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

6.2 Subcontracts. The Contractor shall not enter into any subcontract under this Contract without the advance written approval of the Procurement Officer. The subcontract shall incorporate by reference all material and applicable terms and conditions of this Contract.

6.3 Assignments and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

7 Risk and Liability

7.1 Risk of Loss The Contractor shall bear all loss of conforming material covered under this Contract until received and accepted by authorized personnel at the location designated in the Purchase Order, Change Order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt

7 2 Mutual Indemnification. Each party (as "indemnitor") agrees to indemnify, defend 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.

7 3 Indemnification - Patent and Copyright. To the extent permitted by A.R.S. § 41-621 and A.R.S. § 35-154, the Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of performance of the Contract or use by the State of materials furnished by or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph.

7 4 Force Majeure.

7 4 1 *Liability and Definition* Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; acts of terrorism; war; riots; strikes; mobilization; labor disputes; civil disorders; fire, flood; lockouts; injunctions-interventions not caused by or resulting from the act or failure to act of the parties; failures or refusals to act by government authority not caused by or resulting from the act or failure to act of the parties; and other similar occurrences beyond the control of the party declaring force majeure, which such party is unable to prevent by exercising reasonable diligence.

7.4.2 *Exclusions* Force Majeure shall not include the following occurrences:

7 4 2.1 Late delivery of Materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

7 4 2 2 Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

7.4 2.3 Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits

7 4.3 *Notice*. If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day of the commencement thereof, and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that the results or effects of such delay prevent the delayed party from performing in accordance with this Contract

7 4 4 *Default*. Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent

that, such delay or failure is caused by force majeure

7.5 Third Party Antitrust Violations The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor for or toward the fulfillment of this Contract.

8 **Description of Materials** The following provisions shall apply to Materials only:

8 1 Liens. The Contractor agrees that the Materials supplied under this Contract are free of liens In the event the Materials are not free of liens, Contractor shall pay to remove the lien and any associated damages or replace the Materials with Materials free of liens

8 2 Quality. Unless otherwise modified elsewhere in these terms and conditions, the Contractor agrees that, for one year after acceptance by the State of the Materials, they shall be:

8 2 1 Of a quality to pass without objection in the Contract description;

8 2 2 Fit for the intended purposes for which the Materials are used;

8 2.3 Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units,

8 2 4 Adequately contained, packaged and marked as the Contract may require; and

8.2 5 Conform to the written promises or affirmations of fact made by the Contractor.

8 3 Inspection/Testing Subparagraphs 8 1 through 8.2 of this paragraph are not affected by inspection or testing of or payment for the Materials by the State.

8 4 Compliance With Applicable Laws. The Materials and services supplied under this Contract shall comply with all applicable federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

8 5 Survival of Rights and Obligations After Contract Expiration and Termination.

8 5.1 *Contractor's Representations* All representations and warranties made by the Contractor under this Contract in paragraphs 7 and 8 shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A R S. § 12.510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S. Title 12, Chapter 5.

8.5 2 *Purchase Orders and Change Orders* Unless otherwise directed in writing by the Procurement Officer, the Contractor shall fully perform and shall be obligated to comply with all Purchase Orders and Change Orders received by the Contractor prior to the expiration or termination hereof, including, without limitation, all Purchase Orders and Change Orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

9. **State's Contractual Remedies**

9.1 Right to Assurance If the State, in good faith, has reason to believe that the Contractor does not intend to, or is unable to, perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract

9 2 Stop Work Order

9.2.1 *Terms*. The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part of the work called for by this Contract for a period up to ninety (90) Days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

9.2.2 *Cancellation or Expiration* If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly

9.3 Non-exclusive Remedies The rights and remedies of ADHS under this Contract are not exclusive, and ADHS is entitled to all rights and remedies available to it, including those under the Arizona Uniform Commercial Code and Arizona common law.

9.4 Right of Offset. The State shall be entitled to offset against any sums due the Contractor in any Contract with the State or damages assessed by the State because of the Contractor's non-conforming performance or failure to perform this Contract The right to offset may include, but is not limited to, a deduction from an unpaid balance and a collection against the bid and/or performance bonds Any offset taken for damages assessed by the State shall represent a fair and reasonable amount for the actual damages and shall not be a penalty for non-performance

10. **Contract Termination**

10.1 Cancellation for Conflict of Interest Pursuant to A R S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is, or becomes at any time while the Contract or an extension of the Contract is in effect, an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract The cancellation shall be effective when the Contractor receives written notice of the cancellation, unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A R.S. § 38-511.

10.2 Gratuities The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement, securing the Contract or an Amendment to the Contract, or receiving favorable treatment concerning the Contract, including the making of any determination or decision about Contract performance The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

10 3 Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor or its subcontractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body

10.4 Termination Without Cause.

10.4 1 Both the State and the Contractor may terminate this Contract at any time with thirty (30) days notice in writing specifying the termination date Such notices shall be given by personal delivery or by certified mail, return receipt requested.

10.4.2 If the Contractor terminates this Contract, any monies prepaid by the State, for which no service or benefit was received by the State, shall be refunded to the State within 5 days of the termination notice. In addition, if the Contractor terminates the Contract, the Contractor shall indemnify the State for any sanctions imposed by the funding source as a result of the Contractor's failure to complete the Contract.

10.4.3 If the State terminates this Contact pursuant to this Section, the State shall pay the Contractor the Contract price for all Services and Materials completed up to the date of termination. In a fixed price contract, the State shall pay the amount owed for the Services or Materials by multiplying the unit of service or item cost by the number of unpaid service units or items. In a cost reimbursement contract, the ADHS shall pay for any costs that the Contractor can document as having been paid by the Contractor and approved by ADHS. In addition, the Contractor will be paid its reasonable actual costs for work in progress as determined by GAAP up to the date of termination. Upon such termination, the Contractor shall deliver to the ADHS all deliverables completed. ADHS may require Contractor to negotiate the terms of any remaining deliverables still due.

10.5 Mutual Termination. This Contract may be terminated by mutual written agreement of the parties specifying the termination date and the terms for disposition of property and, as necessary, submission of required deliverables and payment therein.

10.6 Termination for Default. The State reserves the right to terminate the Contract in whole or in part due to the failure of the Contractor to comply with any material obligation, term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. In the event the ADHS terminates the Contract in whole or in part as provided in this paragraph, the ADHS may procure, upon such terms and in such manner as deemed appropriate, Services or Materials, similar to those terminated, and Contractor shall be liable to the ADHS for any excess costs incurred by the ADHS in obtaining such similar Services or Materials.

10.7 Continuation of Performance Through Termination. Upon receipt of the notice of termination and until the effective date of the notice of termination, the Contractor shall perform work consistent with the requirements of the Contract and, if applicable, in accordance with a written transition plan approved by the ADHS. If the Contract is terminated in part, the Contractor shall continue to perform the Contract to the extent not terminated. After receiving the notice of termination, the Contractor shall immediately notify all subcontractors, in writing, to stop work on the effective date of termination, and on the effective date of termination, the Contractor and subcontractors shall stop all work.

10.8 Disposition of Property. Upon termination of this Contract, all property of the State, as defined herein, shall be delivered to the ADHS upon demand.

11. **Arbitration.** Pursuant to A.R.S. § 12-1518, disputes under this Contract shall be resolved through the use of arbitration when the case or lawsuit is subject to mandatory arbitration pursuant to rules adopted under A.R.S. § 12-133.

12. **Communication**

12.1 Program Report. When reports are required by the Contract, the Contractor shall provide them in the format approved by ADHS.

12.2 Information and Coordination. The State will provide information to the Contractor pertaining to activities that affect the Contractor's delivery of services, and the Contractor shall be responsible for coordinating their activities with the State's in such a manner as not to conflict or unnecessarily duplicate the State's activities. As the work of the Contractor progresses, advice and information on matters covered by the Contract shall be made available by the Contractor to the State throughout the effective period of the Contract.

13. **Client Grievances.** If applicable, the Contractor and its subcontractors shall use a procedure through which

clients may present grievances about the operation of the program that result in the denial, suspension or reduction of services provided pursuant to this Contract and which is acceptable to and approved by the State

14. **Sovereign Immunity** Pursuant to A R S § 41-621(O), the obtaining of insurance by the State shall not be a waiver of any sovereign immunity defense in the event of suit

15. **Fingerprint and Certification Requirements/Juvenile Services.**

15 1 Paid and Unpaid Personnel The Contractor shall ensure that all paid and unpaid personnel who are required or are allowed to provide Services directly to juveniles have obtained fingerprint clearance cards in accordance with A R.S. § 41-1758 et seq.

15 2 Costs. The Contractor shall assume the costs of fingerprint certifications and may charge these costs to its fingerprinted personnel.

16. **Administrative Changes** The Procurement Officer, or authorized designee, reserves the right to correct any obvious clerical, typographical or grammatical errors, as well as errors in party contact information (collectively, "Administrative Changes"), prior to or after the final execution of a Contract or Contract Amendment Administrative Changes subject to permissible corrections include: misspellings, grammar errors, incorrect addresses, incorrect Contract Amendment numbers, pagination and citation errors, mistakes in the labeling of the rate as either extended or unit, and calendar date errors that are illogical due to typographical error. The Procurement Office shall subsequently send to the Contractor notice of corrections to administrative errors in a written confirmation letter with a copy of the corrected Administrative Change attached.

17. **Survival of Terms After Termination or Cancellation of Contract** All applicable Contract terms shall survive and apply after Contract termination or cancellation to the extent necessary for Contractor to complete and for the ADHS to receive and accept any final deliverables that are due after the date of the termination or cancellation.

18 **Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

The Contractor warrants that it is familiar with the requirements of HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH Act) of 2009, and accompanying regulations and will comply with all applicable HIPAA requirements in the course of this Contract. Contractor warrants that it will cooperate with the Arizona Department of Health Services (ADHS) in the course of performance of the Contract so that both ADHS and Contractor will be in compliance with HIPAA, including cooperation and coordination with the Government Information Technology Agency (GITA), Statewide Information Security and Privacy Office (SISPO) Chief Privacy Officer and HIPAA Coordinator and other compliance officials required by HIPAA and its regulations Contractor will sign any documents that are reasonably necessary to keep ADHS and Contractor in compliance with HIPAA, including, but not limited to, business associate agreements.

If requested by the ADHS Procurement Office, Contractor agrees to sign a "Pledge To Protect Confidential Information" and to abide by the statements addressing the creation, use and disclosure of confidential information, including information designated as protected health information and all other confidential or sensitive information as defined in policy In addition, if requested, Contractor agrees to attend or participate in HIPAA training offered by ADHS or to provide written verification that the Contractor has attended or participated in job related HIPAA training that is: (1) intended to make the Contractor proficient in HIPAA for purposes of performing the services required and (2) presented by a HIPAA Privacy Officer or other person or program knowledgeable and experienced in HIPAA and who has been approved by the GITA/SISPO Chief Privacy Officer and HIPAA Coordinator.

19. **Comments Welcome** The ADHS Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: ADHS Procurement Administrator, Arizona Department of Health Services, 1740 West Adams, Suite 303, Phoenix, Arizona, 85007

A. Background

The Arizona Department of Health Services (ADHS) receives supplemental funding from the Centers for Disease Control and Prevention (CDC) to further develop and enhance the State of Arizona, Bureau of Public Health Emergency Preparedness (PHEP) These funds are used to support development and implementation of Tasks in this Scope of Work. The ADHS has determined that the most expeditious methodology to enhance these Tasks is to partner with the County Health Departments

B. Objective

Develop plans along with the timetables and necessary activities to fully implement the Contractor's partnership role in response to the CDC capabilities and the programmatic methodology requirements of the Scope of Work

C. Scope of Work

The Contractor shall:

1 The Scope of Work can be found in the following Tasks In addition, the Annual Performance Requirements can be found in Attachment A hereto and incorporated herein Attachment A will change each year, as will the estimated budget for the period of August 31st through August 30th. The Contractor shall submit a detailed Budget based upon their estimated cost associated with continuation of the programmatic Annual Performance Requirements through the Contract period, unless terminated, canceled or extended as otherwise provided herein. This Budget shall be submitted in the online Budget Tool format as provided by PHEP. The Contractor shall have the flexibility of making adjustments to the Budget categories within ten percent (10%) of the budgeted amount provided on the approved Budget Any change exceeding ten percent (10%) shall be requested in writing on the Budget Tool and shall not be implemented until approved electronically by the ADHS. It is the responsibility of the Contractor to coordinate and manage funds under this Contract.

D. Tasks

The Contractor shall:

1 Maintain a Contractor's Public Health Emergency Preparedness Coordinator;

2 Maintain a detailed plan for 24/7 response to Public Health Emergencies along the guidelines and deliverables for the current year;

3 Maintain a timeline for the development of county-wide plans for Public Health Emergencies, preparedness for a bioterrorism event, infectious disease outbreak, or other public health emergency;

4 Maintain a timeline and a plan to identify personnel to be trained, to receive and distribute critical stockpile items and manage a mass distribution of vaccine and/or antibiotics on a twenty-four (24) hours a day, seven (7) days a week basis;

5 Maintain a plan to receive and evaluate urgent disease reports from all parts of the jurisdiction on a twenty-four (24) hours a day, seven (7) days a week basis. Maintenance of the plan shall include participation in state-wide electronic disease surveillance initiatives;

6 Maintain a plan to enhance risk communication and information dissemination to educate the public regarding exposure risks and effective public response; and

7 Submit an annual Budget based upon the cost reimbursement budgetary guidelines and the Budget Tool provided online at Health Services Portal The Contractor shall submit the completed Budget on or before

a date determined annually by the CDC and the State. The Contractor shall be advised by correspondence from the ADHS PHEP on the available funding amounts on or before August 31st The funding shall be based on required critical and enhanced capacities for the Contractor's geographical area. Upon receipt of funding communication, the Contractor shall prepare and submit a detailed Budget for the period of August 31st through the following August 30th of each Budget year The Contractor shall meet all reporting requirements for federal funding, including those years in which a match requirement is established

E. Annual Performance Requirements

The Contractor shall perform the requirements in Attachment A

F. Deliverables

The Contractor shall:

1 Maintain a person appointed as liaison and PHEP coordinator for this grant funding;

2. Provide an annual budget with all federal funding documentation required;

3 Provide Annual Performance Requirements as listed and distributed annually. See Attachment A; and

4. Be prepared to open their Emergency Operations Centers for all designated emergencies.

G. Notices, Correspondence and Reports

1 Notices, Correspondence and Reports from the Contractor to ADHS shall be sent to:

Arizona Department of Health Services
Public Health Emergency Preparedness
Bureau Chief
150 N. 18th Avenue, #150
Phoenix, AZ 85007

2 Notices, Correspondence and Payments from the ADHS to the Contractor shall be sent to:

Gila County Health and Emergency Services
5515 S Apache Ave, Suite 400
Globe, AZ 85501
Attn: Leana Asberry
Phone: 928-402-8805
lasberry@co gila.az us

PRICE SHEET
Gila County

Cost Reimbursement

Description	Quantity	Unit Rate	Extended Price
CDC Deliverables for Public Health Emergency Preparedness - PHEP	1	Year	$ 155,256 00
Total			**$ 155,256.00**

FY 11-12

INTERGOVERNMENTAL AGREEMENT (IGA)

Contract No. HG754195

ARIZONA DEPARTMENT OF HEALTH SERVICES
1740 West Adams, Room 303
Phoenix, Arizona 85007
(602) 542-1040
(602) 542-1741 FAX

Project Title: Bioterrorism Preparedness and Response Program

Begin Date 4/1/07

Geographic Service Area: Gila County Health Department

Termination Date 8/30/2011

Arizona Department of Health Services has authority to contract for services specified herein in accordance with A.R.S. §§ 11-951, 11-952, 36-104 and 36-132. The Contractor represents that it has authority to contract for the performance of the services provided herein pursuant to:

x	Counties:	A.R.S. §§ 11-201, 11-951, 11-952 and 36-182.
	Indian Tribes:	A.R.S. §§ 11-951, 11-952 and the rules and sovereign authority of the contracting Indian Nation.
	School Districts:	A.R.S. §§ 11-951, 11-952, and 15-342.
	City of Phoenix:	Chapter II, §§ 1 & 2, Charter, City of Phoenix.
	City of Tempe:	Chapter 1, Article 1, §§ 1.01 & 1.03, Charter, City of Tempe.
	Other:	Santa Cruz Valley Union High School

The Contractor agrees to perform all the services set forth in the Agreement and Work Statement. Amendments signed by each of the parties and attached hereto are hereby adopted by reference as a part of this Contract, from the effective date of the Amendment, as if fully set out herein.

Arizona Transaction (Sales) Privilege: _____

Federal Employer Identification No.: _____
Tax License No.: _____

Contractor Name: Gila County Health Department

Address 1400 Ash Street

Globe AZ 85501
City, State Zip Code

FOR CLARIFICATION, CONTACT:

Name: William Hyer

Phone: 928 402-8805

FAX No.: 928 425-0794

Jose M Sanchez 03-27-07
Signature of Person Authorized to sign **Date**
Jose M. Sanchez, Chairman, BOS

Pursuant to A.R.S. § 11-952, the undersigned Contractor's Attorney has determined that this Intergovernmental Agreement is in proper form and is within the powers and authority granted under the laws of Arizona.

This contract shall henceforth be referred to as Contract No HG754195. The Contractor is hereby cautioned not to commence any billable work or provide any material, service or construction under this contract until Contractor receives a fully executed copy of the contract.

State of Arizona

Signed this 12th **day of** April, 2007

Bryan B Chambers 3 20 07
Signature Date
Bryan B Chambers Chief Deputy County Attorney
Print Name and Title

Karen Boswell
Procurement Officer

Attorney General Contract, No .KR07-0233-EHS which is an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952 by the undersigned Assistant Attorney General, who has determined that it is in the proper form and is within the powers granted under the laws of the State of Arizona to those parties to the Agreement represented by the Attorney General.

The Attorney General, BY:

Elizabeth Dietz 4/10/07
Signature **Date**
Elizabeth Dietz
Print Name, Assistant Attorney General

RESERVED FOR USE BY THE SECRETARY OF STATE

NO. 28854
Filed with the Secretary of State
Date Filed: 4/16/07
Secretary of State
By: _____

1. **Definition of Terms.** As used in this Contract, the terms listed below are defined as follows:
"Attachment" means any document attached to the Contract.
"ADHS" means Arizona Department of Health Services
"Change Order" means a written order that is signed by a Procurement Officer and that directs the Contractor to make changes authorized by the Uniform Terms and Conditions of the Contract.
"Contract" means the combination of the Uniform and Special Terms and Conditions, the Specifications and Statement or Scope of Work, any Contract Amendments and any terms applied by law.
"Contract Amendment" means a written document signed by the Procurement Officer and the Contractor that is issued for the purpose of making changes in the Contract.
"Contractor" means any person who has a Contract with the Arizona Department of Health Services.
"Cost Reimbursement" means a contract under which a contractor is reimbursed for costs, which are reasonable, allowable and allocable in accordance with the contract terms and the provisions of the State procurement code.
"Days" means calendar days unless otherwise specified.
"Exhibit," means any item labeled as an Exhibit.
"Fixed Price" establishes a set price per unit of service. The set price shall be based on costs, which are reasonable, allowable and allocable.
"Gratuity" means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
"Procurement Officer" means the person duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract or their designee.
"Purchase Order" means a written document that is signed by a Procurement Officer, that requests a vendor to deliver described goods or services at a specific price and that, on delivery and acceptance of the goods or services by the State, becomes an obligation of the State.
"Subcontract" means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.
"State" means the State of Arizona and/or the ADHS. For purposes of this Contract, the term "State" shall not include the Contractor.

2. **Contract Interpretation.**

2.1 Arizona Law. The law of Arizona applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona.

2.2 Implied Contract Terms. Each provision of law and any terms required by law to be in this contract are a part of this Contract as if fully stated in it.

2.3 Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:

2.3.1 Special Terms and Conditions;
2.3.2 Uniform Terms and Conditions;
2.3.3 Statement or Scope of Work;
2.3.4 Specifications;
2.3.5 Attachments
2.3.6 Exhibits
2.3.7 Referenced Documents

2.4 Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

2.5 Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.

2.6 No Parol Evidence. This Contract 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 used in this document.

2.7 No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract 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 to it.

2.8 Headings. Headings are for organizational purposes only and shall not be interpreted as having legal significance or meaning.

3. **Contract Administration and Operation.**

3.1 Term. As indicated on the signature page of the Contract, the Contract shall be effective as of the Begin Date and shall remain effective until the Termination Date.

3.2 Contract Renewal. This Contract shall not bind, nor purport to bind, the State for any contractual commitment in excess of the original Contract period. The term of the Contract shall not exceed five years. However, if the original contract period is for less than five years, the State shall have the right, at its sole option, to renew the Contract, so long as the original Contract period together with the renewal periods does not exceed five years. If the State exercises such rights, all terms, conditions and provisions of the original Contract shall remain the same and apply during the renewal period with the exception of price. The Contractor shall agree that the prices stated in the original Contract shall not be increased in excess of the maximum percentage of increase stated on the Pricing Schedule.

3.3 Non-Discrimination. The Contractor shall comply with State Executive Order No. 99-4, as applicable, and all other applicable Federal and State non-discrimination laws, rules and regulations, including, but not limited to Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1975, Federal Executive Order 11246, Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, Title VI of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act of 1990 (Public Law 101-336), and all other acts required for compliance with the federal funding source.

3.4 Records. Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other records ("records") relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

3.5 Audit. Pursuant to A.R.S. § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.

3.6 Financial Management. For all contracts, the practices, procedures, and standards specified in and required by the Accounting and Auditing Procedures Manual for the ADHS funded programs shall be used by the Contractor in the management of contract funds and by the State when performing a contract audit. Funds collected by the Contractor in the form of fees, donations and/or charges for the delivery of these contract services shall be accounted for in a separate fund.

3.6.1 *Federal Funding.* Contractors receiving federal funds under this contract shall comply with the certified finance and compliance audit provision of the Office of Management and Budget (OMB) Circular A-133, if applicable. The federal financial assistance information shall be stated in a Change Order or Purchase Order.

3.6.2 *State Funding.* Contractors receiving state funds under this contract shall comply with the certified compliance provisions of A.R.S. § 35-181.03.

3.7 Inspection and Testing. The Contractor agrees to permit access, at reasonable times, to its facilities, subcontractor facilities and the Contractor's processes for producing the materials for inspection of the materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection at the Contractor's facilities nor testing shall constitute final acceptance of the materials. If the State determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

3.8 Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the signature page by the Contractor, unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to an ADHS Procurement Officer, unless otherwise stated in the Contract. An authorized ADHS Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice, and an amendment to the Contract shall not be necessary.

3.9 Advertising and Promotion of Contract. The Contractor shall not advertise or publish information for commercial benefit concerning this Contract without the prior written approval of an ADHS Procurement Officer.

3.10 Property of the State.

3.10.1 *Equipment.* The title to any and all equipment acquired through the expenditure of funds received from the State shall remain the property of the State by and through the ADHS and, as such, shall remain under the sole direction, management and control of the ADHS. When this Contract is terminated, the disposition of all such property shall be determined by the ADHS. For Fixed Price contracts, when the Contractor provides the services/materials required by the contract, any and all equipment purchased by the Contractor remains the property of the Contractor. All purchases of equipment need to be reported to the ADHS Office of Inventory Control.

3.10.2 *Title and Rights to Materials.* As used in this section, the term "Materials" means all products created or produced by the Contractor under this Contract, including, but not limited to: written and electronic information, recordings, reports, research, research findings, conclusions, abstracts, results, software, data and any other intellectual property or deliverables created, prepared, or received by the Contractor in performance of this Contract. Contractor acknowledges that all Materials are the property of the State by and through the ADHS and, as such, shall remain under the sole direction, management and control of the ADHS. The Contractor is not entitled to a patent or copyright on these Materials and may not transfer a patent or copyright on them to any other person or entity. To the extent any copyright in any Materials may originally vest in the Contractor, the Contractor hereby irrevocably transfers to the ADHS, for and on behalf of the State, all copyright ownership. The ADHS shall have full, complete and exclusive rights to reproduce, duplicate, adapt, distribute, display, disclose, publish, release and otherwise use all Materials. The Contractor shall not use or release these Materials without the prior written consent of the ADHS. When this Contract is terminated, the disposition of all such Materials shall be determined by the ADHS. Further, the Contractor agrees to give recognition to the ADHS for its support of any program when releasing or publishing program Materials.

4. **Costs and Payments**

4.1 Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate Contractor's Expenditure Report for payment from the State within thirty (30) days, as provided in the Accounting and Auditing Procedures Manual for the ADHS.

4.2 Recoupment of Contract Payments.

4.2.1 *Unearned Advanced Funds.* Any unearned State funds that have been advanced to the Contractor and remain in its possession at the end of each budget term, or at the time of termination of the Contract, shall be refunded to the ADHS within forty-five (45) days of the end of a budget term or of the time of termination.

4.2.2 *Contracted Services.* If the number of services provided is less than the number of services for which the Contractor received compensation, funds to be returned to the ADHS shall be determined by multiplying the unit of service cost by the number of services the Contractor did not provide during the Contract term.

4.2.3 *Refunds.* Within forty-five (45) days after the end of each budget term or of the time of termination of the Contract, the Contractor shall refund the greater of: i) the amount refundable in accordance with paragraph 4.2.1, Unearned Advanced Funds; or ii) the amount refundable in accordance with paragraph 4.2.2, Contracted Services.

4.2.4 *Unacceptable Expenditures.* The Contractor agrees to reimburse the ADHS for all Contract funds expended, which are determined by the ADHS not to have been disbursed by the Contractor in accordance with the terms of this Contract. The Contractor shall reimburse ADHS within 45 days of the determination of unacceptability.

4.3 Delivery. Unless stated otherwise in this Contract, all prices shall be F.O.B. Destination and shall include all delivery and unloading at the destinations.

4.4 Unit Costs/Rates or Fees. Unit costs/rates or fees shall be based on costs, which are reasonable, allowable and allocable as outlined in the Accounting and Auditing Procedures Manual for the ADHS.

4.5 Applicable Taxes.

4.5.1 *State and Local Transaction Privilege Taxes.* The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect taxes from the buyer does not relieve the seller from its obligation to remit taxes.

4.5.2 *Tax Indemnification.* The Contractor and all subcontractors shall pay all federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall require all subcontractors to hold the State

harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs, including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

4.5.3 *I.R.S. W9 Form.* In order to receive payment under any resulting Contract, the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona.

4.6 Availability of Funds for the Next Fiscal Year. Funds may not be presently available for performance under this Contract beyond the current fiscal year. The State may reduce payments or terminate this contract without further recourse, obligation or penalty in the event that insufficient funds are appropriated. The State shall not be liable for any purchases or Subcontracts entered into by the Contractor in anticipation of such funding. The Procurement Officer shall have the discretion in determining the availability of funds.

5. **Contract Changes.**

5.1 Amendments, Purchase Orders and Change Orders. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment, Purchase Order and/or Change Order within the scope of the Contract, unless the change is administrative or otherwise permitted by the Special Terms and Conditions. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by an unauthorized State employee or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized Contract Amendments, Purchase Orders and/or Change Orders, shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

5.2 Subcontracts. The Contractor shall not enter into any Subcontract under this Contract without the advance written approval of the Procurement Officer. The Subcontract shall incorporate by reference all material and applicable terms and conditions of this Contract.

5.3 Assignments and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6. **Risk and Liability**

6.1 Risk of Loss. The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the Purchase Order, Change Order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

6.2 Mutual Indemnification. Each party (as "indemnitor") agrees to indemnify, defend 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.

6.3 Indemnification - Patent and Copyright. To the extent permitted by A.R.S. § 41-621 and § 35-154, the Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of performance of the Contract or use by the State of materials furnished by or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph.

6.4 Force Majeure.

6.4.1 *Liability and Definition.* Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; acts of terrorism; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-interventions not caused by or resulting from the act or failure to act of the parties; failures or refusals to act by government authority not caused by or resulting from the act or failure to act of the parties; and other similar occurrences beyond the control of the party declaring force majeure, which such party is unable to prevent by exercising reasonable diligence.

6.4.2 *Exclusions.* Force Majeure shall not include the following occurrences:

6.4.2.1 Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

6.4.2.2 Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

6.4.2.3 Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

6.4.3 *Notice.* If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day of the commencement thereof, and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that the results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

6.4.4 *Default.* Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that, such delay or failure is caused by force majeure.

6.5 Third Party Antitrust Violations. The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor toward the fulfillment of this Contract.

7. **Warranties.**

7.1 Liens. The Contractor warrants that the materials supplied under this Contract are free of liens.

7.2 Quality. Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:

7.2.1 Of a quality to pass without objection in the Contract description;

7.2.2 Fit for the intended purposes for which the materials are used;

7.2.3 Within the variations permitted by the contract and are of even kind, quantity, and quality within each unit and among all units;

7.2.4 Adequately contained, packaged and marked as the Contract may require; and

7.2.5 Conform to the written promises or affirmations of fact made by the Contractor.

7.3 Fitness. The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor and shall be fit for all purposes and uses required by the Contract.

7.4 Inspection/Testing. The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.

7.5 Compliance With Applicable Laws. The materials and services supplied under this Contract shall comply with all applicable federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

7.6 Survival of Rights and Obligations After Contract Expiration and Termination.

7.6.1 *Contractor's Representations and Warranties.* All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12.510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S. Title 12, Chapter 5.

7.6.2 *Purchase Orders and Change Orders.* Unless otherwise directed in writing by the Procurement Officer, the Contractor shall fully perform and shall be obligated to comply with all Purchase Orders and Change Orders received

by the Contractor prior to the expiration or termination hereof, including, without limitation, all Purchase Orders and Change Orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

8. **State's Contractual Remedies.**

8.1 Right to Assurance. If the State, in good faith, has reason to believe that the Contractor does not intend to, or is unable to, perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract.

8.2 Stop Work Order.

8.2.1 *Terms.* The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part of the work called for by this Contract for a period up to ninety (90) Days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

8.2.2 *Cancellation or Expiration.* If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

8.3 Non-exclusive Remedies. The rights and remedies of the State under this Contract are not exclusive.

8.4 Nonconforming Tender. Materials supplied under this Contract shall fully comply with the Contract. The delivery of materials or a portion of the materials in an installment that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

8.5 Right of Offset. The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

8.6 Right to Purchase Materials or Complete Work. In the case of default, the State shall have the right to procure materials or services to replace those under this Contract in accordance with the Arizona procurement code. The State may recover any reasonable costs from the Contractor by:

8.6.1 Deduction from an unpaid balance;
8.6.2 Collection against the bid and/or performance bond;
8.6.3 An action to recover costs; and/or
8.6.4 Any combination of the above or any other remedies as provided by this Contract or law.

9. **Contract Termination**

9.1 Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is, or becomes at any time while the Contract or an extension of the Contract is in effect, an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation, unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.

9.2 Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement, securing the Contract or an amendment to the Contract, or receiving favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

9.3 Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body.

9.4 Termination for Convenience. The State reserves the right to terminate the Contract in whole or in part at any time, when in the best interests of the State, without penalty or recourse. Upon receipt of the written notice, the Contractor shall immediately stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.

9.5 Termination for Default. The State reserves the right to terminate the Contract in whole or in part due to the failure of the Contractor to comply with any material obligation, term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract.

9.6 Continuation of Performance Through Termination. Upon receipt of the notice of termination and until the effective date of the notice of termination, the Contractor shall perform work consistent with the requirements of the Contract and, if applicable, in accordance with a written transition plan approved by the ADHS. If the Contract is terminated in part, the Contractor shall continue to perform the Contract to the extent not terminated. After receiving the notice of termination, the Contractor shall immediately notify all subcontractors, in writing, to stop work on the effective date of termination, and on the effective date of termination, the Contractor and subcontractors shall stop all work.

9.7.1 Disposition of Property. Upon termination of this Contract, all property of the State, as defined herein, shall be delivered to the ADHS upon demand.

10. **Arbitration.** Pursuant to A.R.S. § 12-1518, disputes under this Contract shall be resolved through the use of arbitration as follows:

10.1 Cases under the Jurisdictional Limit. In all cases filed in superior court in which the court finds or the parties agree that the amount in controversy does not exceed the jurisdictional limit, arbitration shall be used, unless all parties file a written stipulation waiving the arbitration requirement, and the court waives the arbitration requirement on a showing of good cause;

10.2 Public Works Contracts. In all claims involving public works contracts, if the amount in controversy is less than one hundred thousand dollars, arbitration shall be used.

11. **Communication.**

11.1 Program Report: The Contractor shall provide program reports in a format approved by ADHS on all activities in the performance of the Contract.

11.2 Information and Coordination. The State will provide information to the Contractor pertaining to activities that affect the Contractor's delivery of services, and the Contractor shall be responsible for coordinating its activities with the State's in such a manner as not to conflict or unnecessarily duplicate the State's activities. As the work of the Contractor progresses, advice and information on matters covered by the Contract shall be made available by the Contractor to the State throughout the effective period of the Contract.

12. **Client Grievances.** The Contractor and its subcontractors shall use a procedure through which clients may present grievances about the operation of the program that results in the denial, suspension or reduction of services provided pursuant to this Contract and which is acceptable to and approved by the State. The State, at its discretion, may participate in or review all such grievances within 30 days after the Contractor has submitted its findings for the initial grievance.

13. **Insurance.**

13.1 Type of Insurance. Contractor represents that it is insured and/or self-insured pursuant to:

- [x] **Counties, Cities Towns: A.R.S. §§ 11-952.01 and/or 11-981.**
- [ ] **School Districts:A.R.S. §§ 15-382 and/or 15-387.**
- [ ] **Indian Tribes/Federal Government: Contractor represents that it is insured and/or self-insured.**
- [ ] **Other: Santa Cruz Valley Union H.S.**

13.2.1 Sovereign Immunity. Pursuant to A.R.S. § 41-621(O), the obtaining of insurance by the State shall not be a waiver of any sovereign immunity defense in the event of suit.

14. **Fingerprint and Certification Requirements/Juvenile Services.**

14.1 Paid and Unpaid Personnel. The Contractor shall ensure that all paid and unpaid personnel who are required or are allowed to provide Services directly to juveniles have obtained class 1 or class 2 fingerprint clearance cards in accordance with A.R.S. §§ 41-1758 et. seq. The Contractor may, when applicable, submit verification of fingerprinting and certification of an employee by the Department of Economic Security, the Department of Corrections or the Arizona Supreme Court to meet this requirement.

14.2 Supervision. The Contractor shall ensure and verify that those employees who qualify only for a restricted certification shall be supervised when providing services directly to juveniles.

14.3 Costs. The Contractor shall assume the costs of fingerprint certifications and may charge these costs to its fingerprinted personnel.

15. **Administrative Changes.** The Procurement Officer, or authorized designee, reserves the right to correct any obvious clerical, typographical or grammatical errors, as well as errors in party contact information (collectively, "Administrative Changes"), prior to or after the final execution of a Contract or Contract Amendment. However, such corrections shall be allowed only to the extent that they do not change the intent of the parties or the material terms of the Contract or Contract Amendment. Administrative Changes subject to permissible corrections include: misspellings, grammar errors, incorrect addresses, incorrect Contract Amendment numbers, pagination and citation errors, mistakes in the labeling of the rate as either extended or unit, and calendar date errors that are illogical due to typographical error. The Procurement Office shall subsequently send to the Contractor notice of corrections to Administrative Changes in a written confirmation letter with a copy of the corrected Administrative Change attached.

16. **Funding Cap Changes.** The State shall use a Purchase Order and/or Change Order to make changes that increase and/or decrease federal Funding Caps. For purposes of this paragraph, a "Funding Cap" is defined as the total amount of money allowed by the federal funds.

17. **Cost Reimbursement Contract Changes.** The Contractor and the State agree that, in a Cost Reimbursement contract that is not the result of a bid under A.R.S. §§ 41-2501 et.seq., an Increase in the Total Contract Amount, or Increase in the Incremental Cost Amounts and/or relative changes to Levels of Service will not require a Contract Amendment. The State shall use a Purchase Order and/or Change Order to make these changes, and both parties acknowledge that such changes shall be the result of negotiations between the parties. For purposes of this paragraph, "Increase in the Total Contract Amount" means an increase in the total allowable costs indicated on the price sheet, and "Increase in the Incremental Cost Amounts" mean an increase in the individual allowable cost totals for listed expenses as indicated on the price sheet. Levels of Service mean the required units of a particular service. In addition to issuing the Purchase Order or Change Order, the State shall notify the Contractor of the changes in writing with an attached price sheet indicating the changes. The provisions of the Purchase Order or Change Order will be deemed to have been accepted 30 days after the date the State provides notice of the changes to the Contractor, unless within that time, the Contractor notifies the State in writing that it disputes or refuses the terms of the Purchase Order or Change Order.

18. **Comments Welcome.** The State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: Procurement Administrator, Department of Health Services, 1740 West Adams, Room 303, Phoenix, Arizona 85007.

1. CONTRACT CANCELLATION

Mutual Termination

A. The Department or Contractor, in addition to other rights set forth elsewhere in the Contract, may at any time terminate this Contract with thirty (30) days notice in writing specifying the termination date therein. Such notices shall be given by personal delivery or by certified mail, return receipt requested.

B. If the Contractor terminates this Contract, any monies prepaid by ADHS for which no service or benefit was received by ADHS shall be refunded to ADHS within 5 days of the termination notice. In addition, Contractor shall indemnify the State for any sanctions imposed by the funding source as a result of Contractor's failure to complete the Contract.

2. CONTRACT TYPE

The Contract shall be a Cost Reimbursement Contract.

3. FEDERAL AUTHORITY

The project funded through this Contract is authorized under Section 301(a) of the Public Health Service Act [42 U.S.C. 241 (a)], as amended; Section 311(b) of the Public Health Service Act [42 U.S.C. 243(b)], as amended; and Section 317 of the Public Health Service Act [42 U.S.C. 247(c)], as amended.

4. COST REIMBURSEMENT CONTRACT CHANGES

The Contractor and the State agree that, a Cost Reimbursement contract that is not the result of a bid under A.R.S. §§ 41-2501 et. seq., and Increase in the Total Contract Amount or Increase in the Incremental Cost Amounts and/or relative changes to Levels of Service will not require a Contract Amendment. The State shall use a Purchase Order and/or Change Order to make these changes, and both will not require a Contract Amendment. The State shall use a Purchase Order and/or Change Order to make these changes, and both parties acknowledge that such changes shall be the result of negotiations between the parties. For purposes of this paragraph, "Increase in the Total Contract Amount" means an increase in the total allowable costs indicated on the price sheet, and "Increase in the Incremental Cost Amounts" mean an increase in the individual allowable cost totals for listed expenses as indicated on the price sheet. Levels of Service mean the required units of a particular service. In addition to issuing the Purchase Order or Change Order, the State shall notify the Contractor of the changes in writing with an attached price sheet indicating the changes.
The provisions of the Purchase Order or Change Order will be deemed to have been accepted 30 days after the date the State provides notice of the changes to the Contractor, unless within that time, the Contractor notifies the State in writing that it disputes or refuses the terms of the Purchase Order or Change Order.

5. MONTHLY ADVANCEMENT PAYMENT METHOD

a. The Contractor shall prepare a schedule of projected monthly cash requirements for the Contract period.

b. During the first and the second months of the Contract, the Department shall process advance payments based on the Contractor's schedule of monthly cash requirements.

c. The Contractor shall prepare and submit a Contractor's Expenditure Report by the thirtieth (30th) of each month.

d. Each advance payment made following receipt of the Contractor's Expenditure Report shall be based on the schedule of monthly cash requirements adjusted for any variance between the amount advanced and the Department approved Contractor's Expenditure Report.

e. Revisions to Estimated Cash Requirements Schedule shall be approved by ADHS and shall not require an amendment to the contract.

1. BACKGROUND

The Arizona Department of Health Services (ADHS) received supplemental funding from the Centers for Disease Control (CDC) to further develop and enhance the State of Arizona, Public Health Preparedness and Response for Bioterrorism. These funds are to be used to support development and implementation of critical benchmarks as identified in the Scope of Work. The Department has determined that the most expeditious methodology is to partner with the County Health Departments.

2. OBJECTIVE

The Objective is to develop a plan along with the timetables and necessary activities to fully implement the Counties partnership role in response to the CDC benchmarks and programmatic methodology requirements of the Scope of Work.

3. SCOPE OF WORK

The Scope of Work can be found in the following Tasks a) through i). In addition, the Annual Performance Requirements can be found in Attachment A & B attached hereto and incorporated herein. Attachment A will change each year, as will the estimated budget for the period of August 31st through August 30th. The County shall submit a detailed Budget based upon their estimated cost associated with continuation of the programmatic Annual Performance Requirements through the contract period, unless terminated, canceled or extended as otherwise provided herein. The county will have the flexibility of making adjustments to the budget categories within 10% of the budgeted amount provided on the approved budget. Any change exceeding 10% allowed shall be requested in writing and shall not be implemented until approved by the ADHS. It is the responsibility of the county health department to coordinate and manage funds under this agreement.

4. TASKS

The Contractor must maintain the following tasks:

a. The county health officer shall maintain a county health department Bioterrorism Coordinator. The Contractor shall submit a copy of the Coordinators resume or curriculum vitae.

b. Maintain a detailed plan for 24/7 response to bioterrorism along the guidelines and deliverables for the current year.

c. Maintain a time line for the development of county-wide plans for bioterrorism preparedness and response for a bioterrorism event, infectious disease outbreak, or other public health emergency.

d. Maintain a timeline and a plan to identify personnel to be trained, to receive and distribute critical stockpile items and manage a mass distribution of vaccine and/or antibiotics on a 24 hours a day, 7 days a week basis.

e. Maintain a plan to receive and evaluate urgent disease reports from all parts of the jurisdiction on a 24 hours a day, 7 days a week basis. Maintenance of the plan should include participation in state-wide electronic disease surveillance initiatives.

f. Maintain a plan to enhance risk communication and information dissemination to educate the public regarding exposure risks and effective public response.

g. Assess training needs with special emphasis on emergency department personnel, infectious disease specialists, public health staff, and other health care providers. The contractor shall submit a report detailing the training needs for their geographical area.

h. The contractor shall submit an annual budget based upon the cost reimbursement budgetary guidelines and worksheets previously provided. The contractor shall submit the completed budget on or before a date determined annually by the CDC and the State. The contractor will be advised by correspondence from the ADHS Bureau of Emergency Preparedness and Response on the available funding amounts on or before August 31st. The funding will be based on required critical and enhanced capacities for the counties geographical area. Upon receipt of funding communication, the contractor shall prepare and submit a detailed budget for the period of August 31st through the following August 30th of each budget year.

i. All of the requirements, tasks, action items and deliverables must be performed in Attachment A & B.

5. DELIVERABLES

a) A copy of the Coordinator's resume or curriculum vitae.

b) A report detailing the training needs for the contractor's geographical area.

c) An annual budget

d) Annual Performance Requirements listed in Attachment A & B.

6. ANNUAL PERFORMANCE REQUIREMENTS

See Attachment A & B.

7. Notices, Correspondence and Reports
Programmatic Notices, Correspondence and Reports from the Contractor to the Arizona Department of Health Services (ADHS) shall be mailed to:
Office Chief
Office of Bioterrorism and Epidemic Detection and Response
3815 N. Black Canyon Hwy.
Phoenix, AZ 85015

Notice, Correspondence and Reports from ADHS to the Contractor shall be mailed to:
Bioterrorism Coordinator
Gila County Health Department
1400 E. Ash St.
Globe, Az. 85501

Invoices, Financial Questions and Correspondence from the Contractor to ADHS shall be mailed to:
Administrative Service Officer II
Office of Bioterrorism and Epidemic Detection and Response
1740 W. Adams, Rm. 206
Phoenix, AZ 85007

Attachment A

Annual Performance Requirements

Goal 1: Prevent

Increase the use and development of interventions known to prevent human illness from chemical, biological, radiological agents, and naturally occurring health threats.

1. Encourage participation by the County Health Officer or designated official in the Senior Advisory Committee (SAC).

2. Provide a summary of the progress made on updating the Public Health Emergency Response Plan, including annexes on the top three targets/hazards identified in the Hazard Vulnerability Analysis (HVA). Also include plans/annexes for Smallpox/Mass Vaccination, Strategic National Stockpile (SNS), and Pandemic Influenza, in the semi-annual report given to Arizona Department of Health Services (ADHS). Provide all National Incident Management System (NIMS)-compliant plans with the Local Health Officer's signature indicating approval of each plan by the end of the annual reporting period. Provide a summary of the progress made in developing continuity of operations strategies and in addressing public health responder needs, including Personal Protective Equipment (PPE), heat stress, and rest cycles, by the end of the annual reporting period.

3. Document any new public health emergency response related mutual aid agreements with other jurisdictions and agencies annually. Provide updates to the Mutual Aid Matrix on the SIREN website as needed.

4. Provide a summary of participation in workgroups, meetings, or discussions related to state and local isolation and quarantine planning efforts in the semi-annual report. Update and submit all applicable plans by the end of the annual reporting period.

5. Provide a summary of the progress made on updating the behavioral health elements in plans in the semi-annual report. Update and submit all applicable plans detailing behavioral health elements by the end of the annual reporting period.

6. *Centers for Disease Control (CDC) Performance Measure 1:* Identify primary and secondary staff as well as document their contact information into the county's Emergency Response Notification Form located on the SIREN website for the following core functional Incident Command System roles: Incident Commander, Public Information Officer, Safety Officer, Operations Section Chief, Planning Section Chief, Logistics Section Chief and Finance/Administration Section Chief.

   Optional Performance Requirement 1. Develop a plan to purchase, store, pre-position, and rotate antivirals and/or antibiotics for any or all of the following: county health department staff, volunteers, and families, or any combination thereof. The plan should identify pharmaceuticals to be purchased, those individuals to be covered by the pharmaceuticals, amounts/doses, and a budget to include the cost of medication, plan implementation, and storage.

   Optional Performance Requirement 2. If the county chooses to procure additional PPE, update inventory to include expiration dates and information on secure storage. If choosing to purchase N-95 masks, develop a fit-testing program to ensure appropriate mask use by public health first responders.

Goal 2: Detect and Report

Decrease the time needed to classify health events as terrorism or naturally occurring in partnership with other agencies.

1. Use MEDSIS 2.0 as primary disease surveillance system within three months of ADHS implementation. Provide the date this activity was met.

2. Infection control practitioners at all community and tertiary care hospitals should be trained on MEDSIS and

reporting to MEDSIS by the end of the grant year (August 30, 2007). Counties with 3 or fewer hospitals will recruit additional facilities such as community health centers and large private clinics.

Attachment B

Annual Performance Requirements for Pan Flu II

Action Item #1: Establish a County Pandemic Influenza Coordinating Committee to coordinate planning. Provide copies of the committee roster, committee meeting agendas and minutes in the semi annual and annual report.

Action Item #2: Update and submit a county pandemic influenza response plan to Arizona Department of Health Services (ADHS) by June 1, 2007. The additions or updates to the plan include documenting local processes and systems to:

2a) Communicate with healthcare providers regarding infection control guidelines and community containment measures.

2b) Provide public health risk communication updates and message collaboration for pandemic influenza to key stakeholders as the pandemic unfolds.

2c) Ensure contingency planning measures are in place to appropriately manage absenteeism among public health department staff and stakeholders during an influenza pandemic.

2d) Develop or enhance psychosocial support services including educational and training materials for employees who participate in or provide support for the response to public health emergencies such as an influenza pandemic.

Action Item #3: Develop a plan to activate non-pharmacological interventions in the community. The plan as per CDC pandemic influenza phase II grant guidance should include: home isolation of patients and quarantine of household contacts, social distancing, measures such as the closure of schools and workplaces, reduced public transport, cancellation of mass gatherings and public education on measures such as hand and respiratory hygiene. Additional updates to the plan that take place later in the grant year as a result of lessons learned in exercises shall be submitted as part of the annual report.

Action Item #4: Incorporate into existing mass vaccination and Strategic National Stockpile (SNS) plans, a description of the logistics for receipt, storage, security, monitoring and administration of pandemic influenza vaccines and antivirals. Include plans for limited vaccine and antiviral availability and prioritization of population groups. Take into account the potential for administration of vaccines subject to Investigational New Drug (IND) or Emergency Use Authorization (EUA).

Action Item #5: Develop and implement a pandemic influenza preparedness exercise program to include the CDC's priority exercises prescribed below: The exercises should be conducted throughout the budget period and involve community and regional partners. These exercises may be combined with other exercises scheduled by partner agencies to reduce the burden on public health department exercise planners and participants.

5a) Non-pharmacological interventions and community containment plans to help contain the spread of pandemic influenza – with an emphasis on school closing, decisions and discouragement of large public gatherings.

5b) Medical surge components to accommodate influenza victims.

5c) Conduct seasonal influenza vaccination clinics to exercise local/regional mass prophylaxis capabilities including receipt, distribution, storage, security and points of dispensing operations including monitoring and administration of vaccine

5d) Incorporate the components listed under **Action Item #2** into the operational exercises of the local influenza pandemic response plan during the budget period.

Action Item #6: Continue to enroll sentinel sites for influenza-like illness surveillance and conduct follow-up of those sites in conjunction with ADHS staff.

6a) Encourage sentinel sites which are reporting during the traditional influenza season to continue reporting year-round, with at least one site per 500,000 population enrolled and reporting during the summer months. (Performance will be measured through the CDC sentinel site system; counties do not need to submit a status report.) Conduct outreach to school administrations and nurses to educate them about and encourage participation in weekly absenteeism and influenza-like illness surveillance. Provide a summary of name and date of schools contacted and enrolled in absenteeism and/or influenza-like illness systems in the semi-annual and annual report.

Action Item #7: Follow up on laboratory reports of influenza reported during the non-traditional influenza surveillance season (summer) by identifying whether any reported cases are hospitalized. For any hospitalized cases identified during the summer, collect specimens for submission to the State Laboratory for confirmation and typing on at least 50% of cases, and identify any travel/risk factors. Provide a summary of the proportion of cases reported during the summer with hospitalization status identified and the proportion of those hospitalized cases with specimens submitted in the semi-annual and annual report.

Action Item #8: Develop methods for conducting year-round surveillance for influenza associated mortality.

8a) Develop a system for receiving notification of influenza-associated deaths within one month of death. Assess feasibility of maintaining system during a pandemic event. Provide a brief description in the semi-annual and annual report of the system to be used, the median time to reporting of cases, and feasibility of maintaining the system

8b) Discuss reporting of influenza-associated pediatric deaths (age $\leq$18 years) with hospital infection control practitioners. Provide a summary of the proportion of pediatric cases reported by providers in semi-annual and annual report.

Action Item #9: Participate in ADHS-coordinated meetings to discuss:

9a) Delineation of roles of state and local surveillance staff during enhanced surveillance.

9b) Coordination of state-wide surveillance activities with tribal entities and IHS.

Action Item #10: Maricopa County Department of Public Health only: Explore systems to identify airport/travel associated import of influenza-like illness.

10a) Meet with Sky Harbor Airport administration, in conjunction with ADHS, to discuss the extent of centralized absenteeism information, willingness and method of sharing absenteeism information. Provide a summary of meeting participants, brief description of issues discussed and outcome of discussions, including any threshold reached for notification to public health in the semi-annual and annual report.

10b) Meet with MedAire, Sky Harbor Airport administration, and Phoenix Fire Department administration, in conjunction with ADHS, to explain the public health need to report suspect cases of pandemic influenza, to determine the content and method of reporting, and under what conditions this reporting might occur. Provide a summary of meeting participants, brief description of issues discussed and outcome of discussions, including any protocols and/or procedures in the semi-annual and annual report.

Action Item #11: In coordination with the activities from the CDC Public Health Emergency Preparedness Cooperative Agreement, begin meeting with a prioritized list of hospitals to assess willingness and capacity to transmit clinical/hospital utilization data for early event detection. Recruit, as feasible, local hospitals to transmit hospital data to a Public Health Information Network (PHIN)-Compliant Early Event Detection System. Provide a summary of activities including number and name of hospitals contacted, dates contacted and number of hospitals transmitting hospital utilization data in the semi-annual and annual report.

Action Item #12: Update the Pandemic Influenza Planning Self-Assessment – Local Public Health.

Price Sheet/Fee Schedule

CONTRACT #: HG754195
CONTRACTOR'S NAME: Gila County

Description	Quantity	Unit Rate	Extended Price
CDC Emergency Preparedness and Response (See Deliverables Attachment A)			$ 299,870.00
Pandemic Influenza Phase II (See Deliverables Attachment B)			$ 72,889.00
Total			$ 372,759.00

REGULAR MEETING – TUESDAY, MARCH 27, 2007
R E V I S I O N #2

Time	***Item #***	***Item of Business***	***Pages***
10:00 a.m.	1	Call to Order - Pledge of Allegiance – Invocation	
	2	Information/Discussion/Action to authorize the Sheriff's Office to purchase 3 additional vehicles utilizing Criminal Justice Enhancement Funds. **(Tom Melcher)**	
	3	Information/Discussion/Action to approve an Intergovernmental Agreement (Contract No. HG752219) between the Gila County Health Department and the Arizona Department of Health Services in the amount of $15,312.50 for 5/1/07 to 6/30/07 and $91,875.00 for 7/1/07 to 6/30/08 to provide services under the Proposition 201 Smoke-Free Arizona Act. **(Jendean Sartain)**	
	4	Information/Discussion/Action to authorize the advertisement of Request for Proposals No. 031307-1 for the purchase of one or more new 2007-08 full size, 4-door, 4x4 SUV special service vehicle(s) for the Gila County Fleet Department. **(Steve Stratton)**	
	5	Information/Discussion/Action to authorize the advertisement of Request for Qualifications No. 030607-1 for the Green Waste Removal – Buckhead Mesa Landfill Project. **(Steve Stratton)**	
	6	Information/Discussion/Action to authorize the Chairman's signature on Professional Services Engineering Contract No. 341-526-42/2-2007 with C.L. Williams Consulting, Inc. for the Monroe Street Reconstruction Project. **(Steve Sanders)**	
	7	Information/Discussion/Action to accept or reject a Citizen's Petition to begin the process of establishing a portion of Ewing Trail as a County Highway, as shown on Records of Survey, Official Map Nos. 522 and 522A, Gila County Records, Gila County, Arizona. **(Steve Sanders)**	
	8	Information/Discussion/Action to accept the resignation of Priscilla Knuckey-Ralls, Gila County Treasurer, effective April 27, 2007. **(Steve Besich)**	
	9	Information/Discussion/Action to fill the vacancy created by the resignation of Priscilla Knuckey-Ralls, Gila County Treasurer, effective April 27, 2007. **(Steve Besich)**	

Time	***Item #***	***Item of Business***	***Pages***
	10	Information/Discussion/Action to adopt Resolution No. 07-03-03 granting the County Manager or his designee authority to initiate lawsuits against persons who are delinquent in landfill fees up to $10,000. **(Steve Besich)**	
	11	Information/Discussion/Action to review a sealed bid submitted for the purchase of tax parcel number 207-18-046-C, which is owned by the State of Arizona. **(Marian Sheppard)**	
	12	**CONSENT AGENDA ACTION ITEMS:** A. Approval of Amendment No. 1 to a Management Operating Agreement between Aramark Correctional Services, Inc. and the Gila County Sheriff's Office to increase the weekly price for laundry services from $465 to $500, effective August 16, 2006, through August 16, 2007. B. Approval to adopt Resolution No. 07-03-02 to amend Section 4 of the Cable Television System Franchise License issued to NPG Cable, Inc. on April 19, 2005, by removing "Star Valley" from the service area due to the incorporation of the town of Diamond Star on November 1, 2005, which is now known as the town of Star Valley. C. Approval of Amendment No. 6 to an Intergovernmental Agreement (Contract No. HG361101) between the Gila County Health Department and the Arizona Department of Health Services, which will allow the price sheet used for Amendment No. 5 to be used for this Amendment under the Commodity Supplemental Food Program. D. Approval of Amendment No. 3 to an Intergovernmental Agreement (Contract No. HG361271) between the Gila County Health Department and the Arizona Department of Health Services adding $2,500 to this Folic Acid Services Program Agreement in order to provide folic acid education and vitamins to low income women of child bearing age for the period 3/1/07 to 6/30/07. E. Authorization for the Chairman to sign Funding Agreement No. 125-07 between the Gila County Owner-Occupied Housing Rehabilitation Program and the Arizona Department of Housing in order to accept 2006 CDBG (Community Development Block Grant) Regional Grant funds in the amount of $142,479 to be used through 9/30/08. F. Authorization for the County Attorney's Office to submit two FY 2008 Grant Applications to the Arizona Criminal Justice Commission, as follows: Edward Byrne Memorial Justice Assistance Grant Program in the amount of $80,000, and Crime Victim Assistance Grant Program in the approximate amount of $22,000. Both renewal Grant Applications require cash match funds, which will be included in the County Attorney's FY 2007-08 budget request to be taken from General Funds.	

Time	***Item #***	***Item of Business***	***Pages***
	12	**CONSENT AGENDA ACTION ITEMS (continued):**	

G. Ratification for the Gila County Superior Court to submit a FY 2007 Case Processing Assistance Fund Grant Application to the Arizona Supreme Court, Administrative Office of the Courts, and to approve a Funding Agreement accepting $18,000 to be used to implement a Court Report Video Conferencing System. No cash match funds are required.

H. Approval to appoint Kathleen W. Low as a Precinct Committeeman to the Gila County Republican Committee.

I. Approval of 3 separate Agreements between the Health and Community Services Division and the following: Miles Funeral Services, Lamont Mortuary, and Messengers Payson Funeral Home whereby the funeral homes will maintain supplies provided by the County that are needed in the event of an emergency. Agreements to remain in force perpetually.

J. Approval of Amendment No. 2 to an Intergovernmental Agreement (Contract No. HG652141-001) between the Health and Community Services Division and the Arizona Department of Health Services to extend the Agreement to March 31, 2008, in order to provide $62,532 for continued HIV case management services under the Ryan White Care Act II Program-Northern Region.

K. Approval of an Intergovernmental Agreement (Contract No. HG754195) between the Health and Community Services Division and the Arizona Department of Health Services to extend the Agreement from April 1, 2007, to August 30, 2011, in order to provide $372,759 for continued services under the Bioterrorism Preparedness and Response Program.

L. Approval of a Low Income Evaporative Cooler Tune-up and Repair Agreement between the Health and Community Services Division and Kwik Kool, Inc. in the amount of $130 per cooler to continue to provide cooler services to seniors and the disabled.

M. Approval to appoint Mr. Chris Martin as the Administrator for the Gila County Enterprise Zone to fill the vacancy created by the resignation of Mary Anne Moreno.

N. Approval of Amendment No. 1 to a Memorandum of Understanding/ Contract for Help America Vote Act between the Elections Department and the State of Arizona by and through the Secretary of State to extend the Contract to the end of Federal Fiscal Year 2010.

REGULAR MEETING – TUESDAY, MARCH 27, 2007

Time	***Item #***	***Item of Business***	***Pages***
	12	**CONSENT AGENDA ACTION ITEMS (continued):**	
		O. Authorization for the Chairman to sign a 36-month Municipal Lease Agreement with Bank of America at a cost of $372.15 per month and a 36-month Maintenance Agreement with Digital Imaging Systems at a cost of $0.013 per copy for one Panasonic copy machine to be used by various departments at the Payson County Complex.	
		P. Approval to ratify the Chairman's signature on an Addendum to the Intergovernmental Agreement between Gila County and the City of Globe to allow for additional fees in the event "odd units" are ordered for Phase II of the Globe-Miami Area Flight Mapping Project.	
		Q. Approval to amend a Professional Services Agreement with Gila Management, LLC to increase the total labor cost estimate to $32,870. This Agreement applies to the jail district and general obligation bond assistance being provided to the County.	
		R. Approval of the Board of Equalization November 14, 2006, meeting minutes and the Board of Supervisors February 27, 2007, meeting minutes.	
		S. Approval of the February 2007 monthly departmental activity reports submitted by the Clerk of the Superior Court, Recorder, and Payson Regional Justice of the Peace.	
		T. Approval of personnel reports/actions for the week of March 19, 2007, and March 26, 2007.	
		U. Approval of finance reports/demands/transfers for the weeks of March 19, 2007, and March 26, 2007. (separate handout)	
		V. Approval of a payment for services in the amount of $269 to Fly-A-Way Travel.	
	13	At any time during this meeting pursuant to A.R.S. §38-431.02(K), members of the Board of Supervisors and the Chief Administrator may present a brief summary of current events. No action may be taken on issues presented.	

IF SPECIAL ACCOMMODATIONS ARE NEEDED, PLEASE CONTACT THE RECEPTIONIST AT (928) 425-3231 AS EARLY AS POSSIBLE TO ARRANGE THE ACCOMMODATIONS. FOR TTY, PLEASE DIAL 7-1-1 TO REACH THE ARIZONA RELAY SERVICE AND ASK THE OPERATOR TO CONNECT YOU TO (928) 425-3231.

THE BOARD MAY VOTE TO HOLD AN EXECUTIVE SESSION FOR THE PURPOSE OF OBTAINING LEGAL ADVICE FROM THE BOARD'S ATTORNEY ON ANY MATTER LISTED ON THE AGENDA PURSUANT TO A.R.S. SECTION 38-431.03(A)((3)

THE BOARD RESERVES THE RIGHT TO CONSIDER ANY MATTER OUT OF ORDER

GILA COUNTY ATTORNEY
Daisy Flores

Re: County Attorney's Office approval of IGA pursuant to A.R.S. § 11-952(D).

To whom it may concern:

The County Attorney's Office has reviewed the Intergovernmental Agreement attached to this agenda item and has determined that it is in its "proper form" and "is within the powers and authority granted under the laws of this state to such public agency or public procurement unit" pursuant to A.R.S. § A.R.S. § 11-952(D).

Explanation of the Gila County Attorney's Office Intergovernmental Agreement (IGA) Review

A.R.S. § 11-952(D) requires that

> every agreement or contract involving any public agency or public procurement unit of this state . . . before its execution, shall be submitted to the attorney for each such public agency or public procurement unit, who shall determine whether the agreement is in proper form and is within the powers and authority granted under the laws of this state to such public agency or public procurement unit.

In performing this review, the County Attorney's Office reviews IGAs to see that they are in "proper form" prior to their execution. "Proper form" means that the contract conforms to fundamental contract law, conforms to specific legislative requirements, and is within the powers and authority granted to the public agency. It does not mean that the County Attorney's Office approves of or supports the policy objectives contained in the IGA. That approval is solely the province of the public agency through its elected body.

Likewise, this approval is not a certification that the IGA has been properly executed. Proper execution can only be determined after all the entities entering into the IGA have taken legal action to approve the IGA. There is no statutory requirement for the County Attorney's Office to certify that IGAs are properly executed.

Nonetheless, it is imperative for each public agency to ensure that each IGA is properly executed because A.R.S. § 11-952(F) requires that "[a]ppropriate action … applicable to the governing bodies of the participating agencies approving or extending the duration of the … contract shall be necessary before any such agreement, contract or extension may be filed or become effective." This can be done by ensuring that the governing body gives the public proper notice of the meeting wherein action will be taken to approve the IGA, that the item is adequately described in the agenda accompanying the notice, and that the governing body takes such action. Any questions regarding whether the IGA has been properly executed may be directed to the County Attorney's Office.

Proper execution of IGAs is important because A.R.S. § 11-952(H) provides that "[p]ayment for services under this section shall not be made unless pursuant to a fully approved written contract." Additionally, A.R.S. § 11-952(I) provides that "[a] person who authorizes payment of any monies in violation of this section is liable for the monies paid plus twenty per cent of such amount and legal interest from the date of payment."

The public agency or department submitting the IGA for review has the responsibility to read and understand the IGA in order to completely understand its obligations under the IGA if it is ultimately approved by the public entity's board. This is because while the County Attorney's Office can approve the IGA as to form, the office may not have any idea whether the public agency has the capacity to actually comply with its contractual obligations. Also, the County Attorney's Office does not monitor IGA compliance. Hence the public entity or submitting department will need to be prepared to monitor their own compliance. A thorough knowledge of the provisions of the IGA will be necessary to monitor compliance.

Before determining whether an IGA contract "is in proper form," the County Attorney's Office will answer any questions or concerns the public agency has about the contract. It is the responsibility of the public agency or department submitting the IGA for review to ask any specific questions or address any concerns it has about the IGA to the County Attorney's Office at the same time they submit the IGA for review. Making such an inquiry also helps improve the County Attorney's Office review of the IGA because it will help focus the review on specific issues that are of greatest concern to the public agency. Failing to make such an inquiry when the agency does have issues or concerns will decrease the ability of the County Attorney's Office to meaningfully review the IGA.

ARF-963 **Consent Agenda Item 4- E**

Regular BOS Meeting

Meeting Date: 12/06/2011

Submitted For:	Steve Stratton, Public Works Division Director	Submitted By:	Valrie Bejarano, Contracts Support Specialist, Finance Department
Department:	Public Works Division	Division:	Administration
Fiscal Year:	FY 2011-2012	Budgeted?:	Yes
Contract Dates Begin & End:	10-3-2011 to 10-31-2031	Grant?:	No
Matching Requirement?:	No	Fund?:	Renewal
Presenter's Name:			

Information

Request/Subject

Amendment No. 1 to a Power Purchase Agreement with Tioga Solar Gila, LLC for the Gila County Courthouse

Background Information

On October 3, 2011, the Board approved a Power Purchase Agreement with Tioga Solar Gila, LLC for the purpose of generating and selling electricity for the Gila County Courthouse.

Evaluation

Amendement No. 1 to the agreement will change the Energy Purchase Rate from the original amount of $.080 per kWh to $0.077 per kWh. This will also cause a change in original Early Termination Value. All other terms, conditions and provisions of the Agreement remain unaltered and in full force and effect.

Conclusion

The lower energy purchase rate would allow for a much greater savings to the County in electricity use at the Courthouse.

Recommendation

The Public Works Director recommends that the Board of Supervisors approve Amendment No. 1 to the Power Purchase Agreement with Tioga Solar Gila, LLC.

Suggested Motion

Authorization of the Chairman's signature on Amendment No. 1 to the Power Purchase Agreement between Gila County and Tioga Solar Gila, LLC to lower the energy purchase rate from $0.080 to $0.077 per kWh at the Gila County Courthouse.

Attachments

Original Exhibits A & B

Original Power Purchase Agreement - Courthouse

Amendment #1 to Power Purchase Agreement for Courthouse

Legal explanation

EXHIBIT A

ENERGY PURCHASE RATES

Operations Year	Price per kWh
1	$0.080
2	$0.080
3	$0.080
4	$0.080
5	$0.080
6	$0.080
7	$0.080
8	$0.080
9	$0.080
10	$0.080
11	$0.080
12	$0.080
13	$0.080
14	$0.080
15	$0.080
16	$0.080
17	$0.080
18	$0.080
19	$0.080
20	$0.080

EXHIBIT B

EARLY TERMINATION AMOUNTS

Operations Year	Early Termination Amount
1	$1,001,950
2	$917,373
3	$822,515
4	$720,244
5	$612,459
6	$592,320
7	$580,406
8	$565,932
9	$548,510
10	$527,716
11	$503,381
12	$475,557
13	$443,761
14	$407,455
15	$366,053
16	$318,889
17	$265,225
18	$241,987
19	$222,628
20	$197,990
After Year 20	Fair Market Value

CONFIDENTIAL

POWER PURCHASE AGREEMENT

Dated as of

October 3, 2011

between

Gila County, Arizona

and

Tioga Solar Gila, LLC

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GLOSSARY OF TERMS

EXHIBIT A – ENERGY PURCHASE RATES
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EXHIBIT F – INSURANCE REQUIREMENTS
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EXHIBIT H – APPLICABLE SOLAR PROGRAM
EXHIBIT I – MINIMUM STANDARD OF OPERATION

POWER PURCHASE AGREEMENT

This Power Purchase Agreement ("Agreement") is entered into as of October 3, 2011, by and between Tioga Solar Gila, LLC, a Delaware limited liability company, and Gila County, an Arizona county.

WHEREAS, Gila County is the owner of the property located at 1400 East Ash Street, Globe, AZ 85501 and desires to make a portion of such property available to Tioga Solar Gila, LLC for the construction, operation and maintenance of a solar powered electric generating project, and to purchase from Provider the electric energy produced by the project.

WHEREAS, Tioga Solar Gila, LLC desires to develop, design, construct, own and operate the project located on Host's property, and sell to Gila County the electric energy produced by the project.

NOW, THEREFORE, in consideration of the premises, the covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

1. **DEFINITIONS.** Certain capitalized terms used in this Agreement have the meanings set forth in the attached GLOSSARY OF TERMS.

2. **TERM.**

(a) Term. This Agreement shall consist of an Initial Period and an Operations Period. As used herein, "Term" shall mean all of the Initial Period and the Operations Period, unless the Provider or Host terminates the Agreement prior to the end of the Initial Period pursuant to the terms of this Agreement.

(b) Initial Period. The Initial Period will begin on the date set forth above and will terminate on the earlier of (i) the Commercial Operation Date or (ii) the date the Agreement is terminated pursuant to the provisions of Section 4(b) or 4(d).

(c) Operations Period. If applicable, the Operations Period will commence on the Commercial Operation Date and will terminate at 11:59 p.m. on the last day of the month in which the twentieth (20th) anniversary of the Commercial Operation Date occurs.

(d) Extensions. Twenty-four months prior to the end of the Operations Period, the Parties will meet to discuss the extension of this Agreement on terms and conditions reflecting the then current market for solar generated electricity and with such other amendments and additional terms and conditions as the Parties may agree. Neither Party shall be obligated to agree to an extension of this Agreement.

3. **ACCESS RIGHTS.**

(a) Access Specifications. Host hereby grants Provider and its designees (including Installer, persons responsible for implementing the Applicable Solar Program, and Financing Party) access to the Premises, for the Term, at reasonable times and upon reasonable notice, for the purposes of designing, installing, inspecting, operating, maintaining, repairing and removing the Project, and any other purpose set forth in this Agreement, and otherwise in accordance with the provisions of this Agreement. Access Rights with respect to the Site include without limitation:

(i) Vehicular & Pedestrian Access. Reasonable vehicular and pedestrian access across the Site to the Premises as designated on Exhibit D for purposes of designing, installing, operating, maintaining, repairing and removing the Project. In exercising such access Provider shall reasonably attempt to minimize any disruption to activities occurring on the Site.

(ii) Transmission Lines & Communication Cables. The right to locate transmission lines and communications cables across the Site as designated on Exhibit D. The location of any such transmission lines and communications cables outside the areas designated on Exhibit D shall be subject to Host's approval and shall be at locations that minimize any disruption to Host's activities occurring on the Site.

(iii) Storage. Adequate storage space on the Site convenient to the Premises for materials and tools used during construction, installation, and maintenance of the Project. Provider shall be responsible for providing shelter and security for stored items during construction and installation.

(iv) Utilities. Water, drainage, electrical, and ethernet connections on the Premises for use by Provider in installing, operating and maintaining the Project.

(b) Easement Rights. Upon request by Provider, the Parties shall execute and record with the appropriate Land Registry easements and other instruments documenting the Access Rights granted by Host to Provider in this Agreement, and which shall be in form and substance indicated on Exhibit G or other form agreed by the Parties. The cost of preparation and recording shall be borne by the Provider.

(c) Remote Monitoring. Host will provide an internet portal or equivalent access by means of which Provider will communicate data from the revenue grade performance monitoring system. Provider will be responsible for connecting monitoring equipment for the Project to the internet so that it is possible for Provider and Host to remotely monitor the Project.

4. PLANNING, INSTALLATION AND OPERATION OF PROJECT.

(a) Site Assessment and Planning. During the Initial Period, Provider shall have the right, at its own expense, to assess the suitability of the Premises for the Project and shall act diligently in conducting such assessment. The assessment shall include the right to inspect the physical condition of the structures on which the Project will be located; to apply for any building permits or other governmental authorizations necessary for the construction of the Project; to arrange Interconnections with the Local Electric Utility; to make any applications to the appropriate Public Utilities Commission or other agencies for receipt of payments for the Project under the Applicable Solar Program; to apply to any other governmental agencies or other persons for grants or other determinations necessary for the construction of or receipt of revenues from the Project; or to make any other investigation or determination necessary for the financing, construction, operation or maintenance of the Project.

(b) Termination of Development Activities. At any time during the Initial Period, Provider shall have the right to cease development of the Project on the Premises, for any reason, in its sole discretion. If Provider gives Host notice of such determination, this Agreement shall terminate effective as of the delivery of such notice without any further liability of the Parties to each other, provided that (i) Provider shall remove any equipment or materials which Provider has placed on the Site; (ii) Provider shall restore any portions of the Site disturbed by Provider to its pre-existing condition; (iii) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to the delivery of the notice; and (iv) the confidentiality provisions of Section 14, the indemnity obligations under Section 15 hereof, and the dispute resolution provisions of Section 23 hereof shall continue to apply notwithstanding the termination of this Agreement.

(c) Commencement of Construction, Modification of Design. At any time during the Initial Period, upon at least ten (10) Business Days notice to Host, Provider shall have the right to commence installing the Project on the Premises.

(i) As of the date hereof, Provider anticipates that the Project shall consist of the components and shall have the designs set forth in Exhibit E attached hereto.

(ii) Notwithstanding subsection (i) above, Provider has the right to modify the design of the Project, including the selection of the components in the Project, as Provider, in its sole discretion, may determine, provided, however, that such changes shall not result in the Project exceeding the nameplate capacity, building footprint, location and height set forth in Exhibits D and E, without Host's approval.

(d) Construction Commencement Deadline. If within 365 days following the date of this Agreement (not including any days in which a Force Majeure Event existed), Provider has not commenced the installation of the Project on the Premises, Host may terminate this Agreement by delivering notice to Provider of its intention to terminate this Agreement, and the Agreement shall terminate twenty-one (21) days after Provider's receipt of such notice; provided, that if Provider commences installation of the Project within such twenty-one (21) day period, this Agreement shall not terminate. Upon any termination in accordance with this Section 4(d) neither Party shall have

any further liability to the other with respect to the Project, provided that (i) Provider shall remove any equipment or materials that Provider has placed on the Site; (ii) Provider shall restore any portions of the Site disturbed by Provider to their condition prior to the commencement of construction; (iii) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to the delivery of the notice; and (iv) the confidentiality provisions of Section 14, the indemnity obligations under Section 15 hereof, and the dispute resolution provisions of Section 23 hereof shall continue to apply notwithstanding the termination of this Agreement.

(e) Contractors. Provider shall use licensed contractors to perform the work of installing, operating, and maintaining the Project. Provider intends to use Installer to perform such work, but may use other contractors, for all or a portion of such work, subject to the reasonable approval of Host. Provider shall advise Host of the Installer prior to commencement of the work on the Site. Provider shall be responsible for the conduct of Installer and its subcontractors, and Host shall have no contractual relationship with Installer or its subcontractors in connection with the work on the Project. Provider shall ensure that Installer maintains insurance applicable to the Installer's activities that satisfy the requirements in Exhibit F.

(f) Status Reports; Notice of Commercial Operation Date. Provider shall give Host regular updates, on a reasonable schedule requested by Host, on the progress of installation of the Project and shall notify Host of when Provider will commence testing of the Project. Host shall have the right to have its representatives present during the testing process, but subject to reasonable written rules and procedures as may be established by Provider and Installer. After Provider has determined, in its reasonable judgment, that the Project meets the requirements of the Local Electric Utility, has been installed in accordance with all Applicable Laws, and is capable of producing electricity on a continuous basis, Provider shall notify Host that installation of the Project is complete and shall specify the Commercial Operation Date for the Project, which may be immediately upon delivery of such notice to Host. All electricity produced by the Project prior to the Commercial Operation Date shall be delivered to Host and Host shall pay for such electricity at the rate applicable to the first Operations Year but in no event greater than the rate otherwise payable by Host to the Electric Service Provider.

(g) Standard of Operation. Provider shall design, obtain permits, install, operate, and maintain the Project so as to keep it in good condition and repair, in compliance with all Applicable Laws and in accordance with the generally accepted practices of the electric industry, in general, and the solar generation industry, in particular. Such work shall be at Provider's sole expense. Except for emergency situations or unplanned outages, Provider shall cause the work to be performed between the hours of 7:00 am and 7:00 pm, Monday through Saturday, in a manner that minimizes interference with Host and Host's employees, visitors, tenants and licensees and their customers to the extent commercially practical. Provider shall, and shall cause its contractors to, keep the Site reasonably clear of debris, waste material and rubbish, and to comply with reasonable safety procedures established by Host for conduct of business on the Site.

(h) Hazardous Materials. Provider and Installer are not responsible for any Hazardous Materials encountered at the Site except to the extent introduced by Provider. Upon encountering any Hazardous Materials, Provider and Installer will stop work in the affected area and duly notify Host and, if required by Applicable Law, any Governmental Authority with jurisdiction over the Site. Upon receiving notice of the presence of suspected Hazardous Materials at the Site, Host shall take all measures required by Applicable Law to address the Hazardous Materials discovered at the Site. Host may opt to remediate the Site so that the Project may be installed on the Site, or determine that it is not economically justifiable or is otherwise impractical to remediate the Site, in which case Host and Provider may agree upon a different location for the Project whereupon such replacement location shall be the Site for purposes of this Agreement. Provider and Installer shall be obligated to resume work at the affected area(s) of the Site only after Host notifies Provider and Installer that Host has complied with all Applicable Laws, and a qualified independent expert provides written certification that (i) remediation has been accomplished as required by Applicable Law and (ii) all necessary approvals have been obtained from any Governmental Authority having jurisdiction over the Project or the Site. Host shall reimburse Provider for all additional costs incurred by Provider or Installer in the installation of the Project resulting from the presence of and/or the remediation of Hazardous Materials, including demobilization and remobilization expenses. Notwithstanding the preceding provisions, Host is not responsible for any Hazardous Materials introduced to the Site by Provider or Installer, nor is Host required to remediate an affected area if such remediation is deemed to be economically unjustifiable or otherwise impractical.

(i) Site Security. Host will provide security for the Project to the extent of its normal security procedures, practices, and policies that apply to all Host Premises, including the Project. Host will advise Provider immediately upon observing any damage to the Project. Upon request by Provider, such as Provider receiving data

indicating irregularities or interruptions in the operation of the Project, Host shall, as quickly as reasonably practicable, send a person to observe the condition of the Project and report back to Provider on such observations.

(j) System Shut Down. Provider may shut down the Project at any time in order to perform required emergency repairs to the Project. At other times, Provider shall give Host notice of the shutdown as may be reasonable in the circumstances. Provider shall not have any obligation to reimburse Host for costs of purchasing electricity that would have been produced by the Project but for such shutdown. Provider shall not schedule shutdowns during peak periods of electric generation and periods when peak energy and demand prices are charged by the Electric Service Provider, except as may be required in accordance with prudent electric industry safety practices in the event of equipment malfunction.

(k) Applicable Solar Program Requirements. Exhibit H identifies certain requirements of the Applicable Solar Program. The Parties shall comply with the obligations identified in Exhibit H or subsequently adopted by the Applicable Solar Program. In the event of any inconsistency between the obligations of the Parties under this Agreement or any of the requirements of the Applicable Solar Program, the more stringent obligation shall govern, and if such cannot be determined, the requirements of the Applicable Solar Program shall govern.

(l) Minimum Standard of Operation. Provider shall operate the Project in a manner which achieves the weather-adjusted Minimum Standard of Operation. To the extent that after the Commercial Operation Date, the Project's output falls below the weather-adjusted Minimum Standard of Operation in any year, and Provider fails to operate the Project in a manner which achieves the Minimum Standard of Operation for a period of sixty (60) days which failure is not due to damage to the Project, act of governmental authority, or exercise of Provider's rights under this Agreement, or otherwise excused by a Force Majeure Event; and Provider fails to resume operation within thirty (30) days after receipt of notice from Host stating that, in Host's determination, Provider has ceased to achieve the Minimum Standard of Operation of the Project, Provider shall pay Host damages in an amount equal to the daily difference between the cost of electricity it would have paid Provider under this Agreement and the cost of electricity Host pays its Local Electric Utility for the same amount of electricity.

5. SALE OF ELECTRIC ENERGY.

(a) Sale of Electricity. Throughout the Operations Period, subject to the terms and conditions of this Agreement, Provider shall sell to Host and Host shall buy from Provider all electric energy produced by the Project, whether or not Host is able to use all such electric energy. The Point of Delivery of the electric energy shall be as indicated in Exhibit E. Title to and risk of loss with respect to the energy shall transfer from Provider to Host at the Point of Delivery.

(b) Delivery of Electricity. The electric energy from the Project shall be delivered from Provider to Host at the specifications set forth in Exhibit E and otherwise in compliance with all requirements of the Local Electric Utility.

(c) Limits on Obligation to Deliver. Except as provided in Section 4(l), Provider does not warrant or guarantee the amount of electric energy to be produced by the limits on Project for any hourly, daily, monthly, annual or other period. Provider is not a utility or public service company and does not assume any obligations of a utility or public service company to supply Host's electric requirements. Provider is not subject to rate review by governmental authorities.

(d) Meter Testing. Provider shall install one or more meter(s) at the Project, as Provider deems appropriate, to measure the output of the Project at the Point of Delivery. Provider shall install an Interval Data Recorder (IDR) with industry standard telemetry at the Project. Provider shall conduct tests of the meters at such times as it deems appropriate in accordance with industry standards, but not less than once in any two year period. Host shall pay for any independent testing of the meter(s) in excess of such minimum testing schedule that Host deems necessary, except if, after such testing, the meter is shown to be in error in Provider's favor by more than 2%, Provider shall pay for the cost of such test and shall make corresponding adjustments to the records of the amount of electrical energy provided by the Project delivered based on the period that is half-way in between the date of this testing and the last testing date of the meter. If there is an error of less than or equal to 2% no billing adjustments will be made. In the event there is an error of greater than 2%, Provider shall adjust the next invoice to be provided to Host under Section 6(b) hereof, to either charge the Host additional amounts for energy produced over the stated meter amount during the applicable period at the applicable rate or provide Host a credit against future billing for

energy produced under the stated meter amount during the applicable period, provided, however, that any deficiencies or credits not theretofore applied or satisfied at the expiration or earlier termination of the Operations Period shall be settled in cash.

6. PAYMENT AND BILLING.

(a) Rates. Host shall pay Provider for electricity produced by the Project at the rates set forth in Exhibit A attached hereto.

(b) Billing. Host shall pay for the electricity produced by the Project monthly in arrears. Promptly after the end of each calendar month, Provider shall provide Host with an invoice setting forth the quantity of electricity produced by the Project in such month, the applicable rates for such, and the total amount due, which shall be the product of the quantities and the applicable rates.

(c) Invoice Delivery. Invoices shall be in writing and shall be either (i) delivered by hand; (ii) mailed by first-class, registered or certified mail, return receipt requested, postage prepaid; (iii) delivered by a recognized overnight or personal delivery service; (iv) transmitted by facsimile (such transmission to be effective on the day of receipt if received prior to 5:00 pm local time on a Business Day or in any other case as of the next Business Day following the day of transmittal); or (v) transmitted by email if receipt of such transmission by email is specifically acknowledged by the recipient (automatic responses not being sufficient for acknowledgement), addressed as follows:

Gila County Finance Department
ATTN: Accounts Payable
1400 E. Ash Street
Globe, AZ 85501
accountspayable@gilacountyaz.gov

(d) Payment. Host shall pay each invoice within thirty (30) days of receipt of the invoice. Payments shall be made by electronic funds transfer to an account designated by Provider in the invoice or in a written notice delivered to Host. Any amounts not paid when due, including any amounts properly disputed and later determined to be owing, shall accrue interest on the unpaid amount at the rate equal to the lesser of (i) 1% per month, compounded monthly or (ii) the highest rate allowed by applicable law.

(e) Disputed Invoices. If Host objects to all or a portion of an invoice, Host shall, on or before the date payment of the invoice is due, (i) pay the undisputed portion of the invoice, and (ii) provide an itemized statement of its objections setting forth in reasonable detail the basis for its objections. If Host does not object prior to the date payment of any invoice is due, Host shall be obligated to pay the full amount of such invoices but Host may subsequently object to such invoice and, if such objection proves to be correct, receive a refund of the disputed amount; provided, however, that Host may not object to any invoice more than eighteen (18) months after the date on which such invoice is rendered. The right to dispute or object to an invoice, shall, subject to the time limitation provided in this Section 6(e), survive the expiration or termination of this Agreement.

7. SUPPLEMENTAL POWER, NET METERING AND RECS.

(a) Back-up and Supplemental Electricity. Except as otherwise provided herein, throughout the Term, Host shall be responsible for obtaining all of its requirements for electric energy in excess of the amounts produced by the Project and pay for such service pursuant to contracts with or applicable tariffs of the Local Electric Utility or other Electric Service Provider. Provider shall have no obligation to obtain or pay for such supplemental or back-up electricity.

(b) Net Metering & Utility Credits. At any time that electric production from the Project is greater than Host's requirements at such time, Host shall nevertheless pay Provider for all of the electricity produced by the Project at the rates and in the manner provided in this Agreement. Host may make arrangements with the Local Electric Utility so that power in excess of Host's requirements may be delivered to the Local Electric Utility through the Point of Delivery and Host shall receive any credits or payments from the Local Electric Utility may be available under net metering or similar programs. If Applicable Law or the practice of the Local Electric Utility restricts the ability of

the Host to deliver electricity produced by the Project to the Local Electric Utility, then the Parties shall agree on alternate arrangements to enable Host, insofar as possible, to receive benefits from the Local Electric Utility comparable to those available under net metering programs, provided that the economic benefits to Provider remain as provided in this Section 7(b).

(c) Interconnection. Provider shall be responsible for arranging the interconnection of the Project with Host's Local Electric Utility in a manner which includes bi-directional or "net metering".

(d) Applicable Solar Program Incentives. Except as provided in Section 7(b), Provider shall receive all payments available under the Applicable Solar Program. Host shall provide reasonable assistance to Provider in preparing all applications and other documents necessary for Provider to receive such payments, including designating Provider as the customer for purposes of the Applicable Solar Program or assigning payments from the Applicable Solar Program to Provider. If Host receives any payments under the Applicable Solar Program or other programs in respect of the Project, it shall promptly pay them over to Provider. Host's obligation to make any payments to Provider under this paragraph (d) is limited to any payments actually received by Host.

(e) Ownership of Tax Attributes. Provider (and/or Financing Party) shall be the owner of any Tax Attributes that may arise as a result of the operation of the Project and shall be entitled to transfer such Tax Attributes to any person. Host shall provide reasonable assistance to Provider in preparing all documents necessary for Provider to receive such Tax Attributes, and if Host is deemed to be the owner of any such Tax Attributes, Host shall assign the same (or the proceeds thereof) to Provider. If Host receives any payments in respect of such Tax Attributes, it shall promptly pay them over to Provider.

(f) Environmental Attributes.

(i) For the first fifteen (15) Operations Years, Host shall be the owner of any Environmental Attributes which may arise as a result of the operation of the Project; provided however, Host shall transfer such Environmental Attributes pursuant to the terms of the Credit Purchase Agreement. Provider shall provide reasonable assistance to Host in preparing all documents necessary for Provider to receive such Environmental Attributes. Host hereby acknowledges that all payments by under the Credit Purchase Agreement have been assigned to Provider pursuant to Section 11 of the Credit Purchase Agreement.

(ii) Host shall make best efforts to assign the Credit Purchase Agreement to Provider. Upon the effectiveness of such assignment, and after the end of the fifteenth (15th) Operations Year, Provider shall become the owner of any Environmental Attributes which may arise as a result of the operation of the Project. Upon Provider becoming the owner of Environmental Attributes pursuant to this subsection (ii), if Host is deemed to be the owner of any such Environmental Attributes, Host shall assign the same (or the proceeds thereof) to Provider if Host receives any payments in respect of such Environmental Attributes, it shall promptly pay them over to Provider.

(g) Capacity & Ancillary Services. Provider shall be entitled to receive any payments for electric capacity or ancillary services that may become available as a result of the construction or operation of the Project. Host shall provide reasonable assistance to Provider in preparing all documents necessary for Provider to receive such payments, and if Host is deemed to be the owner or provider of such capacity or services, Host shall assign the same to Provider. If Host receives any payments in respect of capacity or such services it shall promptly pay them over to Provider.

(h) No Resale of Electricity. Except as contemplated by the provisions of Section 7(b), the electricity purchased by Host from Provider under this Agreement shall not be resold, assigned or otherwise transferred to any other person without prior approval of the Provider, which approval shall not be unreasonably withheld, and Host shall not take any action which would cause Host or Provider to become a utility or public service company.

(i) Provider Is Not A Utility. Neither Party shall assert that Provider is an electric utility or public service company or similar entity that has a duty to provide service, is subject to rate regulation, or is otherwise subject to regulation by any governmental authority as a result of Provider's obligations or performance under this Agreement.

8. PERMITS, OWNERSHIP OF PROJECT, LIENS, MORTGAGES

(a) Permits. Provider shall pay for and obtain all approvals from governmental entities necessary for the construction and operation of the Project, including land use permits, building permits, demolition and waste disposal permits and approval.

(b) System Ownership. Except as provided in Section 9, Provider or Financing Party shall be the legal and beneficial owner of the Project at all times. The Project is personal property and shall not attach to or be deemed a part of, or fixture to, the Site. The Project shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code. Host covenants that it will place all persons having an interest in or lien upon the real property comprising the Premises, on notice of the ownership of the Project and the legal status or classification of the Project as personal property. Host and/or Provider shall make any necessary filings to disclaim the Project as a fixture of its respective Premises and Site in the appropriate Land Registry to place all interested parties on notice of the ownership of the Project by Provider.

(c) Liens. To the extent permitted by Applicable Law, each Party shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien, (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim of any nature, including claims by governmental authorities for taxes (collectively referred to as "Liens" and each, individually, a "Lien") on or with respect to the interests of the other in the Site, the Premises, and the Project, and in the Access Rights granted hereunder. Provider shall, to the extent allowed under Applicable Law, have Installer and its subcontractors execute lien waivers with respect to any mechanic's or materialman's lien against Host's interest in the Site. If permitted under Applicable Law, Host will post notices of non-responsibility to notify Installer and others that Host is not responsible for work performed on the Project. Each Party shall promptly notify the other of the imposition of a Lien on the property interests of the other Party, and shall promptly discharge such lien, provided however, that a Party may seek to contest the amount or validity of any Lien affecting the property of the other Party, provided it timely complies with all procedures for contesting such Lien, posts any bond or other security necessary under such procedures, and if such procedures do not require the posting of security, the Party establishes for the benefit of the other Party a deposit, letter of credit, or other security acceptable to the other Party to indemnify the other Party against any Loss which could reasonably be expected to arise if such Lien is not removed or discharged.

(d) Non Disturbance Agreements. Host shall pay for and obtain all consents required for it to enter into and perform its obligations under this Agreement from its lenders, landlord, tenants, and any other persons with interests in the Site. If there is any mortgage or fixture filing against the Premises which could reasonably be construed as prospectively attaching to the Project, Host shall promptly upon request of Provider, provide an acknowledgement and consent from such lienholder, in form and substance reasonably acceptable to Financing Party, stating that the ownership of the Project remains in Provider and further acknowledging that the Project is personal property of Provider and agreeing not to disturb the rights of Provider in the Project and under this Agreement. If Host is the fee owner of the Premises, Host consents to the filing of a disclaimer of the Project as a fixture of the Premises in the Land Registry. If Host is not the fee owner, Host will obtain such consent from such owner of the Premises. Such acknowledgment and consents, or acceptable notices thereof, shall be recorded, at Host's expense, in the appropriate Land Registry. Host may in the future mortgage, pledge, and grant security interests in all or a portion of the Site and the improvements thereon, provided the mortgagee or other grantee of the encumbrance acknowledges this Agreement, the Project, the Access Rights granted hereunder, and the priority of Provider's (and/or Financing Party's) rights in the Project and the Access Rights.

9. PURCHASE OPTIONS; REMOVAL AT END OF TERM.

(a) Early Purchase Options. On the seventh (7th), tenth (10th) and fifteenth (15th) anniversary of the Commercial Operation Date, provided no Host Event of Default has occurred and is continuing, the Host shall have the option to purchase the Project from Provider at a price which will be the greater of (i) the Fair Market Value of the Project at such anniversary date or (ii) the Early Termination Amount, plus, if applicable, repayment or recapture of Applicable Solar Program or other governmental payments occasioned by the exercise of such option. If Host desires to exercise this option, it shall no later than ninety (90) days prior to the applicable anniversary date notify Provider of its election to exercise the option, and on or before ninety (90) days after such anniversary date shall pay the purchase price to Provider by electronic transfer in immediately available funds to an account designated by Provider. At any time following receipt of the notice from Host, but no later than thirty (30) days after the date Host gives notice of its election to exercise the option, Provider may notify Host if it believes the Fair Market Value of the

Project exceeds the Early Termination Amount, and, in the same notice, Provider shall provide Host an appraisal of the Fair Market Value. If Host agrees with the appraisal of the Fair Market Value it shall pay such sum to Provider. If Host disagrees with the appraisal's estimate of the Fair Market Value of the Project, Host may request that the Parties meet to discuss the appraisal. If the Parties cannot agree within ten (10) days of the Host's receipt of the appraisal of the Fair Market Value, the Parties will be deemed to enter into a Dispute for purposes of Section 23(a) and shall follow the procedures in Section 23(c) for resolution of the Dispute. Notwithstanding the foregoing, in the event that Provider enters into a sale/leaseback transaction in connection with funding the installation of the Project, the process of determining the Fair Market Value of the Project in this Agreement shall be undertaken by a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry acting reasonably and in good faith to determine the Fair Market Value of the Project and shall be undertaken consistently with the terms of such transaction so that the process for determining Fair Market Value under this Agreement shall be the same as provided in the agreements for such sale/leaseback transaction.

(b) End of Term Purchase Option. Host shall have the right to purchase the Project from Provider at the expiration of the Operations Period at the then Fair Market Value of the Project. No earlier than twelve months prior to the expiration of such Operations Period and no later than nine (9) months prior to the expiration of the Operations Period, Host shall notify Provider of its intent to exercise the option. Within ninety-one (91) days of its receipt of such notice, Provider shall give Host its appraisal of the Fair Market Value of the Project at the end of the Term. Host may, but is not obligated to, accept such appraisal. If Host does not accept such appraisal within ten (10) days of receiving the appraisal from Provider, the Parties shall meet to discuss the appraisal. If they are unable to reach agreement within twenty (20) days of the Host's receipt of the appraisal from Provider, the Parties will be deemed to enter into a dispute for purposes of Section 23(a) and shall follow the procedures in Section 23 for resolution of the dispute. Notwithstanding the foregoing, in the event that Provider enters into a sale/leaseback transaction in connection with funding the installation of the Project, the process of determining the Fair Market Value of the Project in this Agreement shall be undertaken by a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry acting reasonably and in good faith to determine the Fair Market Value of the Project and shall be undertaken consistently with the terms of such transaction so that the process for determining Fair Market Value under this Agreement shall be the same as provided in the agreements for such sale/leaseback transaction.

(c) Transfer of Ownership. Upon Host's notice that it elects to exercise the option set forth in either Section 9(a) or 9(b) above, Provider shall prepare and deliver to Host a set of records on the operation and maintenance history of the Project, including a summary of known defects. Upon payment of the purchase price, Provider shall deliver, or cause to be delivered, to Host a bill of sale conveying the Project to Host. Such bill of sale shall not contain any warranties other than a warranty against any defects in title arising through Provider. Provider shall use all reasonable efforts to transfer any remaining manufacturer's warranties on the Project, or portions thereof, to Host.

(d) Operation & Maintenance After Sale. Prior to the effective date of Host's purchase of the Project under Section 9(a) or 9(b), Host and Provider shall discuss entering into an operation and maintenance agreement under which Provider shall perform all or a portion of the operation and maintenance requirements of the Project following Host's purchase of the Project. However, neither Party shall be under an obligation to enter into such an agreement.

(e) Decommissioning. If Host does not exercise the option set forth in Section 9(b) above, then Provider, at its expense, shall promptly decommission and remove the Project following the expiration of the Operations Period. Provider shall not be obligated, however, to remove any support structures for the Project which are affixed to Host's structures or any below grade structures, including foundations and conduits, or any roads. Host grants Provider and its representatives reasonable vehicular and pedestrian access across the Site to the Premises for purposes of decommissioning the Project. In exercising such access and performing the decommissioning, Provider shall reasonably attempt to minimize any disruption to activities occurring on the Site. Host will provide Provider adequate storage space on the Site convenient to the Premises for materials and tools used during decommissioning. Provider shall be responsible for providing shelter and security for stored items during de-commissioning and removal. Host further agrees that its normal security measures, practices, and policies which apply to its own Premises shall also apply to the Project. During decommissioning, Provider will comply with all Applicable Laws.

(f) No Survival of Purchase Option. The options for Host to purchase the Project under Sections 9(a) and 9(b) shall not survive the termination of this Agreement.

10. SHUTDOWNS, RELOCATION; CLOSURE OR SALE OF SITE.

(a) Host Requested Shutdown. Host from time to time may request Provider to temporarily stop operation of the Project for a period no longer than thirty (30) days, such request to be reasonably related to Host's activities in maintaining and improving the Site. During any such shutdown period (but not including periods of Force Majeure), Host will pay Provider an amount equal to the sum of (i) payments that Host would have made to Provider hereunder for electric energy that would have been produced by the Project during the period of the shutdown; (ii) revenues that Provider would have received with respect to the Project under the Applicable Solar Program and any other assistance program with respect to electric energy that would have been produced during the period of the shutdown; and (iii) revenues from Environmental Attributes and Tax Attributes that Provider would have received with respect to electric energy that would have been produced by the Project during the period of the shutdown. Determination of the amount of energy that would have been produced during the period of the shutdown shall be based, during the first Operations Year, on estimated levels of production and, after the first Operations Year, based on actual operation of the Project during the same period in the previous Operations Year, unless Provider and Host mutually agree to an alternative methodology.

(b) Provider Safety Shutdown. In addition to the right of Provider to shut down the Project for maintenance as provided in Section 4(j), Provider may shutdown the Project if Provider, in the exercise of reasonable judgment, believes Site conditions or activities of persons on a Site, which are not under the control of Provider, whether or not under the control of Host, may interfere with the safe operation of the Project. Provider shall give Host notice of a shutdown immediately upon becoming aware of the potential for such conditions or activities. Provider and Host shall cooperate and coordinate their respective efforts to restore Site conditions so as to not interfere with the safe operation of the Project and to reduce, to the greatest extent practicable, the duration of the shutdown. In the event of such a shutdown, Host shall be deemed to have acted under Section 10(a) to shut down the Project, and shall pay Provider the amounts described in Section 10(a) with respect to the period of the shutdown, except that Host shall not be required to pay such amounts relative to any time period prior to Provider's notice of the shutdown or during any Force Majeure Event. If a shutdown pursuant to this Section 10(b) continues for one hundred and eighty (180) days or longer, Provider may terminate this Agreement and require Host to pay the Early Termination Amount.

(c) Project Relocation. Host may request to move the Project to another location on the Site or to another site owned by Host, but any such relocation shall be subject to the approval of Provider and Financing Party in each of their sole discretion. In connection with such relocation, Host shall execute an amendment to this Agreement reflecting the new location of the Project but otherwise continuing all the terms and conditions of this Agreement for the remaining term of this Agreement. Host shall also provide any consents or releases required by Provider in connection with the new location. Host shall pay all costs associated with the removal and relocation of the Project, including installation and testing costs and interconnection costs. In addition, during the Relocation Event, Host will pay Provider an amount equal to the sum of (i) payments that Host would have made to Provider hereunder for electric energy that would have been produced by the Project following the Relocation Event; (ii) revenues that Provider would have received with respect to the Project under the Applicable Solar Program and any other assistance program with respect to electric energy that would have been produced following the Relocation Event; and (iii) revenues from Environmental Attributes and Tax Attributes that Provider would have received with respect to electric energy that would have been produced by the Project following the Relocation Event. Determination of the amount of energy that would have been produced following the Relocation Event shall be based, during the first Operations Year, on the estimated levels of production and, after the first Operations Year, based on actual operation of the Project in the same period in the previous Operations Year, unless Provider and Host mutually agree to an alternative methodology.

(d) Premises Shutdown; Interconnection Deactivated. In the event Premises are closed as a result of an event that is not (i) a Force Majeure Event or (ii) caused by or related to any unexcused action or inaction of Provider, Host shall nevertheless continue to pay Provider for all electricity produced by the Project on the Premises and delivered to the Point of Delivery. If an interconnection with the Local Electric Utility becomes deactivated for reasons that are not (i) a Force Majeure Event or (ii) caused by or related to any unexcused action or inaction of Provider such that the Project is no longer able to produce electricity or transfer electricity to its respective Premises or to the Local Electric Utility, Host will pay Provider an amount equal to the sum of (A) payments that Host would have made to Provider hereunder for electric energy that would have been produced by the Project following such closure; (B) revenues that Provider would have received with respect to the Project under the Applicable Solar Program and any other assistance program with respect to electric energy that would have been produced following such closure; and (C) revenues from Environmental Attributes that Provider would have received with respect to

electric energy that would have been produced by the Project following such closure. Determination of the amount of energy that would have been produced following such closure shall be based, during the first Operations Year, on the estimated levels of production and, after the first Operations Year, based on actual operation of the Project in the same period in the previous Operations Year, unless Provider and Host mutually agree to an alternative methodology. If a shutdown pursuant to this Section 10(d) continues for one hundred and eighty (180) days or longer, Provider may terminate this Agreement and require Host to pay the Early Termination Amount.

(e) Sale of Site. In the event Host transfers (by sale, lease or otherwise) all or a portion of its interest in the Site, Host shall remain primarily liable to Provider for the performance of the obligations of Host hereunder notwithstanding such transfer. However, if no Host Event of Default has occurred and is continuing and the transferee is acceptable to Provider and Financing Party in their sole discretion and executes agreements assuming this Agreement in form and substance satisfactory to Provider and Financing Party in their sole discretion, Host may be released from further obligations under this Agreement.

11. TAXES.

(a) Income Taxes. Provider shall be responsible for any and all income taxes associated with payments from Host to Provider for electric energy from the Project. Provider (and/or Financing Party), as owner of the Project, shall be entitled to all Tax Attributes with respect to the Project.

(b) Sales Taxes. Host shall be responsible for all taxes, fees, and charges, including sales, use, and gross receipts taxes, imposed or authorized by any Governmental Authority on the sale of electric energy by Provider to Host. Host shall timely report, make filings for, and pay any and all such taxes assessed directly against it and shall reimburse Provider for any and all such taxes assessed against and paid by Provider.

(c) Property Taxes. Host shall be responsible for all ad valorem personal property or real property taxes levied against the Site, improvements thereto and personal property located thereon, except that Provider shall be responsible for ad valorem personal property or real property taxes levied against the Project. If Host is assessed any taxes related to the existence of the Project on the Premises, Host shall immediately notify Provider. Host and Provider shall cooperate in contesting any such assessment; provided, however, that Host shall pay such taxes to avoid any penalties or interest on such Taxes, subject to reimbursement by Provider. If after resolution of the matter, such tax is imposed upon Host related to the improvement of real property by the existence of the Project on the Site, Provider shall reimburse Host for such tax.

(d) Tax Contests. Each Party has the right to contest taxes in accordance with Applicable Law and the terms of encumbrances against the Site. Each Party shall use all reasonable efforts to cooperate with the other in any such contests of tax assessments or payments. In no event shall either Party postpone during the pendency of an appeal of a tax assessment the payment of taxes otherwise due except to the extent such postponement in payment has been bonded or otherwise secured in accordance with Applicable Law.

(e) Payment of Delinquent Taxes. In the event either Party fails to pay any taxes that may become a lien upon the other Party's property, such Party may pay such amounts and in such event shall be entitled to recover such paid amount from the other Party, together with interest thereon at the rate of one percent (1%) per month, compounded monthly.

(f) Reimbursement Deadline. Any reimbursement of taxes owing pursuant to this Section 11 shall be paid within twenty (20) Business Days of receiving an invoice therefor from the Party who paid the taxes.

12. INSURANCE.

(a) Coverage. Host and Provider shall each maintain the insurance coverage set forth in Exhibit F in full force and effect throughout the Term.

(b) Applicable Solar Program Requirements. Host and Provider will also maintain the additional insurance requirements (if any) specified in Exhibit H to satisfy the requirements of the Applicable Solar Program.

(c) Insurance Certificates. Each Party shall furnish current certificates indicating that the insurance required under this Section 12 is being maintained. Each Party's insurance policy provided hereunder shall contain a provision whereby the insurer agrees to give the other Party thirty (30) days written notice before the insurance is cancelled or materially altered.

(d) Certain Insurance Provisions. Each Party's insurance policy shall be written on an occurrence basis and shall include the other Party as an additional insured as its interest may appear. A cross liability clause shall be made part of the policy. Each Party's insurer shall waive all rights of subrogation against the other Party except in the case of such Party's negligence or willful misconduct.

(e) Insurance Providers. All insurance maintained hereunder shall be maintained with companies rated no less than A- as to Policy Holder's Rating in the current edition of Best's Insurance Guide (or with an association of companies each of the members of which are so rated).

13. COOPERATION; SOLAR ACCESS; FUTURE IMPROVEMENTS.

(a) Cooperation. The Parties acknowledge that the performance of each Party's obligations under this Agreement will frequently require the assistance and cooperation of the other Party. Each Party therefore agrees, in addition to those provisions in this Agreement specifically providing for assistance from one Party to the other, that it will at all times during the Term cooperate with the other Party and provide all reasonable assistance to the other Party to help the other Party perform its obligations hereunder.

(b) Host to Not Restrict Solar Access. Host, or any lessee, grantee or licensee of Host, shall not erect any structures on, or make other modifications to, or plantings on, the Site which will interfere with the construction, operation or maintenance of, or solar access of, the Project.

(c) Adjoining Properties. If Applicable Law and existing easements do not ensure that structures or plantings on adjoining property will not interfere with the solar access for the Project, then Host and Provider shall work together to obtain from owners of adjoining properties any easements reasonably necessary to protect the solar access of the Project. Such easements shall run for the benefit of both Host and Provider. Provider shall pay for the expense of obtaining such easements, including payments to property owners and legal costs, but the rates payable by Host for electric energy from the Project shall be increased by an amount sufficient for Provider to fully amortize such costs, over a period equal to the lesser of (i) ten years and (ii) the remaining term of this Agreement without regard to Host's option to purchase the Project.

14. PRESS RELEASES AND CONFIDENTIALITY.

(a) Press Releases. Subject to Section 14(b), the Parties acknowledge that they each desire to publicize information about this Agreement and the Project. The Parties therefore agree that each may make independent press releases about entering into this Agreement, the size and location of the Project, and the identity of the other Party, without the prior written consent of the other Party. Notwithstanding the foregoing, Provider has the exclusive right to (i) claim that electric energy provided to Host was generated by the Project, (ii) Provider is responsible for the reductions in emissions of pollution and greenhouse gases resulting from the generation of such electric energy and (iii) Provider is entitled to all credits, certificates, registrations, etc., evidencing or representing any of the foregoing except as otherwise expressly provided in this Agreement. Buyer shall not make any claims with respect to (i) through (iii) in any such independent press release.

(b) Limits on Disclosure of Confidential Information. Subject to the exceptions set forth below in Section 14(c), Provider (the "Disclosing Party) and Buyer ("Receiving Party") agree that, (i) pursuant to A.R.S. § 30-808, without the consent of the Disclosing Party, Receiving Party shall not to disclose any Confidential Information received from Disclosing Party to any other person and (ii) Receiving Party shall use any Confidential Information received from Disclosing Party only for the purpose of fulfilling its obligations under this Agreement. Notwithstanding the foregoing, the Parties may, and shall, disclose any information required to be disclosed under rules, regulations and contracts implementing the Applicable Solar Program or Tax Attributes required to be disclosed by any Governmental Authority under Applicable Law or pursuant to a validly issued subpoena or required filing.

(c) Permissible Disclosures. Provider may provide this Agreement, and any correspondence, notices and other information related to this Agreement to any person who has provided or who is interested in providing construction or permanent financing, or any refinancing thereof, to Provider in connection with the Project. In addition, if the Receiving Party is required by Applicable Law, validly issued subpoena, required filing, or the rules of any stock exchange, to disclose any Confidential Information provided by the Disclosing Party, the Receiving Party may make disclosure as required by law, but the Receiving Party shall prior to making any disclosure notify the Disclosing Party of the requested disclosure and shall use its reasonable efforts to cooperate with the Disclosing Party, but at the expense of the Disclosing Party, in any efforts by the Disclosing Party to minimize the extent of the Confidential Information disclosed and the persons to whom disclosed.

(d) Enforcement of Confidentiality Provisions. Each Party acknowledges that it may be impossible to measure the damages which may result from a breach of this Section 14 and agrees that the provisions of this Section 14 may be required to be specifically performed and each Party shall have the right to obtain preliminary and permanent injunctive relief to secure specific performance of the terms of this Section 14. The provisions of this Section 14 shall survive until three years after the effective date of any termination of this Agreement.

15. INDEMNIFICATION.

(a) Provider Indemnification. Provider shall indemnify, defend and hold Host and its directors, officers, employees, agents, volunteers, and invitees ("Host's Indemnified Parties"), harmless from and against all Losses incurred by the Host Indemnified Parties to the extent arising from or out of the following: (i) any claim for or arising out of any injury to or death of any Person or loss or damage to property to the extent arising out of Provider's (or its contractor's) negligence or willful misconduct; (ii) Provider's violation of Applicable Law; (iii) any failure to properly interconnect or comply with the procedures of the Local Electric Utility; or (iv) any failure to properly handle or dispose of any Hazardous Materials brought onto the Site by Provider or by any of Provider's employees, agents, volunteers, and invitees. Such duty to indemnify with respect to any injuries to persons or damage to property arising from the generation of electricity from the Project shall not extend to incidents occurring on Host's side of the Point of Delivery except to the extent caused by incidents on Provider's side of the Point of Delivery. Such duty to indemnify shall not apply to any action or claim, whether in tort (including negligence and strict liability), contract or otherwise for any loss, injury, or costs resulting from interruptions in service. Provider shall not be obligated to indemnify Host or any Host Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of Host or any Host Indemnified Party.

(b) Host Indemnification. Host shall indemnify, defend and hold Provider, its contractors, subcontractors, shareholders, directors, officers, employees, agents, and invitees, and Financing Party ("Provider's Indemnified Parties"), harmless from and against all Losses incurred by the Provider's Indemnified Parties to the extent arising from or out of (i) any claim for or injury to or death of any Person or loss or damage to property to the extent arising out of the negligence or willful misconduct of any of Host's Indemnified Parties; (ii) Host's violation of Applicable Law; or (iii) the presence, removal or remediation of any Hazardous Materials on the Site (other than any Hazardous Materials brought on to the Site by Provider's Indemnified Parties). Host shall not be obligated to indemnify Provider or any Provider Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of Provider or any Provider Indemnified Party.

(c) Notice of Claims. Whenever any claim arises for indemnification under this Agreement, the Indemnified Person shall notify the Indemnifying Party in writing as soon as possible (but in any event prior to the time by which the interest of the Indemnifying Party will be materially prejudiced as a result of its failure to have received such notice) after the Indemnified Person has knowledge of the facts constituting the basis for such claim (the "Notice of Claim"). Such Notice of Claim shall specify all facts known to the Indemnified Person giving rise to the indemnification right and the amount or an assessment of the amount of the liability arising therefrom.

(d) Defense of Claims. The Indemnifying Party has the right, but not the obligation to assume the defense or the matter for which indemnification is sought hereunder. If the Indemnifying Party does not assume the defense, it shall timely pay all costs of counsel and case expenses incurred by Indemnified Person in connection with the defense, when and as incurred. If the Indemnifying Party assumes the defense, the Indemnified Person has the right to hire its own counsel to defend it, but the Indemnified Person shall be responsible for the reasonable costs of such counsel. The Indemnifying Party shall not consent to the entry of any judgment or enter into any settlement with respect to the matter for which indemnification is sought without the prior written consent of the Indemnified Person

(which consent shall not be unreasonably withheld) unless the judgment or settlement involves the payment of money damages only and does not require the acknowledgement of the validity of any claim.

(e) Payments. At the time that the Indemnifying Party makes any indemnity payments under this Agreement, the indemnification payment shall be adjusted such that the payment will result in the Indemnified Person receiving an indemnity payment equal to the Loss after taking into account (i) all federal, state, and local income taxes that are actually payable to the Indemnified Person with respect to the receipt of such payment and (ii) all national, state, and local tax deductions allowable to the Indemnified Person for any items of loss and deduction for which the Indemnified Party is being indemnified.

(f) Survival of Indemnification. The obligations of indemnification hereunder shall survive termination of this Agreement.

16. REPRESENTATIONS AND WARRANTIES.

(a) Mutual Representations. Each Party hereby represents and warrants to the other, as of date hereof, that:

(i) Organization. It is duly organized, validly existing and in good standing under the laws of its state of organization and of the state in which the Premises are located, respectively, and has the power and authority to enter into this Agreement and to perform its obligations hereunder.

(ii) No Conflict. The execution and delivery of this Agreement and the performance of and compliance with the provisions of this Agreement will not conflict with or constitute a breach of or a default under (A) its organizational documents; (B) any agreement or other obligation by which it is bound; (B) any law or regulation.

(iii) Enforceability. (A) All actions required to be taken by or on the part of such Party necessary to make this Agreement effective have been duly and validly taken; (B) this Agreement has been duly and validly authorized, executed and delivered on behalf of such Party; and (B) this Agreement constitutes a legal, valid and binding obligation of such Party, enforceable in accordance with its terms, subject to laws of bankruptcy, insolvency, reorganization, moratorium or other similar laws.

(iv) No Material Litigation. There are no court orders, actions, suits or proceedings at law or in equity by or before any governmental authority, arbitral tribunal or other body, or threatened against or affecting it or brought or asserted by it in any court or before any arbitrator of any kind or before or by any governmental authority that could reasonably be expected to have a material adverse effect on it or its ability to perform its obligations under this Agreement, or the validity or enforceability of this Agreement.

(b) Host Representations. In addition to the representations and warranties in Section 16(a), Host hereby represents and warrants to Provider, as of date hereof, that:

(i) Electric Usage. Host has provided to Provider complete and correct records of its electric usage at the Site for the preceding one (1) year.

(ii) Condition of Premises. Host has provided to Provider Host's complete and correct records of the physical condition of the Premises. If it is discovered that the actual site conditions on part of, or on the entire Premises upon which all or part of the Project is to be installed, are materially different from the information presented by Host, then if practicable the rates payable by Host hereunder shall be adjusted to compensate Provider for the cost of design and construction changes and delays incurred to adapt the Project to the unknown conditions. If such adjustment is not practicable, Provider shall have other rights under this Agreement.

(iii) Financial Information. The financial statements Host has provided to Provider present fairly in all material respects the financial condition and results of operations of Host.

(iv) Credit Purchase Agreement. The Host has assigned all payments under the Credit Purchase Agreement to the Provider, pursuant to the Credit Purchase Agreement.

17. FORCE MAJEURE.

(a) Excuse for Force Majeure Event. Except as provided in Section 17(b) or otherwise specifically provided in this Agreement, neither Party shall be considered in breach of this Agreement or liable for any delay or failure to comply with this Agreement, if and to the extent that such delay or failure is attributable to the occurrence of a Force Majeure Event; provided that the Party claiming relief as a result of the Force Majeure Event shall promptly (i) notify the other Party in writing of the existence and details of the Force Majeure Event; (ii) exercise all reasonable efforts to minimize delay caused by such Force Majeure Event; (iii) notify the other Party in writing of the cessation of such Force Majeure Event; and (iv) resume performance of its obligations hereunder as soon as practicable thereafter.

(b) No Excuse for Payment for Prior Services. Obligations to make payments for services already provided shall not be excused by a Force Majeure Event.

(c) Restoration. In the event of a casualty event, to the extent that such casualty event is attributable to the occurrence of a Force Majeure Event, which destroys all or a substantial portion of the Premises, Host shall elect, within ninety (90) days of such event, whether it will restore the Premises, which restoration will be at the sole expense of Host. If Host does not elect to restore the Premises, then Provider shall not restore the Project and this Agreement will terminate. If Host does elect to restore the Premises, Host shall provide notice of such election to Provider and Provider shall then elect, within ninety (90) days of receipt of such notice, whether or not to restore the Project, subject to the Parties agreeing on a schedule for the restoration of the Premises and an equitable extension to the Term of this Agreement. If the Parties are not able to so agree or if Provider does not elect to restore the Project, Provider shall promptly remove any portions of the Project remaining on the Premises, and this Agreement shall terminate. If Provider does elect to restore the Project, it shall do so at its sole expense. In the event of termination of this Agreement pursuant to this Section 17(c), (i) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to the casualty event; and (ii) the confidentiality provisions of Section 14, the indemnity obligations under Section 15 hereof, and the dispute resolution provisions of Section 23 hereof shall continue to apply notwithstanding the termination of this Agreement.

(d) Termination for Force Majeure Event. Notwithstanding anything to the contrary in this Section 17, if nonperformance on account of a Force Majeure Event continues beyond a continuous period of three hundred and sixty-five (365) days, then either Party shall have the right to terminate this Agreement upon thirty (30) days notice to the other. Upon such termination, Provider shall be required to decommission and remove the Project from the applicable Site in accordance with the provisions of Section 9(e) (unless there has been a casualty event, in which case the provisions of clause (c) above shall apply to the removal of the Project). In the event of such a termination of this Agreement with respect to the Project, the Parties shall not be released from any payment or other obligation arising under this Agreement which accrued prior to the shutdown of the Project or the Premises, and the indemnity, confidentiality and dispute resolution provisions of this Agreement shall survive the termination of this Agreement.

18. CHANGE IN LAW.

In the event there is a Change in Law that is applicable to the operation of the Project, the sale of electric energy produced by the Project, or any other obligation of the Provider hereunder, and compliance with the Change in Law results in an increase in Provider's costs to operate and/or maintain the Project, Provider will promptly submit to Host a written notice setting forth (i) the applicable Change in Law; (ii) the manner in which such Change in Law increases Provider's costs; and (iii) Provider's proposed adjustment to the then applicable and future rates for electric energy in this Agreement to reflect such increases in costs. Host agrees to an adjustment in the then applicable and future rates such that the new rates compensate Provider for the total cost increase arising from the Change in Law and said adjustment will remain in effect for as long as the costs arising from the Change in Law continue to be incurred by the Provider; provided, however any such increase shall be no greater than ten percent (10%) of the rates set forth in Exhibit A.

19. PROVIDER DEFAULT AND HOST REMEDIES.

(a) Provider Events of Default. Provider shall be in default of this Agreement if any of the following ("Provider Events of Default") shall occur:

(i) Misrepresentation. Any representation or warranty by Provider under Section 16 hereof, is incorrect or incomplete in any material way, or omits to include any information necessary to make such representation or warranty not materially misleading, and such defect is not cured within fifteen (15) days after receipt of notice from Host identifying the defect.

(ii) Abandonment During Installation. After commencement of installation of the Project, Provider abandons installation of the Project for thirty (30) days and fails to resume installation within thirty (30) days after receipt of notice from Host stating that, in Host's reasonable determination, Provider has abandoned installation of the Project.

(iii) Failure to Operate. After the Commercial Operation Date, Provider fails to operate the Project for a period of 90 days which failure is not due to equipment failure, or damage to the Project, act of governmental authority, or exercise of Provider's rights under this Agreement, or otherwise excused by the provisions of Section 17(b) (relating to Force Majeure Events); and Provider fails to resume operation within thirty (30) days after receipt of notice from Host stating that, in Host's reasonable determination, Provider has ceased operation of the Project , provided, however, that the cure period shall be extended by the number of calendar days during which Provider is prevented from taking curative action if Provider had begun curative action and was proceeding diligently, using commercially reasonable efforts, to complete such curative action.

(iv) Obligation Failure. Provider fails to perform any obligation hereunder, such failure is material, such failure is not excused by the provisions of Section 17(b) (relating to Force Majeure Events), and such failure is not cured within: (A) ten (10) days if the failure involves a failure to make payment when due or maintain required insurance; or (B) sixty (60) days if the failure involves an obligation other than payment or the maintenance of insurance, after receipt of notice from Host identifying the failure.

(v) Insolvency. Provider (A) applies for or consents to the appointment, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or a substantial portion of its property; (B) admits in writing its inability, or is generally unable, to pay its debts as such debts become due; (C) makes a general assignment for the benefit of its creditors; (D) commences a voluntary case under any bankruptcy law; (E) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (F) acquiesces in, or fails to contest in a timely manner, any petition filed against Provider in an involuntary case under bankruptcy law or seeking to dissolve Provider under other Applicable Law; or (G) takes any action authorizing its dissolution.

(b) Financing Party Opportunity to Cure; Host Remedies. Upon an Event of Default by Provider, provided that Host complies with its obligations under Section 21 and Financing Party does not cure such Event of Default by Provider, Host may terminate this Agreement, seek to recover damages for costs of replacement electricity and pursue other remedies available at law or equity.

20. HOST DEFAULT AND PROVIDER REMEDIES.

(a) Host Events of Default. Host shall be in default of this Agreement if any of the following ("Host Events of Default") shall occur:

(i) Misrepresentation. Any representation or warranty by Host under Section 16 hereof, is incorrect or incomplete in any material way, or omits to include any information necessary to make such representation or warranty not materially misleading, and such defect is not cured within fifteen (15) days after receipt of notice from Provider identifying the defect.

(ii) Obstruction. Host obstructs commencement of installation of the Project or fails to take any actions necessary for the interconnection of the Project, or fails to take electric energy produced by the Project, and fails to correct such action within ten (10) days of when such payment was due.

(iii) Payment Failure. Host fails to make any payment due under the terms of this Agreement, and fails to make such payment within ten (10) days after receipt of notice thereof from Provider.

(iv) Obligation Failure. Host fails to perform any obligation hereunder, such failure is material, such failure is not excused by the provisions of Section 17(b) (relating to Force Majeure Events), and such failure is not cured within: (A) ten (10) days if the failure involves a failure to maintain required insurance; or (B) sixty (60) days if the failure involves an obligation other than payment or the maintenance of insurance, after receipt of notice from Provider identifying the failure.

(v) Insolvency. Host (A) applies for or consents to the appointment, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or a substantial portion of its property; (B) admits in writing its inability, or be generally unable, to pay its debts as such debts become due; (C) makes a general assignment for the benefit of its creditors; (D) commences a voluntary case under any bankruptcy law; (E) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (F) acquiesces in, or fails to contest in a timely manner, any petition filed against Host in an involuntary case under bankruptcy law or seeking to dissolve Host under other Applicable Law; or (G) takes any action authorizing its dissolution.

(b) Default Damages. Upon an Event of Default by Host, Provider may require Host to pay to Provider the Early Termination Amount, sell electricity produced by the Project to persons other than Host, and recover from Host any loss in revenues resulting from such sales; and/or pursue other remedies available at law or in equity. After Provider's receipt of such Early Termination Amount pursuant to this Section 20(b), Provider shall collect no additional damages resulting from lost revenues from sales of electricity from the Project.

21. COLLATERAL ASSIGNMENT, FINANCING PROVISIONS.

(a) Financing Arrangements. Provider may mortgage, pledge, grant security interests, assign, or otherwise encumber its interests in this Agreement to any persons providing financing for the Project. Host acknowledges that Provider will obtain construction financing for the Project from third party and that Provider may either obtain term financing secured by the Project or sell or assign the Project to a Financing Party or may arrange other financing accommodations from one or more financial institutions and may from time to time refinance, or exercise purchase options under, such transactions. Host acknowledges that in connection with such transactions Provider may secure Provider's obligations by, among other collateral, an assignment of this Agreement and a first security interest in the Project. In order to facilitate such necessary sale, conveyance, or financing, and with respect to any lender or lessor, as applicable, Host agrees as follows:

(i) Consent to Collateral Assignment. Host hereby consents to both of the sale of the Project to a Financing Party and the collateral assignment to the Financing of the Provider's right, title and interest in and to this Agreement.

(ii) Rights of Financing Party. Notwithstanding any contrary term of this Agreement:

(A) Step-In Rights. The Financing Party, as owner of the Project, or as collateral assignee of this Agreement, shall be entitled to exercise, in the place and stead of Provider, any and all rights and remedies of Provider under this Agreement in accordance with the terms of this Agreement. The Financing Party shall also be entitled to exercise all rights and remedies of owners or secured parties, respectively, generally with respect to this Agreement and the Project;

(B) Opportunity to Cure Default. The Financing Party shall have the right, but not the obligation, to pay all sums due under this Agreement and to perform any other act, duty or obligation required of Provider thereunder or cause to be cured any default of Provider thereunder in the time and manner provided by the terms of this Agreement. Nothing herein requires the Financing Party to cure any default of Provider under this Agreement or (unless the Financing Party has succeeded to Provider's interests under this Agreement) to perform any act, duty or obligation of Provider under this Agreement, but Host hereby gives it the option to do so;

(C) Exercise of Remedies. Upon the exercise of remedies, including any sale of the Project by the Financing Party, whether by judicial proceeding or under any power of sale contained therein, or any conveyance from Provider to the Financing Party (or any assignee of the Financing Party as defined below) in lieu thereof, the Financing Party shall give notice to Host of the transferee or assignee of this Agreement. Any such exercise of remedies shall not constitute a default under this Agreement;

(D) Cure of Bankruptcy Rejection. Upon any rejection or other termination of this Agreement pursuant to any process undertaken with respect to Provider under the United States Bankruptcy Code, at the request of Financing Party made within ninety (90) days of such termination or rejection, Host shall enter into a new agreement with Financing Party or its assignee having substantially the same terms and conditions as this Agreement.

(iii) Right to Cure.

(A) Cure Period. Host will not exercise any right to terminate or suspend this Agreement unless it shall have given the Financing Party prior written notice of its intent to terminate or suspend this Agreement, as required by this Agreement, specifying the condition giving rise to such right, and the Financing Party shall not have caused to be cured the condition giving rise to the right of termination or suspension within thirty (30) days after such notice or (if longer) the periods provided for in this Agreement; provided that if such Provider default reasonably cannot be cured by the Financing Party within such period and the Financing Party commences and continuously pursues cure of such default within such period, such period for cure will be extended for a reasonable period of time under the circumstances, such period not to exceed an additional ninety (90) days. The Parties' respective obligations will otherwise remain in effect during any cure period.

(B) Continuation of Agreement. If the Financing Party or its assignee (including any purchaser or transferee), pursuant to an exercise of remedies by the Financing Party, shall acquire title to or control of Provider's assets and shall, within the time periods described in Section 21(a)(iii)(A) above, cure all defaults under this Agreement existing as of the date of such change in title or control in the manner required by this Agreement and which are capable of cure by a third person or entity, then such Person shall no longer be in default under this Agreement, and this Agreement shall continue in full force and effect.

(b) Financing Party a Third Party Beneficiary. Host agrees and acknowledges that Financing Party is a third party beneficiary of the provisions of this Section 21.

(c) Entry to Consent to Assignment. Host agrees to (i) execute any consents to assignment or acknowledgements and (ii) provide such opinions of counsel as may be reasonably requested by Provider and/or Financing Party in connection with such financing or sale of the Project.

22. LIMITATIONS ON DAMAGES.

EXCEPT AS EXPLICITLY PROVIDED IN THIS AGREEMENT (including, without limitation, in Sections 10 and 20(b)), NEITHER PARTY NOR ANY OF ITS INDEMNIFIED PERSONS SHALL BE LIABLE TO THE OTHER PARTY OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

23. DISPUTE RESOLUTION.

(a) Negotiation Period. The Parties shall negotiate in good faith and attempt to resolve any dispute, controversy or claim arising out of or relating to this Agreement (a "Dispute") within 30 days after the date that a Party gives written notice of such Dispute to the other Party.

(b) Mediation. If, after such negotiation in accordance with Section 23(a), the Dispute remains unresolved, either Party may require that a non-binding mediation take place. In such mediation, representatives of

the Parties with authority to resolve the dispute shall meet for at least three (iii) hours with a mediator whom they choose together. If the Parties are unable to agree on a mediator, then either Party is hereby empowered to request the American Arbitration Association to appoint a mediator. The mediator's fee and expenses shall be paid one-half by each Party.

(c) Arbitration of Disputes.

(i) Rules of Arbitration. Any Dispute that is not settled to the mutual satisfaction of the Parties pursuant to Sections 23(a) or 23(b) shall (except as provided in Section 23(d)) be settled by binding arbitration between the Parties conducted in Phoenix, Arizona, or such other location mutually agreeable to the Parties, and in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the "AAA") in effect on the date that a Party gives notice of its demand for arbitration.

(ii) Dispute Submission. The Party initiating the Arbitration (the "Submitting Party") shall submit such Dispute to arbitration by providing a written demand for arbitration to the other Party (the "Responding Party"), which demand must include statements of the facts and circumstances surrounding the dispute, the legal obligation breached by the other Party, the amount in controversy and the requested relief, accompanied by all relevant documents supporting the Demand.

(iii) Arbitrator Selection. The arbitrator(s) selected shall have contract resolution experience and experience in the electric power business and shall not have any current or past substantial business or financial relationships with the Parties or their Affiliates. Arbitrators must agree to be bound by the confidentiality provisions of this Agreement. If the amount in controversy is less than $250,000, the Dispute will be determined by a single neutral arbitrator, who will be chosen by the Parties within forty-five (45) days of submission of the demand on the Responding Party. If the Parties cannot agree on a single neutral arbitrator within such period, the arbitrator shall be chosen by the AAA. If the amount in controversy is $250,000 or greater, the Dispute will be determined by a Panel of three (3) arbitrators. Each Party shall select one arbitrator, but if a Party fails to select an arbitrator within forty-five (45) days of the submission of the demand on the Responding Party, the arbitrator will be chosen by the AAA. The two arbitrators so selected will select the third arbitrator, who shall act as the chairman of the panel. If the two arbitrators cannot select the third arbitrator within thirty (30) days (or such additional time as the Parties may agree) of the selection of both of the first two arbitrators, the third arbitrator shall be chosen by the AAA. As used herein, "Panel" means either a single arbitrator or a group of three arbitrators selected as provided herein.

(iv) Discovery. Within fifteen days (15) of the selection of the third arbitrator, the Parties shall submit statements to the Panel summarizing the issues in the case and including recommendations for discovery. Within twenty (20) days of receipt of the statements from the Parties, the Panel will meet with the Parties and issue orders on the scheduling of the case and any discovery to be permitted.

(v) Decision. Upon ten (10) days of completion of the hearing conducted by the Panel, each Party shall submit to the Panel its proposal for resolution of the dispute. The Panel in its award shall be limited to selecting only one of the two proposals submitted by the Parties. The award shall be in writing (stating the amount and reasons therefore) and shall be final and binding upon the Parties, and shall be the sole and exclusive remedy between the Parties regarding any claims and counterclaims presented to the Panel. The Panel shall be permitted, in its discretion, to add pre-award and post-award interest at commercial rates. Judgment upon any award may be entered in any court having jurisdiction.

(vi) Expenses. Unless otherwise ordered by the Panel, each Party shall bear its own expenses and one-half of the cost of the Panel. Payments of the Panel's costs shall be made on a monthly basis prior to the Award.

(d) Exceptions to Arbitration. The obligation to arbitrate shall not be binding upon any Party with respect to (i) requests for preliminary injunctions, temporary restraining orders, specific performance, or other procedures in a court of competent jurisdiction to obtain interim relief deemed necessary by such court to preserve the status quo or prevent irreparable injury pending resolution by arbitration of the actual Dispute; (ii) actions to enforce an award of a Panel or otherwise to collect payments not subject to bonafide dispute; or (iii) claims involving third parties who have not agreed to participate in the arbitration of the Dispute.

(e) Survival of Arbitration Provisions. The provisions of this Section 23 shall survive any termination of this Agreement and shall apply (except as provided herein) to any disputes arising out of this Agreement.

24. NOTICES.

Delivery of Notices. All notices or other communications which may be or are required to be given by any party to any other party pursuant to this Agreement shall be in writing and shall be either (i) delivered by hand; (ii) mailed by first-class, registered or certified mail, return receipt requested, postage prepaid; (iii) delivered by a recognized overnight or personal delivery service; (iv) transmitted by facsimile (such transmission to be effective on the day of receipt if received prior to 5:00 pm local time on a business day or in any other case as of the next business day following the day of transmittal); or (v) transmitted by email if receipt of such transmission by email is specifically acknowledged by the recipient (automatic responses not being sufficient for acknowledgement), addressed as follows:

If to Host:

Gila County - Finance Department
1400 E. Ash St.
Globe, AZ 85501
Attention: Valrie Bejarano

If to Provider:

Tioga Solar Gila, LLC
c/o Tioga Energy, Inc.
123 Mission Street, 9th Floor
San Francisco, CA 94105
Attention: Paul Detering
Email: paul@tiogaenergy.com

Notices shall be effective when delivered (or in the case of email, when acknowledged by the recipient) in accordance with the foregoing provisions, whether or not (except in the case of email transmission) accepted by, or on behalf of, the Party to whom the notice is sent.

Each Party may designate by Notice in accordance with this section to the other Party a new address to which any notice may thereafter be given.

25. MISCELLANEOUS.

(a) Governing Law. This Agreement shall be governed by the laws of the State of Arizona, including principles of good faith and fair dealing that will apply to all dealings under this Agreement.

(b) Rules of Interpretation. Section headings are for convenience only and shall not affect the interpretation of this Agreement. References to sections are, unless the context otherwise requires, references to sections of this Agreement. The words "hereto", "hereof" and "hereunder" shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The word "person" shall include individuals; partnerships; corporate bodies (including but not limited to corporations, limited partnerships and limited liability companies); non-profit corporations or associations; governmental bodies and agencies; and regulated utilities. The word "including" shall be deemed to be followed by the words "without limitation". In the event of any conflict between the text of this Agreement and the contents of an Exhibit hereto, the text of this Agreement shall govern.

(c) Severability. If any term, covenant or condition in the Agreement shall, to any extent, be invalid or unenforceable in any respect under Applicable Law, the remainder of the Agreement shall not be affected thereby, and each term, covenant or condition of the Agreement shall be valid and enforceable to the fullest extent permitted by Applicable Law. If a material provision is determined to be unenforceable, then the Parties shall negotiate in good faith to amend the Agreement to restore to the Party that was the beneficiary of such unenforceable provision the benefits of such provision. If the Parties are unable to agree upon an amendment that restores the Party's benefits,

the matter shall be resolved under Section 23(c) in order to restore to the Party that was the beneficiary of the unenforceable provision the economic benefits of such provision.

(d) Amendment and Waiver. This Agreement may only be amended by a writing signed by both Parties. Any waiver of any of the terms hereof shall be enforceable only to the extent it is waived in a writing signed by the Party against whom the waiver is sought to be enforced. Any waiver shall be effective only for the particular event for which it is issued and shall not constitute a waiver of a subsequent occurrence of the waived event nor constitute a waiver of any other provision hereof, at the same time or subsequently.

(e) Assignment. Neither Party may assign, sell, transfer or in any other way convey its rights, duties or obligations under this Agreement, either in whole or in part, without the prior written consent of the other Party which consent shall not be unreasonably withheld or delayed, except that without consent of Host, Provider (i) may assign its rights and obligations hereunder to an Affiliate of Provider and (ii) may sell or collaterally assign this Agreement in accordance with Section 21. For purposes of this Section 25(e), transfer does not include any sale of all or substantially all of the assets of Provider or Host or any merger of Provider or Host with another person, whether or not Provider or Host is the surviving entity from such merger, or any other change in control of Provider or Host, provided any such surviving entity assumes all obligations of Provider or Host, as appropriate, under this Agreement; provided however, with respect to Host, such surviving entity is acceptable to Financing Party in its sole discretion.

(f) Immigration Law Compliance. The Provider warrants compliance with the Federal Immigration and Nationality Act (FINA) and all other federal and state immigration laws and regulations related to the immigration status of its employees. Provider shall obtain statements from its subcontractors of every tier certifying compliance and shall furnish the statements to the Host upon request. These warranties shall remain in effect through the term of the Agreement, and the Provider and its subcontractors of every tier shall also maintain Employment Eligibility Verification forms (I-9) as required by the U.S. Department of Labor's Immigration and Control Act for all employees performing work pursuant to this Agreement. I-9 forms are available for download at USCIS.GOV. The Host may request, and the Provider agrees to furnish, verification of compliance from the Provider or its subcontractors of any tier performing work pursuant to this Agreement. Should the Host reasonably believe or discover that the Provider or its subcontractors of any tier are not in compliance, the Host may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Agreement for default, and suspension and/or debarment of the Provider and its subcontractors. All costs necessary to verify compliance are the responsibility of the Provider.

(g) OSHA Compliance. Provider shall require that all employees, contractors, subcontractors and any agents and other representatives of Provider adhere to all applicable OSHA requirements and safety laws or codes in the performance of this Agreement.

(h) Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, as applicable, the provisions which are incorporated herein by this reference, this Agreement is subject to cancellation if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement is, at any time while this Agreement is in effect, an employee or agent of any other party to this Agreement in any capacity or a consultant to any other party of this Agreement with respect to the subject matter of this Agreement.

(i) Retention and Inspection of Records. Provider shall retain, and shall contractually require each contractor and subcontractor to retain, all books, accounts, reports, files and other records relating to the performance of this Agreement for a period of five (5) years after the completion of this Agreement and to make such documents open for Host's inspection and audit at reasonable times as requested by Host.

(j) Nondiscrimination. Provider agrees not to discriminate against any employee or applicant for employment because of sex, race, religion, color, national origin, age or disability in violation of federal or state law. The parties shall comply with Section 202 of Executive Order 11246, 41 CFR 60-1.4, 41 CFR 60-250.4 and 41 CFR 60-741.5(a) and Arizona Executive Order 99-4 prohibiting discrimination in employment, to the extent applicable to this Agreement.

(k) Compliance with A.R.S. §§ 35-391.06 and 35-393.06. Pursuant to A.R.S. §§ 35-391.06 and 35-393.06, Provider shall certify that it does not have a scrutinized business operation in either Sudan or Iran.

(l) Service Contract. This Agreement is a service contract pursuant to Section 7701(e)(3) of the Internal Revenue Code.

(m) No Joint Venture. This Agreement does not create a joint venture, partnership or other form of business association between the Parties.

(n) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of signature by fax, or scan delivered by email, receipt acknowledged, or electronic signature are effective to bind a Party hereto.

(rest of page left blank intentionally – signatures appear on next page)

IN WITNESS WHEREOF, intending to be legally bound hereby, Provider and Host have executed this Power Purchase Agreement as of the date first set forth above.

TIOGA SOLAR GILA, LLC
By: Tioga Energy, Inc., sole member

By: _____

Name: MARC ROPER

Title: VP Sales & Marketing

GILA COUNTY, ARIZONA

BOARD OF SUPERVISORS

By: _____

Name: Tommie C. Martin

Title: Chairman of the Board of Supervisors

ATTEST

By: _____

Name: Marian Sheppard

Title: Chief Deputy Clerk, Gila County

APPROVED AS TO FORM

By: _____

Name: Bryan B. Chambers

Title: Chief Deputy County Attorney for
Daisy Flores, Gila County Attorney

GLOSSARY OF TERMS

"Access Rights" means the rights provided in this Agreement for Provider and its designees, including Installer, to enter upon and cross the Site to install, operate, maintain, repair and remove the Project, and to interconnect the Project with the Local Electric Utility and to provide water, electric and other services to the Project.

"Affiliate" means, as to any Person, any other Person which, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" of a Person means the power, directly or indirectly, to direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

"Agreement" means this Power Purchase Agreement, including all exhibits attached hereto, as the same may be amended from time to time in accordance with the provisions hereof.

"Applicable Law" means any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, or guideline issued by a Governmental Authority that is applicable to a Party to this Agreement or the transaction described herein. Applicable Law also includes any approval, consent or requirement of any Governmental Authority having jurisdiction over such Party or its property, enforceable at law or in equity.

"Applicable Solar Program" means the program indicated on Exhibit H.

"Business Day" means a day other than Saturday, Sunday, or other day on which commercial banks in New York City are authorized or required by law to be closed.

"Change in Law" means that after the date of this Agreement, an Applicable Law is amended, modified, nullified, suspended, repealed, found unconstitutional or unlawful, or changed or affected in any material respect by any Applicable Law. Change in Law does not include changes in federal or state income tax laws. Change in Law does include material changes in the interpretation of an Applicable Law.

"Commercial Operation Date" means the date, which shall be specified by Provider to Host pursuant to Section 4(f), when the Project is physically complete and has successfully completed all performance tests and satisfies the interconnection requirements of the Local Electric Utility.

"Confidential Information" means information of a confidential or proprietary nature, whether or not specifically marked as confidential. Such information shall include, but not be limited to, the material terms of this Agreement, including Exhibit A and Exhibit B, any documentation, records, listing, notes, data, computer disks, files or records, memoranda, designs, financial models, accounts, reference materials, trade-secrets, prices, strategic partners, marketing plans, strategic or other plans, financial analyses, customer names or lists, project opportunities and the like, provided however that Confidential Information does not include information which (i) was in the possession of the receiving Party before receipt from the disclosing Party; (ii) is or becomes publicly available other than as a result of unauthorized disclosure by the receiving Party; (iii) is received by the receiving Party from a third party not known by the receiving Party with the exercise of reasonable diligence to be under an obligation of confidentiality respecting the information; or (iv) is independently developed by the receiving Party without reference to information provided by the disclosing Party.

"Credit Purchase Agreement" means that Credit Purchase Agreement, dated as of June 28, 2011 between Host and Arizona Public Service.

"Dispute" means a controversy or claim arising out of or relating to this Agreement.

"Early Termination Amount" means an amount determined in accordance with Exhibit B, as of the applicable anniversary date set forth thereon, which includes all lost revenues from the sale or utilization of electrical energy, Environmental Attributes, or Tax Attributes.

"Electric Service Provider" means any person, including the Local Electric Utility, authorized by the State of Arizona to provide electric energy and related services to retail users of electricity in the area in which the Site is located.

"Environmental Attributes" means Renewable Energy Certificates, carbon trading credits, emissions reductions credits, emissions allowances, green tags, Green-e certifications, or other entitlements, certificates, products, or valuations attributed to the Project and its displacement of conventional energy generation, or any other entitlement pursuant to any federal, state, or local program applicable to renewable energy sources, whether legislative or regulatory in origin, as amended from time to time, and excluding, for the avoidance of doubt, any Tax Attributes.

"Fair Market Value" means the price that would be paid in an arm's length, free market transaction, in cash, between an informed, willing seller and an informed, willing buyer (who is neither a lessee in possession nor a used equipment or scrap dealer), neither of whom is under compulsion to complete the transaction, taking into account, among other things, the age and performance of the Project and advances in solar technology, provided that installed equipment shall be valued on an installed basis and costs of removal from a current location shall not be a deduction from the valuation.

"Financing Party" means a Project Lessor or Lender.

"Force Majeure Event" means any act or event that prevents the affected Party from performing it obligations in accordance with this Agreement, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party and such Party had been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Subject to the foregoing, Force Majeure Event may include but are not limited to the following acts or events: (i) natural phenomena, such as storms, hurricanes, floods, lightning and earthquakes; (ii) explosions or fires arising from lightning or other causes unrelated to the acts or omissions of the Party seeking to be excused from performance; (iii) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, terrorist acts, or rebellion; and (iv) strikes or labor disputes. Force Majeure Events shall not include equipment failures or acts or omissions of agents, suppliers or subcontractors, except to the extent such acts or omissions arise from a Force Majeure Event. Changes in prices for electricity shall not constitute Force Majeure Events.

"Governmental Authority" means any international, national, federal, provincial, state, municipal, county, regional or local government, administrative, judicial or regulatory entity operating under any Applicable Laws and includes any department, commission, bureau, board, administrative agency or regulatory body of any government.

"Hazardous Materials" means all hazardous or toxic substances, wastes or other pollutants, including petroleum, petroleum hydrocarbons or petroleum products, petroleum by-products, radioactive materials, asbestos or asbestos-containing materials, gasoline, diesel fuel, pesticides, radon, urea formaldehyde, lead or lead-containing materials, polychlorinated biphenyls; and any other chemicals, materials, substances or wastes in any amount or concentration which are now included in the definition of "hazardous substances," "hazardous materials," "hazardous wastes," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollutants," "regulated substances," "solid wastes," or "contaminants" or words of similar import, under any Applicable Law.

"Host" means Gila County, Arizona, an Arizona county, and all successors and assigns.

"Indemnified Person" means the person who asserts a right to indemnification under Section 15.

"Indemnifying Party" means the Party who has the indemnification obligation under Section 15 to the Indemnified Person.

"Initial Period" has the meaning provided in Section 2.

"Installer" means the person designated by Provider to install the Project on the Premises.

"Land Registry" means the office where real estate records for the Site are customarily filed.

"Lender" means persons providing construction or permanent financing to Provider in connection with installation of the Project.

"Liens" has the meaning provided in Section 8(c).

"Local Electric Utility" means the entity authorized and required under Applicable Law to provide electric distribution service to Host at the Site.

"Losses" means any and all losses, liabilities, claims, demands, suits, causes of action, judgments, awards, damages, cleanup and remedial obligations, interest, fines, fees, penalties, costs, and expenses (including all attorney's fees and other costs and expenses incurred in defending any such claims or matters or in asserting or enforcing any indemnity obligation).

"Minimum Standard of Operation" has the meaning provided in Exhibit I.

"Operations Period" has the meaning provided in Section 2.

"Operations Year" means a twelve month period beginning at 12:00 am on an anniversary of the Commercial Operations Date and ending at 11:59 pm on the day immediately preceding the next anniversary of the Commercial Operations Date, provided that the first Operations Year shall begin on the Commercial Operations Date.

"Party" means either Host or Provider, as the context shall indicate, and "Parties" means both Host and Provider.

"Point of Delivery" has the meaning set forth in Section 5(a) and Exhibit E.

"Premises" means the portions of the Site described on Exhibit D.

"Project" means an integrated system for the generation of electricity from solar energy consisting of the photovoltaic panels and associated equipment to be installed on each of the Premises in accordance with this Agreement.

"Project Lessor" means, if applicable, any Person to whom Provider transferred the ownership interest in the Project, subject to a leaseback of the Project from such Person.

"Provider" means Tioga Solar Gila, LLC, a Delaware limited liability company, and all successors and assigns.

"Relocation Event" means the relocation of the Project, starting at the shutdown of the Project pursuant to such relocation, and ending at the commercial operation of the Project when such relocated Project is reinstalled at a new location, as determined by the Provider in its reasonable discretion.

"Renewable Energy Certificate" or "REC" means a certificate, credit, allowance, green tag, or other transferable indicia, howsoever entitled, created by an applicable program or certification authority indicating generation of a particular quantity of energy, or product associated with the generation of a megawatt-hour (MWh) from a renewable energy source by a renewable energy project.

"Site" means the real property described on Exhibit C attached hereto.

"Tax Attributes" means the investment tax credits (including any grants or payments in lieu thereof) and any tax deductions or other benefits under the Internal Revenue Code or applicable federal, state, or local law available as a result of the ownership and operation of the Project or the output generated by the Project (including, without limitation, tax credits (including any grants or payments in lieu thereof) and accelerated and/or bonus depreciation.)

"Term" shall have the meaning provided in Section 2 hereof.

EXHIBIT A

ENERGY PURCHASE RATES

Operations Year	Price per kWh
1	$0.080
2	$0.080
3	$0.080
4	$0.080
5	$0.080
6	$0.080
7	$0.080
8	$0.080
9	$0.080
10	$0.080
11	$0.080
12	$0.080
13	$0.080
14	$0.080
15	$0.080
16	$0.080
17	$0.080
18	$0.080
19	$0.080
20	$0.080

EXHIBIT B

EARLY TERMINATION AMOUNTS

Operations Year	Early Termination Amount
1	$1,001,950
2	$917,373
3	$822,515
4	$720,244
5	$612,459
6	$592,320
7	$580,406
8	$565,932
9	$548,510
10	$527,716
11	$503,381
12	$475,557
13	$443,761
14	$407,455
15	$366,053
16	$318,889
17	$265,225
18	$241,987
19	$222,628
20	$197,990
After Year 20	Fair Market Value

EXHIBIT C

DESCRIPTION OF SITE

1400 E. Ash St, Globe, AZ 85501

Aerial Photograph

Legal Description of Host's property to be provided

==========

EXHIBIT D

DESCRIPTION OF PREMISES

Aerial Photograph of the Premises

Premises includes all Access Rights pursuant to
Section 3 of the Power Purchase Agreement

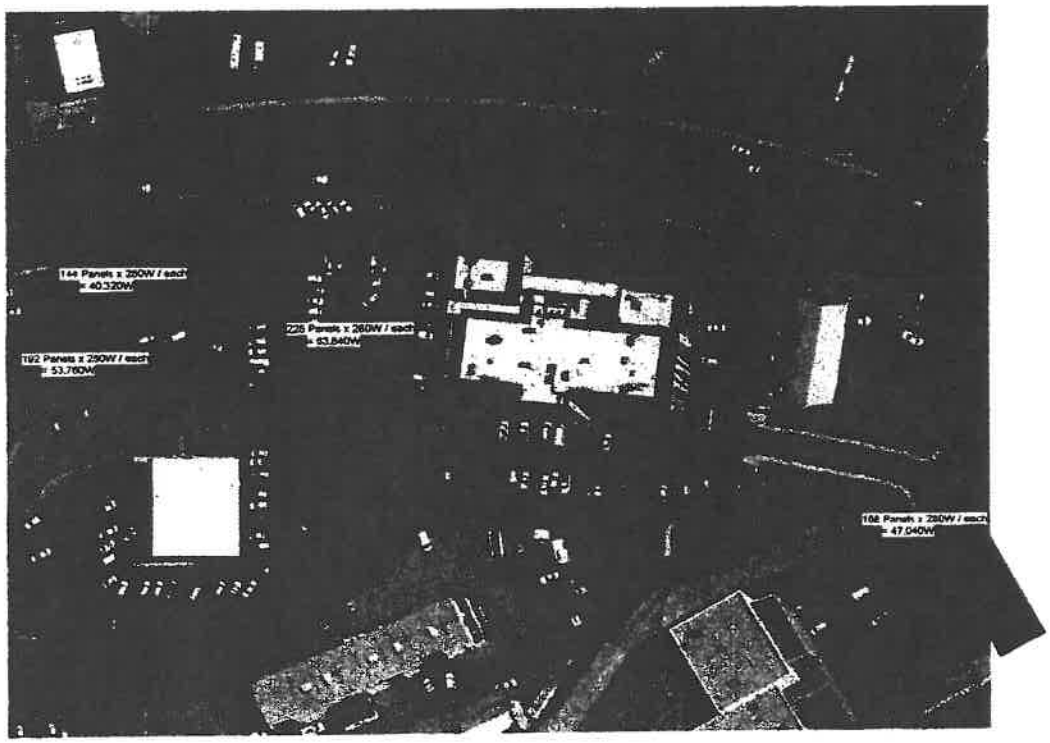

EXHIBIT E

DESCRIPTION OF PROJECT

Nameplate capacity (kW DC STC):	204.96 kW DC
Array Footprint:	Approx. 14,700 sq. ft.
Output Criteria:	60 cycle 120 hertz 3 phase
System CEC-AC rated Capacity (kW AC CEC):	732ea x 250.7 W PTC x 97%
Quantity and type of Photovoltaic Modules:	178.007 kW AC CEC
Quantity and type of Inverters:	732 x Trina TSM-280PA 14 (or approved equal)
Type of Mounting Structure:	(1) Satcon 250 kW PVS (208) (or approved equal)
Other Balance-of-System items:	Covered Parking Canopy
Data	Power-One MYPVDATA (previously National Semiconductor SolarMagic)
Perimeter Fencing:	N/A

EXHIBIT F

INSURANCE REQUIREMENTS

1. General Liability

(a) Both Host and Provider will have a minimum level of commercial general liability insurance for the term of the Power Purchase Agreement of two million dollars ($2,000,000) for each occurrence, and four million dollars ($4,000,000) in the aggregate. Insurance coverage shall be at least as broad as the Insurance Services Office (ISO) Commercial General Liability Coverage "occurrence" form, with no coverage deletions.

(b) Both the Host and Provider general liability insurance coverage shall be endorsed to specify that the Provider's and Host's insurance is primary and that any insurance or self-insurance maintained by the Local Electric Utility shall not contribute with it.

2. Workers' Compensation

Both Host and Provider will have Workers' Compensation insurance indicating compliance with any applicable labor codes, acts, laws or statutes, state or federal, at the Site where the work is performed. Employers' Liability insurance shall not be less than $1,000,000 for injury or death each accident.

3. Business Auto

(a) not less than one million dollars ($1,000,000) each accident for bodily injury and property damage, and two million dollars ($2,000,000) in the aggregate.

(b) not less than one million dollars ($1,000,000) each accident for bodily injury and property damage, and two million dollars ($2,000,000) in the aggregate.

4. Additional Insurance Requirements

Additional insurance requirements and terms are included in the Applicable Solar Program contract.

5. Additional Insurance Provisions

Host shall furnish Provider with certificates of insurance and endorsements of all required insurance, as may be reasonably requested, including for purposes of compliance with Applicable State Solar rebate program. The documentation required for the Applicable Solar Program shall state that coverage shall not be canceled except after thirty (30) days prior written notice has been given to the Local Electric Utility. The documentation must be signed by a person authorized by the insurer to bind coverage on its behalf.

6. Additional Installation Contractor Requirements

Installation contractors will have valid commercial general liability, workers compensation, and business auto insurance as follows:

- Commercial general liability insurance will be in the following amounts: $2,000,000 for each occurrence and $4,000,000 aggregate.
- Workers compensation insurance or self-insurance indicating compliance with any applicable labor codes, laws or statutes, state or federal, where Installer performs work.

- Auto coverage not less than one million dollars ($1,000,000) each accident for bodily injury and property damage, and two million dollars ($2,000,000) in the aggregate.

- Excess liability insurance on an occurrence basis covering claims (on at least a following form basis) in excess of the underlying insurance for Commercial General Liability, Auto Liability and Employers' Liability with a minimum limit per occurrence of four million dollars ($4,000,000) and six million dollars ($6,000,000) in the aggregate. The amounts of insurance required for Commercial General Liability, Auto Liability, Employers' Liability and Excess Liability may be satisfied by Installer purchasing coverage in the amounts specified or by any combination of primary and excess insurance, so long as the total amount of insurance meets the requirements specified above.

EXHIBIT G

FORM OF NOTICE OF GRANT OF INTEREST IN REALTY

Tioga Solar Gila, LLC
c/o Tioga Energy, Inc.
123 Mission St. 9th Floor
San Francisco, CA 94105

NOTICE OF GRANT OF INTEREST IN REALTY

In accordance with the provisions of Ariz. Rev. Stat. § 33-401, notice is hereby given of that Power Purchase Agreement dated as of October 3, 2011 for purchase and sale of electrical energy (the "Agreement"). This notice may be executed in counterparts by the parties to the Agreement.

Parties to the Agreement:

Host: Gila County
1400 East Ash St.
Globe, AZ 85501

Provider: Tioga Solar Gila, LLC
123 Mission St. 9th Floor
San Francisco, CA 94105

Dated as of: October 3, 2011

Description of Premises: See Exhibit A

TERM OF AGREEMENT:

The term of the Agreement shall be until the last day of the calendar month in which the twentieth (20th) anniversary of the Commercial Operations Date (as that term is defined in the Agreement) occurs, subject to any extensions or early termination pursuant to the terms of the Agreement.

(signature pages follow)

Witness the execution hereof under seal by said parties to said Agreement this [_____] day of [_____].

Provider:

TIOGA SOLAR GILA, LLC
By: Tioga Energy, Inc., sole member

By: _____

Name: _____

Title: _____

Host:

GILA COUNTY, ARIZONA

BOARD OF SUPERVISORS

By: _____

Name: Tommie C. Martin

Title: Chairman of the Board of Supervisors

ATTEST

By: _____

Name: Marian Sheppard

Title: Chief Deputy Clerk, Gila County

APPROVED AS TO FORM

By: _____

Name: Bryan B. Chambers

Title: Chief Deputy County Attorney for
Daisy Flores, Gila County Attorney

[FOR FORM PURPOSES ONLY – DO NOT EXECUTE]

STATE OF _____)
) SS.
COUNTY OF _____)

On _____ before me, _____, Notary Public, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of [__] that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____

[FOR FORM PURPOSES ONLY – DO NOT EXECUTE]

EXHIBIT H

APPLICABLE SOLAR PROGRAM

APS 2011 Schools & Government Production Based Renewable Energy Incentive Program, and all similar programs.

EXHIBIT I

MINIMUM STANDARD OF OPERATION

Minimum Standard of Operation means the average ratio of actual power output to expected power output of the Project, measured n times every fifteen minutes over a period of at least three hours in which the measured solar irradiance in the plane of the array exceeds 250 W/m^2, shall be 90% or higher:

$$\frac{1}{n}\sum_{i=1}^{n}\frac{\text{Actual power output}_i}{\text{Expected power output}_i} \geq 0.90$$

Actual power output shall be measured as kW_{AC} (true RMS) at the Point of Delivery via a revenue grade meter as described in Section 6(d). Expected power output shall be determined as follows:

$$\text{Expected power output} = kW_{DC_STC_Mod} \times \{1+ \beta_{PMP}\,[(I_{Measured} \times e^{\{a+b\times WS\}} + T_{Amb} + \frac{I_{Measured}}{I_{STC}}\Delta T) - T_{STC}]\} \times \frac{I_{Measured}}{I_{STC}} \times WARR \times \eta_{Cond} \times \eta_{Inv}$$

Where:

$kW_{DC_STC_Mod}$ = Module DC rating at Standard Test Conditions (module nominal nameplate rating), in kW

β_{PMP} = Module power temperature coefficient, typically -0.005/°C for polycrystalline silicon panels at module maximum power point

$I_{Measured}$ = Measured solar irradiance in the plane of the array (unshaded), in W/m^2 (≥250W/m^2)

a = -3.56, an empirically-determined coefficient establishing the upper limit for module temperature at low wind speeds and high solar irradiance.

b = -0.075, an empirically-determined coefficient establishing the rate at which module temperature drops as wind speed increases.

WS = Measured windspeed, in m/s

T_{Amb} = Measured ambient air temperature, in °C

ΔT = 3°C, the typical temperature difference between the cell and the module back surface at an irradiance level of 1000 W/m^2.

T_{STC} = 25°C (STC reference temperature)

I_{STC} = 1000 W/m^2 (STC reference irradiance)

WARR = Percent of power output warranted by module manufacturer, inclusive of manufacturer's rating tolerance

η_{Cond} = 93.5% (Efficiency of conductors and connectors, accounts for DC and AC ohmic losses, module mismatch losses, and losses in diodes and connectors)

η_{Inv} = Inverter weighted conversion efficiency as published by the California Energy Commission (http://www.gosolarcalifornia.org/equipment/inverter.php)

AMENDMENT NO. 1
TO THE
POWER PURCHASE AGREEMENT

This Amendment No.1 (this "Amendment") to the Power Purchase Agreement is entered into as of _____, 2011, by and between by and between Tioga Solar Gila, LLC, a Delaware limited liability company ("Provider") and Gila County, an Arizona county ("Host").

WHEREAS, Provider and Host have entered into that Power Purchase Agreement dated as of October 3, 2011 (the "Agreement") and wish to amend the Agreement.

NOW, THEREFORE, in consideration of the foregoing premises, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and fully intending to be legally bound by this Amendment, the Parties hereto agree as follows:

1. Exhibit A. Exhibit A of the Agreement is deleted in its entirety and is amended in its entirety to read as attached hereto.

2. Exhibit B. Exhibit B of the Agreement is deleted in its entirety and is amended in its entirety to read as attached hereto.

3. No Other Changes. Except as otherwise expressly provided or contemplated by this Amendment, all of the terms, conditions and provisions of the Agreement remain unaltered and in full force and effect.

4. Miscellaneous Provisions.

(a) Governing Law. This Amendment shall be governed by the laws of the State of Arizona.

(b) Waiver. Any waiver of any of the terms hereof shall be enforceable only to the extent it is waived in a writing signed by the Party against whom the waiver is sought to be enforced. Any waiver shall be effective only for the particular event for which it is issued and shall not constitute a waiver of a subsequent occurrence of the waived event nor constitute a waiver of any other provision hereof, at the same time or subsequently.

(c) Counterparts. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(rest of page left blank intentionally; signatures appear on next page)

IN WITNESS WHEREOF, intending to be legally bound hereby, Provider and Host have executed this Amendment to the Power Purchase Agreement as of the date first set forth above.

TIOGA SOLAR GILA, LLC,
a Delaware limited liability corporation

By: Tioga Energy, Inc., sole member

By: _____

Name (printed): Marc Roper

Title: Vice President, Sales & Marketing

GILA COUNTY, ARIZONA

BOARD OF SUPERVISORS

By:_____

Name: Tommie C. Martin

Title: Chairman of the Board of Supervisors

ATTEST

By:_____

Name: Marian Sheppard

Title: Chief Deputy Clerk, Gila County

APPROVED AS TO FORM

By: _____

Name: Bryan B. Chambers

Title: Chief Deputy County Attorney for
Daisy Flores, Gila County Attorney

EXHIBIT A

ENERGY PURCHASE RATES

Year	$/kWh
1	0.077
2	0.077
3	0.077
4	0.077
5	0.077
6	0.077
7	0.077
8	0.077
9	0.077
10	0.077
11	0.077
12	0.077
13	0.077
14	0.077
15	0.077
16	0.077
17	0.077
18	0.077
19	0.077
20	0.077

EXHIBIT B

EARLY TERMINATION VALUE

Project Year	Termination Value
1	$1,004,419
2	$919,633
3	$824,542
4	$722,019
5	$613,968
6	$593,780
7	$581,836
8	$567,327
9	$549,861
10	$529,016
11	$504,622
12	$476,729
13	$444,854
14	$408,460
15	$366,955
16	$319,675
17	$265,878
18	$242,584
19	$223,177
20	$198,478

GILA COUNTY ATTORNEY

Daisy Flores

Re: County Attorney's Office "approval as to form" of contract or agreement.

To whom it may concern:

The County Attorney's Office has reviewed the contract or agreement attached to this agenda item and has determined that it is in its proper form and is within the powers and authority granted under the laws of this state to the public agency requesting the County Attorney's Office review.

Explanation of the Gila County Attorney's Office "Approval as to Form" Review

The Gila County Attorney's Office is often called upon to review contracts and other agreements between public entities represented by the County Attorney and private venders, contractors, and individuals.

In performing this review, the County Attorney's Office reviews these contracts to see that they are in "proper form" prior to their execution. "Proper form" means that the contract conforms to fundamental contract law, conforms to specific legislative requirements, and is within the powers and authority granted to the public agency. It does not mean that the County Attorney's Office approves of or supports the policy objectives contained in the contract. That approval is solely the province of the public agency through its elected body.

The public agency or department submitting the contract for review has the responsibility to read and understand the contract in order to completely understand its obligations under the contract if it is ultimately approved by the public entity's board. This is because while the County Attorney's Office can approve the contract as to form, the office may not have any idea whether the public agency has the capacity to actually comply with its contractual obligations. Also, the County Attorney's Office does not monitor contract compliance. Hence the public entity or

submitting department will need to be prepared to monitor their own compliance. A thorough knowledge of the provisions of the contract will be necessary to monitor compliance.

Before signing a contract "approved as to form," the County Attorney's Office will answer any questions or concerns the public agency has about the contract. It is the responsibility of the public agency or department submitting the contract for review to ask any specific questions or address any concerns it has about the contract to the County Attorney's Office at the same time they submit the contract for review. Making such an inquiry also helps improve the County Attorney's Office review of the contract because it will help focus the review on specific issues that are of greatest concern to the public agency. Failing to make such an inquiry when the agency does have issues or concerns will decrease the ability of the County Attorney's Office to meaningfully review the agreement.

ARF-912 **Consent Agenda Item 4- F**

Regular BOS Meeting

Meeting Date: 12/06/2011

Submitted For: Linda Eastlick, Elections Director

Submitted By: David Rogers, Elections Specialist, Elections Department

Department: Elections Department

Presenter's Name:

Information

Request/Subject

Tri-City Regional Sanitary District Governing Board Appointments and Term of Office Designations

Background Information

ARS 48-2001.01(G) provides that if the proposal for merger of two sanitary districts is approved, the governing body of the affected district with the largest population shall call a joint meeting of the governing bodies of the affected districts. At the joint meeting, the members of the governing bodies of both districts shall appoint a total of at least five persons from all of those currently serving on the governing bodies of both of the districts, each of whom shall complete their regular terms of offices.

Evaluation

At the joint meeting of the Pinal Sanitary District and Cobre Valley Sanitary District held on June 20, 2011, the combined boards appointed the following members to the newly formed Tri-City Regional Sanitary District Governing Board: Robert Zache, Richard Dixon, Mitch Malkovich, Kevin Kenney and Mary Anne Moreno. At the Tri-City Regional Sanitary District Governing Board meeting of October 3, 2011, the Governing Board determined the terms of office for the members of the present board. They are as follows: Mary Anne Moreno term ending 2012, Richard Dixon term ending 2012, Robert Zache term ending 2014, Kevin Kenney term ending 2014, Mitch Malkovich term ending 2014.

Conclusion

All five board members agreed to serve on the Tri-City Regional Sanitary District Governing Board as appointed at the June 20, 2011, joint meeting. All five board members agreed to serve out the terms as determined at the October 3, 2011, Tri-City Regional Sanitary District Governing Board Meeting.

Recommendation

The Elections Department recommends that the Board of Supervisors acknowledge the appointments of Robert Zache, Richard Dixon, Mitch Malkovich, Kevin Kenney and Mary Anne Moreno as Governing Board members to the newly formed Tri-City Regional Sanitary District and term of office designations for the Tri-City Regional Sanitary District Governing Board Members.

Suggested Motion

Acknowledgment of the appointments of Robert Zache - term expires December 31, 2014; Richard Dixon - term expires December 31, 2012; Mitch Malkovich - term expires December 31, 2014; Kevin Kenney - term expires December 31, 2014; and Mary Anne Moreno - term expires December 31, 2012, as Tri-City Regional Sanitary District Governing Board Members.

Attachments

ARS 48-2001.01

Pinal Sanitary District and Cobre Valley Sanitary District Joint Mtg Minutes

Tri-City Regional Sanitary District Mtg Minutes

Tri-City Regional Sanitary District Board Listing

48-2001.01. Merger of sanitary districts; hearing; election; joint meeting; resolution

A. For any two or more sanitary districts that are proposed to merge, the county board of supervisors shall hold a hearing on the proposed merger if either of the following applies:

1. The county board of supervisors has received a petition containing the signatures of at least twenty-five per cent of the qualified electors in each of the affected districts and proposing the merger of the sanitary districts. The county board of supervisors shall verify the petitions in the same manner provided in section 48-903 and shall hold a public hearing on the merger at a time and place determined by the county board of supervisors.

2. The board of directors of each of the affected sanitary districts has adopted by a two-thirds vote a resolution requesting the merger of the districts and each has filed that resolution with the county board of supervisors. On receipt of the resolutions, the county board of supervisors shall hold a public hearing on the merger at a time and place determined by the county board of supervisors.

B. The petition or resolutions shall contain the name and a description of the boundaries of the proposed district and a detailed, accurate map of the area to be included in the district and shall specify that the proposed district will be administered by a district board. No new territory may be included as a result of the merger, but the merged district may thereafter expand as provided in this chapter.

C. If the proposed district is located in more than one county, the petition or resolutions shall be submitted to the board of supervisors of the county in which the majority of the assessed valuation of the proposed merged district is located. The boards of supervisors of any other counties in which the affected districts are located shall provide information and assistance to the responsible board of supervisors.

D. If the county board of supervisors determines after a public hearing that the proposed merger would serve the public convenience, welfare or necessity, the county board of supervisors shall call an election for a vote of the public on the question of the merger of the sanitary districts. The board of supervisors shall not call an election to merge sanitary districts more frequently than once every two years. The order shall not be entered until the petitioners or the boards of directors of the sanitary districts have deposited with the board of supervisors sufficient monies, not exceeding one thousand dollars, to defray the expense of the election. These monies shall be paid out on the order of the board of supervisors. If the sanitary districts are merged, the depositors of these monies shall be reimbursed from the merged sanitary districts' monies. Whether or not the districts are merged, the sanitary districts shall reimburse the county for the expenses of the election.

E. For any election called pursuant to this section, the words appearing on the ballot shall be "(insert sanitary districts' names) merge as a sanitary district -- yes" and "(insert sanitary districts' names) merge as a sanitary district -- no".

F. Within fourteen days after the election, the board of supervisors shall meet and canvass the returns, and if it is determined that a majority of the votes cast at the election in each of the affected districts is in favor of merging the sanitary districts, the board shall enter that fact on its minutes.

G. If the proposal for merger is approved as provided in subsection F of this section, the governing body of the affected district with the largest population shall call a joint meeting of the governing bodies of the affected districts. At the joint meeting, a majority of the members of the governing body of each affected district constitutes a quorum for the transaction of business. The members of the governing bodies of both districts shall appoint a total of at least five persons from all of those currently serving on the governing bodies of both of the districts, each of whom shall complete their regular terms of offices, except that no more than a simple majority of the persons appointed may serve terms that end in the same year. No more than a simple majority may be appointed from the same sanitary district board, and the majority of the merged board shall be filled by board members from the district that has the greater number of customers. The appointed board shall immediately meet and organize itself and elect from among its members a chairperson. The appointed board by resolution shall declare the districts merged and each affected district joined. The resolution and the names of the newly organized board members shall be sent to the county board of supervisors within thirty days after organization and a certified copy

of the resolution and the legal description of the merged district shall be recorded in each county in which the district exists and sent to the director of the Arizona state retirement system, if either district was an Arizona state retirement system employer before the merger. From the date of the recording of the resolution of merger and legal description of the district by the appointed board, the merger is complete. The merged district shall assume any debt of each of the affected sanitary districts. Subsequent terms of office for district board members shall be filled by election of board members who shall be qualified electors from the merged district.
H. Section 48-262 does not apply to a merger of sanitary districts under this section.

PINAL SANITARY DISTRICT & COBRE VALLEY SANITARY DISTRICT
Combined Board Meeting of Directors
Thursday, June 20, 2011

Meeting was called to order by President Zache at 5:05 p.m.

Present: R. Zache, M. Malkovich, W. Blake and R. Dixon of the Pinal Sanitary District. (Quorum) M.A. Moreno, G.W. Asberry, K. Kenney and J. Yanez of the Cobre Valley Sanitary District. Also, Leo Valdez (Financial Advisor), Jake Garrett (Gila County) and members of the public of both Districts.

1. **Adoption of Resolutions to merge the Districts** and thereafter conduct the business of the newly formed District including the appointment of member of the new Board of Directors.
   For Pinal Sanitary District – W. Blake moved adoption of the Resolution to merge the Districts, seconded by M. Malkovich and carried unanimously.
   For Cobre Valley Sanitary District – G.W. Asberry moved adoption of the Resolution to merge the Districts, seconded by J. Yanez and carried unanimously.
2. **Election / Appointment of Board of Directors of the newly formed Tri-City Regional Sanitary District:** The following slate was offered for consideration – R. Zache, R. Dixon, M. Malkovich, K. Kenney and M.A. Moreno. M.A. Moreno moved for the appointment of the above named individuals, seconded by M. Malkovich and carried.
   R. Zache thanked Wayne Blake for his faithful years of service to the Pinal Sanitary District Board.
   M.A. Moreno thanked J. Yanez, G.W. Asberry and J. Encizo for their willing participation on the Cobre Valley Sanitary District Board.
   B. Clemmens noted that terms of office would have to be addressed but suggested tabling this until he has had a chance to meet with L. Eastlick to determine the best course of action.
   Election of Officers – M.A. Moreno moved that R. Zache be elected President of the Tri-City Regional S.D., seconded by R. Dixon and approved unanimously.
   M.A. Moreno was appointed as Secretary, with K. Kenney to assist. The Treasurer position will be filled at a later date.
   R. Dixon requested an accounting of funds, expenditures and balances be made a part of each meeting once the Districts funds are merged.
3. **/ 7. Update on the Preliminary Engineering Report (PER) / Meeting with Town of Miami –** The Town of Miami has been more cooperative with regard to fees and charges but continues to have concerns regarding the capacity of the plant with both Miami and Tri-City inflows approaching the design limits of the WWTP. At a meeting attended by R. Zache, M.A. Moreno, M. Malkovich, M. Worlton (AMEC), Bill Clemmens, R. Castañeda, Mayor, R. Hilgart (Town of Miami), J. Barnes, Miami Town Manager, their Town engineer and Public Works director these concerns were raised and discussed. These elements directly impact the costs to the Tri-City RSD residents and impact the PER and the rating matrix. Given that USDA is extremely reluctant to fund a project that includes another WWTP, the group has recommended an additional study element, to be conducted by AMEC to explore the possibility of expanding the existing WWTP at a future date when inflow dictate expansion, in order to finalize the costs outline in the PER. Tri-City Regional S.D. is being asked to fund 50% of this study. The impact to TCRSD would be $8,258 but will yield a final document, more accurate cost estimates and solid rating matrix.
   It was noted that the City of Globe has not responded.
   M. A. Moreno moved the TCRSD fund their portion of this study, seconded by R. Dixon and carried following a lengthy discussion.
4. **Update on RD Application and Funding Alternatives**- L. Valdez identified a number of funding options available to the District besides USDA grant/loan funds. He will prepare a powerpoint presentation that will outline all the various alternatives for a future meeting.
   A WIFA Grant has been approved for Design assistance. WIFA will fund approximately $38,000 with the District responsible for roughly $23,000. The funding is for 2012. L. Valdez and B. Clemmens will finalize the required documents.
5. **/ 6. Adoption of Various Resolutions reflecting the newly formed Tri-City Regional Sanitary District**
   Resolution 002 – Approved by motion of M.A. Moreno, seconded by M. Malkovich.

Resolution 003 – Approved by motion of M. Malkovich, seconded by M.A.Moreno
Resolution 004 – Approved by motion of M.A.Moreno, seconded by M. Malkovich
Resolution 005 – Approved by motion of M. A. Moreno, seconded by M. Malkovich.
Resolution 006 – Approved by motion of M.A. Moreno, seconded by M. Malkovich with one typo noted. The correction will be made on the final document.

8. **Issues concerning transfer of projects and accounts to the Tri-City Regional S.D.** , i.e. P. O Box, merger of funds and establishment of a new bank account, etc. Approved by motion of M. Malkovich, seconded by R. Dixon. L. Valdez noted that USDA funding requires a tax I.D. number, a DUNS rating and a CCR. He, R. Zache and B. Clemmens will follow-up on this task. Authorization to proceed approved by motion of M. Malkovich, seconded by R. Dixon.
9. **Public awareness of the newly formed District -** All radio stations, newpapers have been added to the contact list for dissemination of the agenda. Interested citizens have been posting notices around the area. It was recommended that the District officers make presentations on the radio. Question arose regarding the timing of notices with respect to the Agenda and the attorney pointed out that the agenda isn't finalized until the last minute prior to the 24 hr. posting requirement because things tend to come up at the last minute that need to be added.
10. **Payment of Bills – Election Costs –** B. Zache met with L. Eastlick regarding questions that arose from the billings the district received for the merger election. She provided documentation and history, therefore R. Zache is asking for approval to pay the election costs for Pinal S.D. from the Pinal S.D. funds and the Cobre Valley S.D. from the Cobre Valley S.D. account prior to merging the Districts funds – Approved by motion of M. Malkovich, seconded by R. Dixon.
    Approval to reimburse R. Zache for the cost of the P.O. Box in the amount of $50 made by M. Malkovich, seconded by M.A.Moreno.
    M.A. Moreno requested reimbursement for mileage to the meeting with Fred Rosenfeld on May 28. Approved by motion of M. Malkovich, seconded by R. Dixon.
11. **Next Meeting –** August 1, 2011 at the Cobre Valle Country Club at 5:00 p.m.
12. **Call to the Public –** J. Vezetti requested the Board entertain a motion to ask for a vote as to whether the public wants a sewer system. He states that he is not asking for the dissolution of the District. R. Zache stated that the question would be added to the August 1 agenda.
    L. Pearce noted that she would be filing an article with the Arizona Silverbelt and would continue to publicize the actions of the District. She asked that outgoing Board members remain for a picture and that new Board members remain as well.

Meeting adjourned at 6:20 p.m.

TRI-CITY REGIONAL SANITARY DISTRICT
Board of Directors
Regular Meeting Minutes
October 3, 2011

President Zache called the meeting to order at 5:15 p.m.
Present: B. Zache, R. Dixon, K. Kenney, M. Malkovich, M.A.Moreno, also B. Clemmens, Atty. and R. Hadley, legal assistant. Also, D. Miller, Project Manager, J. Garrett, Gila Co, Linda Pearce, Az. Silverbelt, and 3 individuals from within the District.

1. Action: Minutes of September 12, 2011 meeting were approved with one correction by motion of M. Malkovich, seconded by R. Dixon.

2. WIFA Grant contract documents: Have been submitted. Attorney Clemens noted that accurate record keeping will be critical once the project utilizing WIFA funds has begun. All funds must be kept in separate accounts (to be established with the assistance of the County Treasurer) and all Contractors and Sub-contractors must carry Professional Liability insurance in the required amounts and proof will be required.

3. Information, Discussion, Action: Status of Application for Funding with USDA-RD. No additional information at this time.

4. Information, Discussion, Action: Timeline for the new Median Household Income Survey – copies of Timeline, Contract and suggested press release distributed.

5. Information, Discussion, Action: Free Sanitary Board Training presented by Rural Community Assistance Corporation (RCAC) to be held Monday, October 17, 2011 in Prescott, AZ. B. Zache will attend. K. Kenney may be able to attend, as well. Motion to reimburse Mr. Zache and Mr. Kenney the cost of travel, lodging and meals was made by M. Malkovich, seconded by M.A.Moreno and carried.

6. Information, Discussion, Action: Status of Joint Engineering Study with the Town of Miami concerning available capacity of the Miami WWTP – D. Miller distributed a draft copy of the analysis of the report noting projected increases in population and inflows compared to the design capacity of the current plant, a plan for increasing the capacity without increasing the footprint of the plant, issues with regard to septage deliveries from local contractors, the need for bypass capacity for upgrades to the plant, the cost of such upgrades, estimated at $2.7 million, and various other elements identified in the Joint study. The conclusions can be utilized in negotiations with the Town of Miami with respect to the MOU required. Both D. Miller and Attorney Clemmens suggested the Board meet in Executive Session to more thoroughly digest the information provided to the district prior to entering into formal negotiations.

7. Information, discussion, action: to determine the terms of office for the members of the present Board and the names of individuals whose terms of office will be ending in 2012 and 2014 for submission to the Gila County Elections office. Mary Anne Moreno and Richard Dixon volunteered to terms of office ending in 2012 and R. Zache, K. Kenney and M. Malkovich agreed to terms ending in 2014. Motion to accept the above stated terms of office was made by M. A. Moreno, seconded by M. Malkovich and carried unanimously.

8. Information, Discussion, Action: Update on approval of Colonia Status for TCRSD. B. Zache reported that the Board of Supervisors, at their regular meeting on October 3, 2011, unanimously approved Colonia status for the District.

9. Information, Discussion, Action: Financial Report and preparation and adoption of the FY budget for the District. The proposed budget had been approved at the September meeting. Attorney Clemmens stated that he would prepare the notice and have it published in the Arizona Silverbelt as required. Public hearing on the budget was tentatively scheduled for November 7, 2011 at 5:15 p.m. at the Cobre Valle Country Club.
It was noted that an accounting system was needed for the district in order to maintain close accounting of the various funds, as required by the funding sources. R. Dixon also noted that he would prefer receiving an itemized accounting rather than a summary at each meeting, in order to provide the necessary oversight.

10. Information, Discussion, Action: Report of the attendees to the Rural Water Association of Arizona Conference on Sept. 13. Attendees included B. Zache, J. Garrett and M. Worlton of AMEC. B. Zache reported on attending the session and meeting with Reed Peterson and Alan Stephens of USDA. They are aware of our activities and the district is doing the things it should be doing in the eyes of the USDA.

11. Information, Discussion, Action: Issues concerning the PER and the Clean Water Act 208 Plan Amendment. In view of the fact that Miami Gardens has been included in the 208 Plan Amendment for the Town of Miami, thereby excluding them from the PER for the TCRSD, and because the USDA will not fund areas not in the district, and because there are serious ramifications to the Tri-City RSD regarding those exclusions, M.A. Moreno moved the District Board authorize Attorney Clemmens to research any and all information regarding the boundaries of the District and clarifying the legality of changes to such boundaries, if any exist, seconded by M. Malkovich and carried unanimously.

12. Information, Discussion, Action: Community Outreach- B. Zache noted that he had been appointed to the WasteWater Advisory Board for the Town of Miami and distributed information on the Open Meeting Law he had received prior to sitting on that Board. It was suggested that a tour of the new Waste Water Plant would be valuable for both the District Board and the WasteWater Advisory Committee.

13. Information, Discussion, Action: Payment of bills – Bill from Wm. Clemmens for legal services was received in the amount of $1,950 for services rendered to date. M.Malkovich moved payment following review, seconded by K. Kenney and carried.

14. Date, time, location of next meeting: November 7, 2011 at 5:15 p.m. at the Cobre Valle Country Club.

12. Call to the Public – No comments made.

Meeting adjourned at 7:05 p.m.

(TRI-CITY REGIONAL SANITARY DISTRICT)
(form updated 8-2011)

NAME OF MEMBER (Also include supervisorial district if a member is representing a certain one.)	TYPE OF APPOINTMENT Mark with A, B, C, D or E – see below	NEW APPOINTMENT OR REAPPOINTMENT (Include BOS approval date next to letter) New Appointment: Choose "A" or "B" A -for existing vacancy or B -to fill a vacancy created by (provide name) or Reappointment: Mark with a "C" and include number of years served prior to most recent appointment		DATES OF TERM (Put the month, day and year both beginning & ending dates)	LENGTH OF TERM FOR CURRENT APPOINTMENT (# of years)
Richard Dixon	C	A (12/06/11)		06/20/11 – 12/31/12	1 yr 6 months
Mary Anne Moreno	C	A (12/06/11)		06/20/11 – 12/31/12	1 yr 6 months
Kevin Kenney	C	A (12/06/11)		06/20/11 – 12/31/14	3 yrs 6 months
Mitch Malkovich	C	A (12/06/11)		06/20/11 – 12/31/14	3 yrs 6 months
Robert Zache	C	A (12/06/11)		06/20/11 – 12/31/14	3 yrs 6 months

Appointment Designation Definitions:

A) Statutory District Appointment: Member must reside within the supervisorial district boundary from which he/she is appointed.

B) Supervisor Appointment: Member unrestricted by district.

C) Joint Appointment: Membership is comprised of appointments from different jurisdictions. Appointments made by other entities are acknowledged by the Board of Supervisors.

D) County at Large: Members are unrestricted by district and can be recommended by appointment by any supervisorial district or by the committee.

E) Alternate Members: As defined by individual committee criteria.

ARF-968 **4- G**

Regular BOS Meeting

Meeting Date: 12/06/2011

Reporting Period: Clerk of Court Report for the Month of October 2011

Submitted For: Vicki Aguilar

Submitted By: Vicki Aguilar, Chief Deputy Clerk of the Superior Court, Clerk of the Superior Court

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Information

Subject

Clerk of the Superior Court's Office October 2011 Monthly Reports

Suggested Motion

Approval of the October 2011 monthly activity reports submitted by the Clerk of the Superior Court's Office.

Attachments

Clerk of Court Report for October 2011

Clerk of Superior court Report October 2011

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF GILA

- - - - -

CLERK'S REPORT

FOR

OCTOBER, 2011

TO THE HONORABLE BOARD OF SUPERVISORS:

I herewith present the annexed report as and for a true and correct account of all fees earned and collected by me as Clerk of the Superior Court.

ANITA ESCOBEDO
Clerk of the Superior Court
Of Gila County, Arizona

Summary Allocation by Agency Report

Report generated on : 11/10/2011 9:48:18 AM

Criteria : From Date : 10/1/2011 To Date :10/31/2011

Agency Code	Agency Name	GL Account Num	GL Account Name	Receipt Amount	Dishonored Amount	Adjusted Amount	Bond Forfeiture Amount	Net Amount	Set
Agency Name :									
		618000822	BANK OF THE WEST - BUSINESS ACCOUNT			72509.62		72509.62	3
		3611165	CHASE BANK - PAYSON			-72509.62		-72509.62	
Agency Name : BOND POSTED - THIS COURT									
ZBND	BOND POSTED - THIS COURT	ZBND	BOND POSTED - THIS COURT	17600.00				17600.00	
Agency Name : D.A.R.E. PROGRAM									
ZDARE	D.A.R.E. PROGRAM	ZDARE	D.A.R.E. PROGRAM	55.00				55.00	
Agency Name : ELECTED OFFICIALS RETIRE. FUND									
ZEORF	ELECTED OFFICIALS RETIRE. FUND	ZEORF	ELECTED OFFICIALS RETIRE. FUND	2606.90				2606.90	
Agency Name : GILA COUNTY TREASURER									
ZCNTY	GILA COUNTY TREASURER	ZVAPB	30% INTERSTATE COMPACT	25.50				25.50	
		ZIAAF	ADMINISTRATIVE INDIGENT ASSESSMENT	260.00		25.00		285.00	
		ZADR	ALTER. DISPUTE RESOLUTION FUND	59.48				59.48	
		ZATT	ATTORNEY FEE REIMBURSEMENT	760.00				760.00	
		ZALTF	AZ LENGTHY TRIAL FUND	435.00				435.00	

Summary Allocation by Agency Report

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ZCNTY	GILA COUNTY TREASURER	ZFEE	BASE FEES (GENERAL FUND)	7137.45				7137.45
		ZFINE	BASE FINES	2959.36				2959.36
		ZCIEF	CHILDREN ISSUES EDUC FUND	298.36				298.36
		ZCEF	CLEAN ELECTIONS FUND	324.34		33.33		357.67
		ZCIF	CONFIDENTIAL INTERMEDIARY FUND	42.73				42.73
		ZJDET	COUNTY JUV DETENTION	15.00				15.00
		ZCLLF	COUNTY LAW LIBRARY FUND	2606.73				2606.73
		ZCJEF	CRIMINAL JUSTICE ENHANCE FUND	1559.27		156.68		1715.95
		ZDNAS	DNA STATE SURCHARGE	211.10		23.33		234.43
		ZDS	DOCUMENT STOR. & RETRIEVAL FND	1347.14				1347.14
		ZDVCA	DOM. VIOL.-CHLD ABUSE PREV FND	328.48				328.48
		ZDREF	DOMESTIC RELATIONS EDUCATION	224.07				224.07
		ZDVSF	DOMESTIC VIOLENCE SHELTER FUND	1511.49				1511.49
		ZDECJ	DRUG & GANG ENFORCEMENT FINES	876.42		660.00		1536.42
		ZDGEF	DRUG & GANG ENFORCEMENT FUND	222.51				222.51
		ZDCRT	DRUG COURT FEE FUND	375.00				375.00

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		ZCSVF	EXPEDITED CHILD SUPPORT AND	739.44				739.44
		ZWITN	EXPERT WITNESS FUND	840.00				840.00
		ZEXAP	EXTRA ADULT PROBATION ASMNT	2292.11		-9.62		2282.49
		ZEXJU	EXTRA JUV PROBATION ASMNT	374.09		-15.00		359.09
		ZEXT	EXTRADITION REIMBURSEMENT	30.00				30.00
		ZFTGS	FILL-THE-GAP SURCHARGE (7%)	226.95		23.33		250.28
		ZCC	GEN JURIS CONCILIATION COURT	1243.31				1243.31
		ZGCAT	GILA COUNTY ATTORNEY - 60%	4010.10		9.00		4019.10
		ZGCLK	GILA COUNTY CLERK OF THE COURT - 10%	668.35		1.50		669.85
		ZGCSC	GILA COUNTY SUPERIOR COURT - 30%	2005.05		4.50		2009.55
		ZJF	JAIL (INCARCERATION) FEES	81.89				81.89
		ZJCLF	JUDIC. COLLECT. ENHANCE. FUND - LOCAL	1279.67				1279.67
		ZJCSF	JUDIC. COLLECT. ENHANCE. FUND - STATE	2908.48				2908.48

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		ZJCS	JUDICIAL COLLECT ENHANCE FUND - STATE	214.75		-13.00		201.75
		ZJDO	JUVENILE DIVERSN FUND OVER $40	220.00				220.00
		ZJDU	JUVENILE DIVERSN FUND UNDER $40	880.00				880.00
		ZJS	JUVENILE PROBATION SERV FEES	1045.41				1045.41
		ZLCL	LOCAL COSTS/FEES - NSF	25.00				25.00
		ZMSEF	MEDICAL SERVICES ENHANCE FUND	430.03		43.33		473.36
		ZMISC	MISCELLANEOUS FEES	103.56				103.56
		ZPP	PASSPORT APPLICATION FEES	850.00				850.00
		ZPCOF	PRISON CONSTRUCTION AND	3940.00				3940.00
		ZPRS6	PROB SURCH 2006	73.71		10.00		83.71
		ZPBA	PROBATION FEE ADULT	8977.39		-1085.17		7892.22
		ZPRSU	PROBATION SURCHARGE ($5.00)	20.15				20.15
		ZPUBZ	PUBLIC DEFENDER FEES	410.47				410.47
		ZPSEF	PUBLIC SAFETY EQUIPMENT FUND	2032.00				2032.00

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		ZSTAT	STATE TREASURER - GENERAL FUND	655.00				655.00	
		ZVAF	VICTIMS ASSISTANCE FUND	59.50				59.50	
		ZVRIF	VICTIMS RIGHTS IMPLEMENTATION	291.00				291.00	
		ZGFDU	XTRA DUI ASSMT	335.00				335.00	
		ZPRS9	ZPRS9	145.00				145.00	
Agency Name : RESTITUTION									
ZREST	RESTITUTION	ZREST	RESTITUTION	11406.66		139.79		11546.45	
			Total:	**91779.90**		**0.00**		**91779.90**	
			LESS SHADED AREAS:					- 31,808.35	
								$59,971.55	

STATE OF ARIZONA)
) ss:
County of Gila)

ANITA ESCOBEDO, being first duly sworn according to law,
Deposes and says:

That she is the Clerk of the Superior Court of the State of Arizona, in and for the County of Gila, and that the annexed and foregoing report contains a true and correct statement of all fees collected by her in the office of said Clerk during the month of OCTOBER, 2011.

Anita Escobedo

ANITA ESCOBEDO
Clerk of the Superior Court
Of Gila County, Arizona

SUBSCRIBED AND SWORN to before me this 10th day of November, 2011.

Vicki S. Aguilar

Deputy

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF GILA

- - - - -

CLERK'S REPORT

FOR

OCTOBER, 2011

TO THE HONORABLE BOARD OF SUPERVISORS:

I herewith present the annexed report as and for a true and correct account of all fees earned and collected by me as Clerk of the Superior Court.

ANITA ESCOBEDO
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		ZPRSU	PROBATION SURCHARGE ($5.00)	20.15				20.15
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		ZGFDU	XTRA DUI ASSMT	335.00				335.00	
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Agency Name : RESTITUTION									
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			Total:	**91779.90**		**0.00**		**91779.90**	
			LESS SHADED AREAS:					- 31,808.35	
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STATE OF ARIZONA)
) ss:
County of Gila)

ANITA ESCOBEDO, being first duly sworn according to law,
Deposes and says:

That she is the Clerk of the Superior Court of the State of Arizona, in and for the County of Gila, and that the annexed and foregoing report contains a true and correct statement of all fees collected by her in the office of said Clerk during the month of OCTOBER, 2011.

Anita Escobedo

ANITA ESCOBEDO
Clerk of the Superior Court
Of Gila County, Arizona

SUBSCRIBED AND SWORN to before me this 10th day of November, 2011.

Vicki S. Aguilar

Deputy

ARF-956 **4- H**

Regular BOS Meeting

Meeting Date: 12/06/2011

Reporting Period: Payson Regional Constable's Office October 2011 Monthly Reports

Submitted For: Colt White

Submitted By: Yvonne House, Administrative Clerk Senior, Constable - Payson

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Information

Subject

Payson Regional Constable's Office October 2011 Monthly Reports

Suggested Motion

Approval of the October 2011 monthly activity reports submitted by the Payson Regional Constable's Office.

Attachments

Payson Regional Constable's Office Monthly Report for October 2011

PAYSON REGIONAL CONSTABLE
COLT WHITE

OCTOBER 2011
MONTHLY REPORT

TABLE OF CONTENTS

MONTHLY ACTIVITY LETTER

MONTHLY COMPARISON SHEET

FEES COLLECTED

SERVICE SUMMARY REPORT

LOG OF FEES

LOG OF NON-FEES

MILEAGE CHART

TREASURER'S RECEIPT

108 WEST MAIN STREET, PAYSON, AZ 85541 – PHONE: (928) 474-3844-FAX: (928) 468-1509

Revised 09-01-11

PAYSON REGIONAL CONSTABLE
COLT WHITE

November 1, 2011

Gila County Board of Supervisors
Gila County Courthouse
1400 East Ash Street
Globe, Arizona 85501

PAYSON REGIONAL CONSTABLE'S MONTHLY ACTIVITY LETTER

For the month of October **2011**, the Payson Constable's Office:

- Received a total of **166** papers for service
- Drove a total of **1,766** miles
- Collected a total of **$2,668.20** as follows:

Check Total =	$2,055.60
Cash Total =	612.60
Total Deposited =	$2,668.20
Less Writ Fee (5 @ $5.00/each) Collected=	($ 25.00)
(Check #2276/Treasurer's Receipt #98322)	
Refund AZ Quick Serve request of cancel service Ck#2275	($ 96.40)
Paid to General Fund =	$2,546.80
(Check #2277/Treasurer's Receipt #98323)	
Additional funds from the Town of Payson paid into General Fund for process serving by the Payson Constable =	$ 875.00
Grand Total Paid to General Fund =	**$3,421.80**

Respectfully submitted,

2270

Colt White
Payson Regional Constable
Gila County, Payson, Arizona

108 WEST MAIN STREET, PAYSON, AZ 85541 – PHONE: (928) 474-3844-FAX: (928) 468-1509
Revised 09-01-11

CONSTABLE OFFICE STATISTICS COMPARISONS
MONTHLY TOTALS BY FISCAL YEAR 2010-2011 & 2011-2012

2010-2011 MONTH	TOTAL PAPERS	MILES DRIVEN	FEES COLLECTED	2011-2012 MONTH	TOTAL PAPERS	MILES DRIVEN	FEES COLLECTED
2010				2011			
OCTOBER	207	2,367	$2,507.40	OCTOBER	166	1766	$2,668.20
COMPARISON TOTAL	759	7,889	$12,139.90	COMPARISON TOTAL	675	6,650	$9,979.93
				Difference	-84	-1,239	-$2,159.97
NOVEMBER	182	1,867	$3,554.60	NOVEMBER			
DECEMBER	206	2,258	$2,770.85	DECEMBER			
2011				2012			
JANUARY	194	1,885	$3,337.42	JANUARY			
FEBRUARY	183	1,519	$3,123.40	FEBRUARY			
MARCH	218	2,000	$5,122.25	MARCH			
APRIL	132	1,657	$2,784.76	APRIL			
MAY	153	1,681	$2,984.40	MAY			
JUNE	159	1,634	$2,697.00	JUNE			
JULY	227	1,574	$3,866.70	JULY	133	1,193	$2,708.00
AUGUST	175	1,938	$3,062.90	AUGUST	159	1,886	$2,193.28
SEPTEMBER	150	2,010	$2,702.90	SEPTEMBER	217	1,805	$2,410.45
YEAR TOTAL:	2,186	22,390	$38,514.58	YEAR TOTAL:	675	6,650	$9,979.93

Rev.080211

Note: Fees Collected column amounts do not include the $875.00 per month received from the Town of Payson per contract.

CHECK AND CASH RECEIVED FOR MONTH				OCTOBER	2011
DATE	CHECK# / RECEIPT#	AMOUNT	CASE #	PLAINTIFF	DEFENDANT
10/3/2011	#748379/7711	$40.00	2011CV361SC	VanMeter Dale/Miller Steve	Steve Coury Ford
10/3/2011	#748380	$46.00	2011CV649FD	Villa, Flavio	Willhoite, Rose & Jason
10/3/2011	#748381/80002	$133.00	2011CV636FA	Fendler, Sandra	Robertson, Fremont
10/4/2011	#14556	$40.00	A649021	Eastern Marketplace LLC (Junes Legal Service, Inc)	Alfonso's Mexican Food III LLC, Luna, Jose R.
10/5/2011	#40132	$4.00	CV2009-020613	American Builders & Contractors Supply Co. Inc dba ABC Supply Co. v. Hawk Rooffing, LLC, et al (Lorona Steiner Ducar)	Jacquez, Adam
10/5/2011	#748382	$74.00	DO201100383	White, Karen M.	White, Jered W.
10/5/2011	#11406070	$40.00	2011CV634OV	Payson Village Center LLC	Bailey, Patrick K. dba Payson Music Center
10/5/2011	#748383/2935	$46.00	2011CV662FD	Dorris, Bonnie/Glover Duane	Poitevint, J. Robert
10/10/2011	#748384	$74.00	DO201100389	Miller, Annie	Miller, Troy
10/11/2011	#22650	$69.00	2010CV692UN	Capital One Bank (Priority One)	Denney, April M.
10/12/2011	#748385	$40.00	2011CV669-IH	Hager, Michael	Coppernol, Gary
10/12/2011	#748386	$40.00	DO201100389	Miller, Annie	Miller, Troy
10/12/2011	#748387	$77.00	2011CV649FD	Villa, Flavio	Willhoite, Rose & Jason
10/13/2011	#748388/2603	$46.00	2011CV671FD	Epley, William & Ann	Stokes, Troy & Christine
10/13/2011	#748389	$40.00	2011CV672IH	Haskell, Donald	Robertson, Fremont
10/14/2011	#26905	$64.00	2010CV1005OV	Sunstate Equipment Co LLC (Integrity)	Ryden, Gerald E. & "J. Doe' Ryden
10/14/2011	#11644	$40.00	114065L9	Duquette, Alexander (AZ Quick Serve)	Beene, Randy Wayne
10/14/2011	#1324/1358	$62.00	Notice of Trustee Sale	Summit Bank (Adams Law Firm)	Soldevere, Joseph & Janet
10/14/2011	#748390/149 (20) in cash	$40.00	2011CV000686IH	Kraschuk, Shurrie	Mason, Denise
10/14/2011	#1209	$78.40	CC2011123003RC	Boulder Creek Homeowners Assoc. (Superior Process Services Inc.)	Vargovich, Mark & Angela
10/14/2011	#1205	$64.00	CC2011148583RC	Lakeshore At Andersen Springs Homeowners Assoc. Inc. (Superior Process)	Waldrop, Beth & "John Doe"
10/14/2011	#1206	$64.00	CC2011172226RC	Andersen Springs Community Association (Superior Process Services)	Urias, Gabriel & "Jane Doe"
10/17/2011	#2241335837 7/5/2011	$64.00	2011CV394OV	Equable Ascent Financial, LLC (Lawgistic)	Zach, Elizabeth & "J.Doe"
10/17/2011	#2241335837 7/28/2011	$64.00	2011CV00246	Equable Ascent Financial, LLC (Lawgistic)	Wilson, Charles M. & "J.Doe"
10/17/2011	#2241335837 7/28/2011	$64.00	2011CV00245	Discover Bank (Lawgistic)	Doane, Jeff & "J.Doe"
10/17/2011	#2241335837 7/28/2011	$64.00	2011CV643OV	Capital One Bank (Lawgistic)	Harkins, Gary & "J.Doe"
10/17/2011	#2241335837 8/5/2011	$64.00	2011CV002SO	FIA Card Services (Lawgistic)	Peace, David & "J.Doe"
10/17/2011	#2241335837 8/5/2011	$64.00	2011CV490UN	Capital One Bank (Lawgistic)	Dando, Sidney & "J.Doe"

10/17/2011	#2241335837 8/17/2011	$64.00	2011CV054517	US Bank (Lawgistic)	McClanahan, Heather & "J.Doe"
10/17/2011	#2241335837 8/22/2011	$64.00	2011CV524UN	Razor Capital LLC (Lawgistic)	Young, Scott & "J.Doe"
10/17/2011	#2241335837 8/22/2011	$64.00	2011CV523OV	Capital One Bank (Lawgistic)	McKellips, William & "J.Doe"
10/17/2011	#2241335837 9/23/2011	$64.00	2011CV545OV	FIA Card Services (Lawgistic)	Pecharich, Brenda & "J.Doe"
10/18/2011	#748391	$46.00	2011CV679FD	Ramirez, Anita (John Browning)	Steve Stroud, Shawn Moore & All Other Occupants
10/19/2011	#748392/6419	$40.00	2011CV689SC	Hoosava, Farrell	Isaac, Larry dba/Las Auto AZ
10/19/2011	#748393/5407	$40.00	2010CV888SC	Edwards, Nancy	St. Ledger-Bayer, Debra
10/20/2011	#1209	$8.00	CC2011123003RC	Boulder Creek Homeowners Assoc. (Superior Process Services Inc.)	Vargovich, Mark & Angela
10/20/2011	#2065	$91.20	2011CV666OV	CACH, LLC	Carter, Paul L. & "J. Doe"
VOID	#748394				
10/21/2011	#22696	$69.00	2010CV340	Capital One Bank (Priority One) Garnishee: Bank of America	White, Timothy R.
10/24/2011	#748395	$46.00	2011CV695FD	Sexton, Paul	Mitchell, Brian
10/25/2011	748396/2615	$77.00	2011CV671FD	Epley, William & Ann	Stokes, Troy & Christine
10/26/2011	#748404	$69.60	DO2007475	Haught, Michelle Lee	Jr. Haught, Ronald Frank
10/27/2011	#202503	$46.00	2011CV702FD	Bosley Management Of AZ Inc. dba/Payson Apts. (Koglmeier Smith)	Ware, Steven & any/all occupants
10/27/2011	#748405	$40.00	2011CV704IH	Gildersleeve, Randy	Schaff, Jolene
10/27/2011	#748406/1681	$76.00	2011CV00349	Smith, Donald & Joan (Lloyd & Robinson)	Dice, Falisha D.
10/27/2011	#748407/1682	$56.00	2011CV00359	Durst, Lynn (Lloyd & Robinson)	Koss, Marjorie
10/27/2011	#748408/1683	$56.00	2011CV00268	Pound, Kim Jeffrey (Lloyd & Robinson)	Calkins, Charles, MD/Payson Healthcare Management
10/31/2011	#748409/14182	$46.00	2011CV707FD	Star Valley Investments LLC/Roy Haught	Silva, Sanna
	Total Deposit for October 2011	**$2,668.20**			
	11/1/2011-Constable ck#2276 Writ Fees Collected	**$25.00**			
	10/20/11-ck#2275 AZ Quick Serve refund for request of nonservice #FN2011052240	**$96.40**			
	Adjusted Service Fees Collected for October 2011 11/1/2011 ck#2277	**$2,546.80**			

PAYSON REGIONAL CONSTABLE

Colt White
Payson Regional Justice Court, Gila County
108 West Main Street Payson, Arizona 85541
(928) 474-3844

GENERAL CERTIFICATE of SERVICE
SERVICE SUMMARY REPORT - by DATE SERVED

10/1/2011 TO 10/31/2011

Number of Cases	Description
1	Complaint/Summons/Answer (Fee)
1	Injunction Against Harassment (Fee Waived By Ct) (Fee)
4	Injunction Against Harassment (Fee)
1	Notice Of Hearing (Fee)
3	Order To Appear For Supplemental Proceedings (Fee)
2	Petition For Dissolution Of Marriage w/o Minor Children (Divorce) (Fee)
1	Response To Petition For Dissolution Of A Non-Covenant Marriage w/Minor Children (Fee)
1	Subpoena (Fee)
17	Summons & Complaint (Fee)
3	Summons & Complaint; Certificate of Compulsory Arbitration; Affidavit; Request For Trial (Fee)
7	Summons & Complaint-Forcible Detainer (Fee)
1	Writ Of Garnishment (Earnings) & Summons (Fee)
1	Writ Of Garnishment (Non-Earnings) & Summons (Fee)
3	Writ Of Restitution (Fee)
1	Notice of Violation-Request For Voluntary Compliance

GENERAL CERTIFICATE of SERVICE

SERVICE SUMMARY REPORT - by DATE SERVED

10/1/2011 TO 10/31/2011

Number of Cases	Description
4	Notice To Appear; Petition
8	Order Of Protection
75	Subpoena
3	Subpoena Trial Reset
5	Summons
24	Summons & Complaint

Total Number of Fee Services	46
Total Number of Non Fee Services	120
Total Number of Services	166

PAYSON REGIONAL CONSTABLE

Colt White
108 West Main Street Payson, Arizona 85541

Payson Regional Justice Court, Gila County
(928) 474-3844

ITEMIZED SERVICES by DATE RECEIVED for TREASURER

10/1/2011 TO 10/31/2011

Date: 11/2/2011
Page: 1

Date Received	Date Served	Case Number / Service	Plaintiff / Defendant	Person To Be Served / Address	Person Served / Address	Fees / Paid	Reference	Agency	Miles / Attempts
10/3/2011	10/5/2011	2011CV361SC	Dale VanMeter & Steve Miller	Robert Gonzales	Robert Gonzales	$40.00	748379/7711	Payson Regional Justice Court	0
		Subpoena	Steve Coury Ford	Steve Coury Ford 256173 E. Highway 260 Star Valley, AZ 85541	Steve Coury Ford 256173 E. Highway 260 Star Valley, AZ 85541	$40.00			1
10/3/2011	10/5/2011	2011CV649FD	Flavio Villa	Rose Willhoite & Jason Willhoite	Rose Willhoite	$46.00	748380	Payson Regional Justice Court	0
		Summons & Complaint-Forcible Detainer	Rose Willhoite & Jason Willhoite	500 N Granite Drive Payson, AZ 85541	500 N Granite Drive Payson, AZ 85541	$46.00			1
10/3/2011	10/12/2011	2011CV636FA	Sandra Fendler	Fremont (Monte) Robertson	Fremont (Monte) Robertson	$133.00	748381/6400480002	Payson Regional Justice Court	0
		Writ Of Restitution	Fremont (Monte) Robertson	200 Old State Route 188 Space 20 Tonto Basin, AZ 85553	200 Old State Route 188 Space 20 Tonto Basin, AZ 85553	$133.00			6
10/4/2011	10/5/2011	A649021	Eastern Marketplace LLC	Alfonso's Mexican Food III LLC, Jose Luna-Vasquez aka Jose R. Luna	Israel Luna	$40.00	14556	District Court, Clark County, Nevada	0
		Summons & Complaint	Alfonso's Mexican Food III LLC, Jose Luna-Vasquez aka Jose R. Luna	403 W. Summit Street Payson, AZ 85541	403 W. Summit Street Payson, AZ 85541	$40.00			1
10/5/2011	10/11/2011	DO201100383	Karen M. White	Jered Wade White	Jered Wade White	$74.00	748382	Gila County Superior Court	0
		Petition For Dissolution Of Marriage w/o Minor Children (Divorce)	Jered Wade White	801 E. Frontier Street, #34 Aspen Grove Apts. Payson, AZ 85541	801 E. Frontier Street, #34 Aspen Grove Apts. Payson, AZ 85541	$74.00			3
10/5/2011	10/7/2011	2011CV634OV	Payson Village Center I, LLC	Patrick K. Bailey dba/Payson Music Center	Patrick K. Bailey dba/Payson Music Center	$40.00	11406070	Payson Regional Justice Court	0
		Summons & Complaint	Patrick K. Bailey dba/Payson Music Center	613 W. Randall Lane Payson, AZ 85541	404 W. Main Street Payson, AZ 85541	$40.00			1
10/5/2011	10/7/2011	2011CV662FD	Bonnie Dorris & Duane Glover	J. Robert Poitevint	J. Robert Poitevint	$46.00	748383/2935	Payson Regional Justice Court	0
		Summons & Complaint-Forcible Detainer	J. Robert Poitevint	600 S. Oak Street Space 8 Payson, AZ 85541	600 S. Oak Street Space 8 Payson, AZ 85541	$46.00			2
10/10/2011	10/11/2011	DO201100389	Annie Marie Miller	Troy Allen Miller	Troy Allen Miller	$74.00	748384	Gila County Superior Court	0
		Petition For Dissolution Of Marriage w/o Minor Children (Divorce)	Troy Allen Miller	103 Rim Club Parkway Payson, AZ 85541	108 W. Main Street Payson, AZ 85541	$74.00			2

ITEMIZED SERVICES by DATE RECEIVED for TREASURER

10/1/2011 TO 10/31/2011

Date Received	Date Served	Case Number / Service	Plaintiff / Defendant	Person To Be Served / Address	Person Served / Address	Fees / Paid	Reference	Agency	Miles / Attempts
10/11/2011	10/12/2011	2010CV692UN	Capital One Bank (USA), NA c/o Burton Lipmann Law Group, P.C.	Best Western, by service upon Payroll Dept.	Best Western, by service upon Payroll Dept., Stephanie Creasy	$69.00	22650	Payson Regional Justice Court	0
		Writ Of Garnishment (Earnings) & Summons	April M. Denney	801 N. Beeline Highway Payson, AZ 85541	801 N. Beeline Highway Payson, AZ 85541	$69.00			1
10/12/2011	10/12/2011	2011CV669-IH	Michael Hager	Gary Coppernol	Gary Coppernol	$40.00	748385	Payson Regional Justice Court	0
		Injunction Against Harassment	Gary Coppernol	198 E. Rainbow Drive Star Valley, AZ 85541	198 E. Rainbow Drive Star Valley, AZ 85541	$40.00			1
10/12/2011	10/13/2011	DO201100389	Annie Marie Miller	Annie Marie Miller	Annie Marie Miller	$40.00	748386	Gila County Superior Court	0
		Response To Petition For Dissolution Of A Non-Covenant Marriage w/Minor Children	Troy Allen Miller	910 W. Madera Lane Payson, AZ 85541	108 W. Main Street Payson, AZ 85541	$40.00			2
10/12/2011	10/14/2011	2011CV649FD	Flavio Villa	Rose Willhoite & Jason Willhoite	Rose Willhoite	$77.00	748387	Payson Regional Justice Court	0
		Writ Of Restitution	Rose Willhoite & Jason Willhoite	500 N Granite Drive Payson, AZ 85541	500 N Granite Drive Payson, AZ 85541	$77.00			2
10/13/2011	10/13/2011	2011CV671FD	William C. Epley	Troy M. Stokes & Christine M. Stokes	Troy M. Stokes	$46.00	748388/2603	Payson Regional Justice Court	0
		Summons & Complaint-Forcible Detainer	Troy M. Stokes & Christine M. Stokes	902 S. Coronado Payson, AZ 85541	902 S. Coronado Payson, AZ 85541	$46.00			1
10/13/2011	10/14/2011	2011CV672IH	Donald Haskell	Fremont (Monte) Robertson	Fremont (Monte) Robertson	$40.00	748389	Payson Regional Justice Court	0
		Injunction Against Harassment	Fremont (Monte) Robertson	108 W Main Street Payson, AZ 85541	108 W Main Street Payson, AZ 85541	$40.00			1
10/14/2011	10/17/2011	114065L9	Alexander Duquette	Randal W. Beene	Randal W. Beene	$40.00	11644	Circuit Court of Jackson County, Oregon	0
		Summons & Complaint	Randal W. Beene	1507 N. Wright Circle Payson, AZ 85541	1507 N. Wright Circle Payson, AZ 85541	$40.00			1
10/14/2011	10/26/2011	CC2011123003 RC	Boulder Creek Homeowners Association	Mark Vargovich	Unserved	$62.40	1209	Justice Court of San Tan, County of Maricopa	0
		Summons & Complaint	Mark Vargovich & Angela Vargovich	412 W. Standage Road Payson, AZ 85541		$62.40			2
10/14/2011	10/26/2011	CC2011123003 RC	Boulder Creek Homeowners Association	Angela Vargovich	Unserved	$24.00	1209	Justice Court of San Tan, County of Maricopa	0
		Summons & Complaint	Mark Vargovich & Angela Vargovich	412 W. Standage Road Payson, AZ 85541		$24.00			2
10/14/2011	10/24/2011	CC2011148583RC	Lakeshore At Andersen Springs Homeowners Association, Inc.	Beth Waldrop & "John Doe" Waldrop	Diane Waldrop	$40.00	1205	Justice Court of San Marcos, County of Maricopa	0
		Summons & Complaint	Beth Waldrop & "John Doe" Waldrop	1112 N. Bavarian Way Payson, AZ 85541	1112 N. Bavarian Way Payson, AZ 85541	$40.00			3
10/14/2011	10/24/2011	CC2011148583RC	Lakeshore At Andersen Springs Homeowners Association, Inc.	"John Doe" Waldrop	Unserved	$24.00	1205	Justice Court of San Marcos, County of Maricopa	0
		Summons & Complaint	Beth Waldrop & "John Doe" Waldrop	1112 N. Bavarian Way Payson, AZ 85541		$24.00			4

ITEMIZED SERVICES by DATE RECEIVED for TREASURER

10/1/2011 TO 10/31/2011

Date Received	Date Served	Case Number / Service	Plaintiff / Defendant	Person To Be Served / Address	Person Served / Address	Fees / Paid	Reference	Agency	Miles / Attempts
10/14/2011	10/19/2011	CC2011172226RC	Andersen Springs Community Association	Gabriel G. Urias	Unserved	$40.00	1206	Justice Court of San Marcos, County of Maricopa	0
		Summons & Complaint	Gabriel G. Urias & "Jane Doe" Urias	905 S. Carlsbad Vista Circle Payson, AZ 85541		$40.00			1
10/14/2011	10/19/2011	CC2011172226RC	Andersen Springs Community Association	"Jane Doe" Urias	Unserved	$24.00	1206	Justice Court of San Marcos, County of Maricopa	0
		Summons & Complaint	Gabriel G. Urias & "Jane Doe" Urias	905 S. Carlsbad Vista Circle Payson, AZ 85541		$24.00			1
10/14/2011	10/26/2011	2010CV1005OV	Sunstate Equipment Company, LLC	Susan Ryden	Susan Ryden	$24.00	26905	Payson Regional Justice Court	0
		Order To Appear For Supplemental Proceedings	Log Homes of America, Gerald E. Ryden & "J. Doe" Ryden	1401 N. McLane Road Payson, AZ 85541	1401 N. McLane Road Payson, AZ 85541	$24.00			2
10/14/2011	10/26/2011	2010CV1005OV	Sunstate Equipment Company, LLC	Log Homes of America, Gerald Ryden	Gerald E. Ryden	$40.00	26905	Payson Regional Justice Court	0
		Order To Appear For Supplemental Proceedings	Log Homes of America, Gerald E. Ryden & "J. Doe" Ryden	1401 N. McLane Road Payson, AZ 85541	1401 N. McLane Road Payson, AZ 85541	$40.00			2
10/14/2011	10/14/2011	2011CV686IH	Shurrie Kraschuk	Denise Mason	Denise Mason	$40.00	748390	Payson Regional Justice Court	0
		Injunction Against Harassment	Denise Mason	108 W Main Street Payson, AZ 85541	108 W Main Street Payson, AZ 85541	$40.00			1
10/18/2011	10/20/2011	2011CV679FD	Anita Ramirez	Steve Stroud & Shawn Moore & all other occupants	Shawn Moore	$46.00	748391	Payson Regional Justice Court	0
		Summons & Complaint-Forcible Detainer	Steve Stroud & Shawn Moore & all other occupants	111 E. Pine Street Payson, AZ 85541	MP251 SR 87 Payson, AZ 85541	$46.00			3
10/19/2011	10/20/2011	2011CV689SC	Farrell Hoosava	Larry Isaac / dba Las Auto AZ	Larry Isaac / dba Las Auto AZ	$40.00	748392/6419	Payson Regional Justice Court	0
		Complaint/Summons/Answer	Larry Isaac / dba Las Auto AZ	436 N. Dealers Choice Road Star Valley, AZ 85541	436 N. Dealers Choice Road Star Valley, AZ 85541	$40.00			1
10/19/2011	10/20/2011	2010CV888SC	Nancy C. Edwards	Debra Bayer St Ledger	Troy Odell Jeffers	$40.00	748393/5407	Payson Magistrate Court	0
		Order To Appear For Supplemental Proceedings	Debra Bayer St Ledger	704 W. Colt Drive Payson, AZ 85541	704 W. Colt Drive Payson, AZ 85541	$40.00			1
10/20/2011	10/24/2011	2011CV659UN	Capital One Bank (USA), N.A.	Orson Branch & "J.Doe" Branch	Trinity A. Branch	$40.00		Payson Regional Justice Court	0
		Summons & Complaint	Orson Branch & "J.Doe" Branch	111 N. Parkwood Lane Payson, AZ 85541	111 N. Parkwood Lane Payson, AZ 85541	$0.00			1
10/20/2011	10/24/2011	2011CV659UN	Capital One Bank (USA), N.A.	"J. Doe" Branch	Trinity A. Branch	$24.00		Payson Regional Justice Court	0
		Summons & Complaint	"J. Doe" Branch	111 N. Parkwood Lane Payson, AZ 85541	111 N. Parkwood Lane Payson, AZ 85541	$0.00			1
10/20/2011	10/24/2011	2011CV658UN	Capital One Bank (USA), N.A.	Angela N. Murray & "J. Doe" Murray	Kristopher McMillan	$40.00		Payson Regional Justice Court	0
		Summons & Complaint	Angela N. Murray & "J. Doe" Murray	7623 N. Mesa Vista E. Payson, AZ 85541	7623 N. Mesa Vista E. Payson, AZ 85541	$0.00			1

ITEMIZED SERVICES by DATE RECEIVED for TREASURER

10/1/2011 TO 10/31/2011

Date Received	Date Served	Case Number / Service	Plaintiff / Defendant	Person To Be Served / Address	Person Served / Address	Fees / Paid	Reference	Agency	Miles / Attempts
10/20/2011	10/24/2011	2011CV658UN	Capital One Bank (USA), N.A.	"J. Doe" Murray	Unserved	$24.00		Payson Regional Justice Court	0
		Summons & Complaint	Angela N. Murray & "J. Doe" Murray	7623 N. Mesa Vista E. Payson, AZ 85541		$0.00			1
10/20/2011	10/24/2011	2011CV651OV	Capital One Bank (USA), N.A.	Kenneth J. Skidmore & "J. Doe" Skidmore	Kenneth J. Skidmore	$40.00		Payson Regional Justice Court	0
		Summons & Complaint	Kenneth J. Skidmore & "J. Doe" Skidmore	17 N. Emmetts Way, Unit 4 Star Valley, AZ 85541	700 W. Highway 260 Payson, AZ 85541	$0.00			1
10/20/2011	10/24/2011	2011CV651OV	Capital One Bank (USA), N.A.	"J. Doe" Skidmore	Unserved	$24.00		Payson Regional Justice Court	0
		Summons & Complaint	Kenneth J. Skidmore & "J. Doe" Skidmore	17 N. Emmetts Way, Unit 4 Star Valley, AZ 85541		$0.00			0
10/20/2011		2011CV666OV	CACH, LLC	Paul L. Carter & "Jane Doe" Carter		$67.20	2065	Payson Regional Justice Court	0
		Summons & Complaint	Paul L. Carter & "Jane Doe" Carter	9071 S. Juniper Strawberry, AZ 85544		$67.20			0
10/20/2011		2011CV666OV	CACH, LLC	"Jane Doe" Carter		$24.00	2065	Payson Regional Justice Court	0
		Summons & Complaint	Paul L. Carter & "Jane Doe" Carter	9071 S. Juniper Strawberry, AZ 85544		$24.00			0
10/21/2011	10/28/2011	2010CV340	Capital One Bank (USA), NA c/o Burton Lipmann Law Group, P.C.	Bank of America, N.A.	Pam Macnab	$69.00	22696	Payson Regional Justice Court	0
		Writ Of Garnishment (Non-Earnings) & Summons	Timothy R. White	213 S. Beeline Highway Payson, AZ 85541	213 S. Beeline Highway Payson, AZ 85541	$69.00			1
10/24/2011	10/24/2011	2011CV695FD	Paul Sexton	Brian Mitchell	Brian Mitchell	$46.00	748395	Payson Regional Justice Court	0
		Summons & Complaint-Forcible Detainer	Brian Mitchell	118 W. Aero Drive #4 Payson, AZ 85541	118 W. Aero Drive #4 Payson, AZ 85541	$46.00			1
10/25/2011	10/26/2011	2011CV671FD	William C. Epley	Troy M. Stokes & Christine M. Stokes	Troy M. Stokes	$77.00	748396/2615	Payson Regional Justice Court	0
		Writ Of Restitution	Troy M. Stokes & Christine M. Stokes	902 S. Coronado Payson, AZ 85541	902 S. Coronado Payson, AZ 85541	$77.00			1
10/26/2011		DO2007475	Michelle Lee Haught	Ronald Frank Haught, Jr.		$69.60	748404	Gila County Superior Court	0
		Notice Of Hearing	Ronald Frank Haught, Jr.	57560 N. AZ Highway 188 Jake's Corner RV Park Payson, AZ 85541		$69.60			0
10/26/2011	10/26/2011	2011CV701IH	Michael Williams	Jerimiah Christinson	Jerimiah Christinson	$0.00		Payson Regional Justice Court	0
		Injunction Against Harassment (Fee Waived By Ct)	Jerimiah Christinson	108 W Main Street Payson, AZ 85541	108 W Main Street Payson, AZ 85541	$0.00			1
10/27/2011	10/28/2011	2011CV702FD	Bosley Management of AZ, Inc. dba Payson Apartments	Steven C. Ware & all other occupants	Steven C. Ware	$46.00	202503	Payson Regional Justice Court	0
		Summons & Complaint-Forcible Detainer	Steven C. Ware & all other occupants	209 S. Ponderosa Street, Unit #28 Payson, AZ 85541	209 S. Ponderosa Street, Unit #28 Payson, AZ 85541	$46.00			1
10/27/2011	10/28/2011	2011CV704IH	Randy Gildersleeve	Jolene Schaff	Jolene Schaff	$40.00	748405	Payson Regional Justice Court	0
		Injunction Against Harassment	Jolene Schaff	3680 E. Highway 260 C-5 Star Valley, AZ 85541	404 E. Bonita Payson, AZ 85541	$40.00			1

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10/27/2011		CV201100268	Kim Jeffrey Pound	Charles A. Calkins, et al		$56.00	748408/1683	Gila County Superior Court	0
		Summons & Complaint; Certificate of Compulsory Arbitration; Affidavit; Request For Trial	Charles A. Calkins, et al	126 E. Main Street, Suite D Payson, AZ 85541		$56.00			0
10/27/2011	11/1/2011	CV201100359	Lynn Edward Durst	Marjorie Jewell Koss	Marjorie Jewell Koss	$56.00	748407/1682	Gila County Superior Court	0
		Summons & Complaint; Certificate of Compulsory Arbitration; Affidavit; Request For Trial	Marjorie Jewell Koss	204 E. Jura Circle, Apt. C Payson, AZ 85541	204 E. Jura Circle, Apt. C Payson, AZ 85541	$56.00			1
10/27/2011		CV201100349	Donald D. Smith & Joan B. Smith	Falisha Dawn Dice		$76.00	748406/1681	Gila County Superior Court	0
		Summons & Complaint; Certificate of Compulsory Arbitration; Affidavit; Request For Trial	Falisha Dawn Dice	735 E. Sycamore Lane Gisela, AZ 85541		$76.00			0
10/31/2011	11/1/2011	2011CV707FD	Star Valley Motel & RV Park/ Roy Haught	Sanna Silva	Posted-front door	$46.00	748409/14182	Payson Regional Justice Court	0
		Summons & Complaint-Forcible Detainer	Sanna Silva	3696 E. Arizona Highway 260 #A10 Star Valley, AZ 85541	3696 E. Arizona Highway 260 #A10 Star Valley, AZ 85541	$46.00			1

PAYSON REGIONAL CONSTABLE

Colt White
108 West Main Street Payson, Arizona 85541

Payson Regional Justice Court, Gila County
(928) 474-3844

ITEMIZED SERVICES by DATE RECEIVED

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10/3/2011	10/5/2011	2011CR493	State of Arizona	Tyler Wade Winters	Tanya Winters	$0.00		Payson Regional Justice Court	0
		Summons & Complaint	Tyler Wade Winters	805 N. Ponderosa Circle Payson, AZ 85541	805 N. Ponderosa Circle Payson, AZ 85541	$0.00			1
10/3/2011	10/7/2011	2011TR2832	State of Arizona	Rebecca Maria Christenson	Lahana Christenson	$0.00		Payson Regional Justice Court	0
		Summons & Complaint	Rebecca Maria Christenson	105 E. Main Street, #205 Payson, AZ 85541	105 E. Main Street, #205 Payson, AZ 85541	$0.00			2
10/3/2011	10/6/2011	2011CR486	State of Arizona	Clinton Joel Godac	Clinton Joel Godac	$0.00		Payson Regional Justice Court	0
		Summons & Complaint	Clinton Joel Godac	214 Mountain View Road Star Valley, AZ 85541	701 E. Highway 260 Payson, AZ 85541	$0.00			4
10/3/2011	10/5/2011	2011CR482	State of Arizona	James Richter	Mark Andrew Diaz	$0.00		Payson Regional Justice Court	0
		Summons & Complaint	James Richter	369 E. Springdale Drive Star Valley, AZ 85541	369 E. Springdale Drive Star Valley, AZ 85541	$0.00			1
10/3/2011	10/5/2011	2011TR12256	State of Arizona	Jamie K. Wilson	Jamie K. Wilson	$0.00		Payson Magistrate Court	0
		Subpoena	Jean Stull Call	616B Mountain View Road Payson, AZ 85541	616B Mountain View Road Payson, AZ 85541	$0.00			1
10/4/2011	10/5/2011	2011TR422	State of Arizona	AZDPS Crime Lab, Joseph Tripoli	DPS Clipboard - Payson	$0.00		Payson Regional Justice Court	0
		Subpoena	Anthony Louis Giomi	P.O. 6638 Phoenix, AZ 85005	Payson DPS Office Payson, AZ 85541	$0.00			1
10/4/2011	10/5/2011	2011CR000494	State of Arizona	Yvette / aka Rose Greenberg	Yvette / aka Rose Greenberg	$0.00		Payson Regional Justice Court	0
		Summons	Yvette / aka Rose Greenberg	Rye Trailer, #27 Payson, AZ 85541	Rye Trailer, #27 Payson, AZ 85541	$0.00			1
10/4/2011	10/5/2011	2011CR492	State of Arizona	Cody Roland aka Keith Harris	Cody Roland aka Keith Harris	$0.00		Payson Regional Justice Court	0
		Summons & Complaint	Cody Roland aka Keith Harris	1200 N. Matterhorn Road Payson, AZ 85541	1200 N. Matterhorn Road Payson, AZ 85541	$0.00			1
10/5/2011	10/5/2011	2011CR12261	State of Arizona	PPD, Officer McDonough	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	Jennifer Susan Thomas	303 N Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/5/2011	10/5/2011	2011CR12261	State of Arizona	Payson Police Department, Ofc. L. Ortiz	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	Jennifer Susan Thomas	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1

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10/5/2011	10/17/2011	2011CR12261	State of Arizona	Diana L. Ludtke	Diana L. Ludtke	$0.00		Payson Magistrate Court	0
		Subpoena	Jennifer Susan Thomas	107 E. Bonita Street, Apt. A Payson, AZ 85541	107 E. Bonita Street, Apt. 8 Payson, AZ 85541	$0.00			7
10/5/2011	10/7/2011	2011TR002709	State of Arizona	GCSO, Deputy Bylina	GCSO Clipboard	$0.00		Payson Regional Justice Court	0
		Subpoena	Jacob Jenkins	108 W. Main Street Payson, AZ 85541	108 W. Main Street Payson, AZ 85541	$0.00			1
10/6/2011	10/7/2011	JV2009107 Petition 2011-3	State of Arizona	[redacted] minor c/o Juana Villagomez, mother	Juana Villagomez	$0.00		Gila County Juvenile Court	0
		Notice To Appear; Petition	[redacted] minor c/o Juana Villagomez, mother	3758 E. Highway 260, #33 Payson, AZ 85541	Subway at Walmart 300 N. Beeline Highway Payson, AZ 85541	$0.00			2
10/6/2011	10/7/2011	JV2009107 Petition 2011-4	State of Arizona	[redacted] minor c/o Juana Villagomez, mother	Juana Villagomez	$0.00		Gila County Juvenile Court	0
		Notice To Appear; Petition	[redacted] minor c/o Juana Villagomez, mother	3758 E. Highway 260, #33 Payson, AZ 85541	Subway at Walmart 300 N. Beeline Highway Payson, AZ 85541	$0.00			2
10/6/2011	10/13/2011	2011CR12295	State of Arizona	Ronald Mahlon Frost	Unserved	$0.00		Payson Magistrate Court	0
		Subpoena	Tanya Winters	805 N. Ponderosa Street Payson, AZ 85541		$0.00			5
10/6/2011	10/7/2011	2011CR12295	State of Arizona	Payson Police Department, Ofc. M. Zimmerman	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	Tanya Winters	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/6/2011	10/7/2011	2011TR012512	State of Arizona	Payson Police Department, Ofc. J. Meredith	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	David Mirko	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/6/2011	10/7/2011	2011TR012392	State of Arizona	Payson Police Department, Ofc. M. Zimmerman	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	Jane McDonald	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/6/2011	10/6/2011	2011CR12164	State of Arizona	Payson Police Department, Ofc. J. Davies	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	William Lewis Burge, Jr.	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/6/2011	10/17/2011	2011CR12164	State of Arizona	Tami Levendoski	Tami Levendoski	$0.00		Payson Magistrate Court	0
		Subpoena	William Lewis Burge, Jr.	WalMart 300 N. Beeline Highway Payson, AZ 85541	WalMart 300 N. Beeline Highway Payson, AZ 85541	$0.00			2
10/6/2011	10/10/2011	2011CR12164	State of Arizona	Ellen Janet Hamilton	Ellen Janet Hamilton	$0.00		Payson Magistrate Court	0
		Subpoena	William Lewis Burge, Jr.	Wal-Mart 300 N. Beeline Highway Payson, AZ 85541	1111 Moonlight Drive Star Valley, AZ 85541	$0.00			2

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10/6/2011	10/11/2011	2011CR12170	State of Arizona	Lisa Hunter, RN	Lisa Hunter, RN	$0.00		Payson Magistrate Court	0
		Subpoena	Curt A. Manning	c/o Payson Regional Medical Center 807 S. Ponderosa Street Payson, AZ 85541	c/o Payson Regional Medical Center 807 S. Ponderosa Street Payson, AZ 85541	$0.00			1
10/6/2011	10/17/2011	2011CR12170	State of Arizona	Larry Edward Thompson	Larry Edward Thompson	$0.00		Payson Magistrate Court	0
		Subpoena	Curt A. Manning	1107 N. McLane Road, Unit #34 Payson, AZ 85541	311 W. Aero Payson, AZ 85541	$0.00			7
10/6/2011	10/10/2011	2011CR12170	State of Arizona	Charles Edward Beckstead	Charles Edward Beckstead	$0.00		Payson Magistrate Court	0
		Subpoena	Curt A. Manning	8182 West Barranca Road HC3 Box332 Mesa Del Caballo, AZ 85541	190 Cornerstone Way #47 Payson, AZ 85541	$0.00			2
10/6/2011	10/10/2011	2011CR12170	State of Arizona	Victor Johnson	Unserved	$0.00		Payson Magistrate Court	0
		Subpoena	Curt A. Manning	1304 N Beeline Highway #34 Payson, AZ 85541		$0.00			1
10/6/2011	10/6/2011	2011CR12342	State of Arizona	PPD, Officer McDonough	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	Robert Joseph Blanco, Jr.	303 N Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/6/2011	10/6/2011	2011CR12342	State of Arizona	Payson Police Department, Ofc. J. Deaton	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	Robert Joseph Blanco, Jr.	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/6/2011	10/6/2011	2011CR12170	State of Arizona	Payson Police Department, Ofc. Michael McAnerny	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	Curt A. Manning	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/6/2011	10/6/2011	2011CR12170	State of Arizona	Payson Police Department, Detective Les Barr	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	Curt A. Manning	PAYSON POLICE DEPARTMENT 303 N. BEELINE HIGHWAY PAYSON, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/7/2011	10/11/2011	2009CR12917	State of Arizona	Candace Conti	Candace Conti	$0.00		Payson Regional Justice Court	0
		Subpoena	Richard Madison Burt	Payson Regional Medical Center-Laboratory 807 S. Ponderosa Street Payson, AZ 85541	Payson Regional Medical Center-Laboratory 807 S. Ponderosa Street Payson, AZ 85541	$0.00			1
10/7/2011	10/11/2011	2011JV00114 Petition 2011-1	State of Arizona	[redacted] minor c/o [illegible], mother	Peggy Sorensen	$0.00		Gila County Juvenile Court	0
		Notice To Appear; Petition	[redacted] minor	504 N. Graham Ranch Road Payson, AZ 85541	504 N. Graham Ranch Road Payson, AZ 85541	$0.00			2
10/7/2011	10/11/2011	2011JV00115 Petition 2011-1	State of Arizona	[redacted] minor c/o Mike & Yvonne Estrada, parents	Unserved	$0.00		Gila County Juvenile Court	0
		Notice To Appear; Petition	[redacted] minor	197 W. Mockingbird Lane Payson, AZ 85541		$0.00			2
10/7/2011	10/10/2011	2011CR505	State of Arizona	Charles Robert Fontinel	Unserved	$0.00		Payson Magistrate Court	0
		Summons & Complaint	Charles Robert Fontinel	2005 N. Fredanovich Circle Payson, AZ 85541		$0.00			1

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10/7/2011	10/7/2011	2009TR12917	State of Arizona	Payson Police Department, Detective M. Van Camp	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	Richard Madison Burt	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/7/2011	10/7/2011	2009TR12917	State of Arizona	Payson Police Department, Ofc. M. Hillegas	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	Richard Madison Burt	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/7/2011	10/7/2011	2009TR12917	State of Arizona	Payson Police Department, Ofc. D. Faust	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	Richard Madison Burt	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/7/2011	10/7/2011	2009TR12917	State of Arizona	Payson Police Department, Chief Don Engler	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	Richard Madison Burt	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/7/2011	10/7/2011	2009TR12917	State of Arizona	Payson Police Department, Ofc. J. LaManna	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	Richard Madison Burt	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/11/2011	10/11/2011	2011CR12301	State of Arizona	Payson Police Department, Ofc. M. Hillegas	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	Seth Ray Sayer	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/11/2011	10/14/2011	2011CR12301	State of Arizona	Cameron Lewis Martin	Unserved	$0.00		Payson Magistrate Court	0
		Subpoena	Seth Ray Sayer	212 W. Frontier Street Payson, AZ 85541		$0.00			2
10/11/2011	10/14/2011	2011CR12301	State of Arizona	The Parent of [redacted] minor	Corey Leroy Schnepp	$0.00		Payson Magistrate Court	0
		Subpoena	Seth Ray Sayer	917 N. Easy Street #206 Payson, AZ 85541	311 S. McLane Road, #206 Payson, AZ 85541	$0.00			2
10/11/2011	10/14/2011	2011CR12301	State of Arizona	Tyler Lee Oesterreich	Tyler Lee Oesterreich	$0.00		Payson Magistrate Court	0
		Subpoena	Seth Ray Sayer	917 N. Easy Street #206 Payson, AZ 85541	311 S. McLane #206 Payson, AZ 85541	$0.00			3
10/12/2011	10/13/2011	CR20110536	State of Arizona	Kathleen Marie Buel	Unserved	$0.00		Gila County Superior Court	0
		Summons	Kathleen Marie Buel	746 W. Haught Avenue Payson, AZ 85541		$0.00			1
10/12/2011	10/13/2011	2011CR510	State of Arizona	Angela Christine McKay	Unserved	$0.00		Payson Regional Justice Court	0
		Summons & Complaint	Angela Christine McKay	604 S. Ponderosa Street Payson, AZ 85541		$0.00			1
10/12/2011	10/13/2011	2011CR012301	State of Arizona	[redacted] minor	Roselee Morgan	$0.00		Payson Magistrate Court	0
		Subpoena	Seth Ray Sayer	Tonto Apache Reservation, #25 Highway 87, M.P. #251 Payson, AZ 85541	Tonto Apache Reservation, #25 Highway 87 Payson, AZ 85541	$0.00			2
10/12/2011	10/13/2011	2011CR012301	State of Arizona	Clinton Godac	Clinton Godac	$0.00		Payson Magistrate Court	0
		Subpoena	Seth Ray Sayer	214 N. Mountain View Road Payson, AZ 85541	214 N. Mountain View Road Payson, AZ 85541	$0.00			3

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10/12/2011	10/14/2011	2011CR012301	State of Arizona	Thad Jacob Hauger	Thad Jacob Hauger	$0.00		Payson Magistrate Court	0
		Subpoena	Seth Ray Sayer	564 S. Valley View Road Tonto Creek Shores, AZ 85541	108 W. Main Street Payson, AZ 85541	$0.00			4
10/12/2011	10/14/2011	2011TC12034	State of Arizona	Randy E. Taylor	Jesse Ray Taylor	$0.00		Payson Magistrate Court	0
		Summons & Complaint	Randy E. Taylor	111 W. Vera Lane Payson, AZ 85541	111 W. Vera Lane Payson, AZ 85541	$0.00			1
10/12/2011	10/14/2011	2011TC012033	State of Arizona	Sara Fleischaker	Sara Fleischaker	$0.00		Payson Magistrate Court	0
		Summons & Complaint	Sara Fleischaker	514 N. Colcord Payson, AZ 85541	606 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/13/2011	10/13/2011	2011TR012520	State of Arizona	Payson Police Department, Ofc. B. Hoffman	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	Michael Clay Seeley	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/13/2011	10/13/2011	2011TR012448	State of Arizona	Payson Police Department, Ofc. M. Zimmerman	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	Ray Lott	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/13/2011	10/13/2011	2011CV676OP	Larry Lee Smith, Jr.	Renee Santana	Renee Santana	$0.00		Payson Regional Justice Court	0
		Order Of Protection	Renee Santana	201 S. Beeline Highway Payson, AZ 85541	201 S. Beeline Highway Payson, AZ 85541	$0.00			1
10/14/2011	10/18/2011	2011TR012473	State of Arizona	Tiffany Troung	Tiffany Troung	$0.00		Payson Magistrate Court	0
		Subpoena Trial Reset	Mirisa A. Cline	603 N. Wilderness Payson, AZ 85541	800 W. Airport Road Payson, AZ 85541	$0.00			1
10/14/2011	10/20/2011	2011TR012473	State of Arizona	Cole Herrera	Cole Herrera	$0.00		Payson Magistrate Court	0
		Subpoena Trial Reset	Mirisa A. Cline	603 St. Phillips Payson, AZ 85541	108 W. Main Street Payson, AZ 85541	$0.00			4
10/14/2011	10/14/2011	2011TR012473	State of Arizona	Payson Police Department, Ofc. J. Deaton	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena Trial Reset	Mirisa A. Cline	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/14/2011	10/14/2011	2010CR12480	State of Arizona	Payson Police Department, Ofc. B. Watson	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	Sarah Naomi Resseguel	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/14/2011	10/14/2011	2010CR12480	State of Arizona	Payson Police Department, Ofc. M. Hansen	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	Sarah Naomi Resseguel	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/14/2011	10/14/2011	2011CR12261	State of Arizona	Payson Police Department, Officer J. Johnson	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	Jennifer Susan Thomas	Payson Police Department 303 N Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/14/2011	10/14/2011	2011CV000678	Renee Santana	Larry Smith	Larry Smith	$0.00		Payson Regional Justice Court	0
		Order Of Protection	Larry Smith	8158 W. Barranca Payson, AZ 85541	108 W. Main Street Payson, AZ 85541	$0.00			1

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10/14/2011	10/20/2011	2011CR12360	State of Arizona	Jaimee Kah Hilgendorf	Jaimee Kah Hilgendorf	$0.00		Payson Magistrate Court	0
		Subpoena	Eric Hilgendorf	2502 W. Bulla Drive Payson, AZ 85541	308 S. Clark, #1 Payson, AZ 85541	$0.00			3
10/14/2011	10/14/2011	2011CR12360	State of Arizona	Payson Police Department, Ofc. Michael McAnerny	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	Eric Hilgendorf	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/17/2011	10/17/2011	2011CR375	State of Arizona	GCSO, Deputy M. Havey	GCSO Clipboard	$0.00		Payson Regional Justice Court	0
		Subpoena	Steven Leroy Conley	108 W. Main Street Payson, AZ 85541	108 W. Main Street Payson, AZ 85541	$0.00			1
10/17/2011	10/19/2011	2011CR375	State of Arizona	Jeff Johnson	Jeff Johnson	$0.00		Payson Regional Justice Court	0
		Subpoena	Steven Leroy Conley	234 W. Kings Drive East Verde Park Payson, AZ 85541	234 W. Kings Drive East Verde Park Payson, AZ 85541	$0.00			1
10/17/2011	10/19/2011	2011CR375	State of Arizona	Pointe Wireless, Michael Day	Pointe Wireless, Michael Day	$0.00		Payson Regional Justice Court	0
		Subpoena	Steven Leroy Conley	200 W. Frontier #P Payson, AZ 85541	807 W. Longhorn Road Payson, AZ 85541	$0.00			1
10/17/2011	10/26/2011	2011TC012035	State of Arizona	Megan Burke	Unserved	$0.00		Payson Magistrate Court	0
		Summons & Complaint	Megan Burke	4920 Bear Trail Strawberry, AZ 85547		$0.00			5
10/18/2011	10/19/2011	2011TR002954	State of Arizona	GCSO, Deputy R. Chagolla	GCSO Clipboard	$0.00		Payson Regional Justice Court	0
		Subpoena	William Church	108 W. Main Street Payson, AZ 85541	108 W. Main Street Payson, AZ 85541	$0.00			1
10/18/2011	10/19/2011	2011TR002951	State of Arizona	GCSO, Deputy R. Chagolla	GCSO Clipboard	$0.00		Payson Regional Justice Court	0
		Subpoena	Carl Sparks	108 W. Main Street Payson, AZ 85541	108 W. Main Street Payson, AZ 85541	$0.00			1
10/18/2011	10/18/2011	2011CR431	State of Arizona	Payson Police Department, Ofc. L. Ortiz	PPD Dispatch	$0.00		Payson Regional Justice Court	0
		Subpoena	Aaron Matthew Bradford	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/18/2011	10/18/2011	2011CR431	State of Arizona	Payson Police Department, Ofc. M. Zimmerman	PPD Dispatch	$0.00		Payson Regional Justice Court	0
		Subpoena	Aaron Matthew Bradford	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/19/2011	10/24/2011	2010599	State of Arizona	Mary Lou Meyers	Mary Lou Meyers	$0.00		Gila County Superior Court	0
		Subpoena	Michael P. Lowe, M.D.	3617 State Highway 87 Pine, AZ 85544	108 W. Main Street Payson, AZ 85541	$0.00			3
10/19/2011	10/19/2011	2011TR012522	State of Arizona	Payson Police Department, Ofc. J. Meredith	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	Scott Warner	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/19/2011	10/20/2011	GC Parcel #: 304-42-027	Town of Payson - Community Development Department	Daniel & Tiffany Taft	Tiffany Taft	$0.00		N/A	0
		Notice of Violation-Request For Voluntary Compliance	Daniel & Tiffany Taft	1103 E. Frontier Street Payson, AZ 85541	1103 E. Frontier Street Payson, AZ 85541	$0.00			1

ITEMIZED SERVICES by DATE RECEIVED

10/1/2011 TO 10/31/2011

Date Received	Date Served	Case Number / Service	Plaintiff / Defendant	Person To Be Served / Address	Person Served / Address	Fees / Paid	Reference	Agency	Miles / Attempts
10/20/2011	10/24/2011	2008JV031	State of Arizona	Michael Kroll	Michael Kroll	$0.00		Gila County Superior Court	0
		Subpoena	[redacted] minor	6770 Bradshaw Pine, AZ 85544	6770 Bradshaw Pine, AZ 85544	$0.00			2
10/20/2011	10/24/2011	2008JV031	State of Arizona	GCSO, Deputy C. Maxwell	GCSO Clipboard	$0.00		Gila County Superior Court	0
		Subpoena	[redacted], minor	GCSO, 108 W. Main Street Payson, AZ 85541	108 W. Main Street Payson, AZ 85541	$0.00			1
10/20/2011	10/26/2011	2010599	State of Arizona	Davidson Financial Services, Bruce Davidson	Davidson Financial Services, Bruce Davidson	$0.00		Gila County Superior Court	0
		Subpoena	Michael P. Lowe, M.D.	6593 W. Sumac Lane Pine, AZ 85544	108 W. Main Street Payson, AZ 85541	$0.00			2
10/20/2011	10/24/2011	2011CR517	State of Arizona	Barbara Kathleen Supplee	Barbara Kathleen Supplee	$0.00		Payson Regional Justice Court	0
		Summons & Complaint	Barbara Kathleen Supplee	9287 Gievremont Circle Strawberry, AZ 85544	9287 Gievremont Circle Strawberry, AZ 85544	$0.00			1
10/20/2011	10/24/2011	2010599	State of Arizona	Payson Concrete, Kim Turney	Payson Concrete, Kim Turney	$0.00		Gila County Superior Court	0
		Subpoena	Michael P. Lowe, M.D.	1900 E. Highway 260 Payson, AZ 85541	1900 E. Highway 260 Payson, AZ 85541	$0.00			1
10/20/2011	10/24/2011	2010599	State of Arizona	Payson Police Department, Detective M. Van Camp	PPD Dispatch	$0.00		Gila County Superior Court	0
		Subpoena	Michael P. Lowe, M.D.	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/20/2011	10/31/2011	2010599	State of Arizona	Peter Licavoli	Peter Licavoli	$0.00		Gila County Superior Court	0
		Subpoena	Michael P. Lowe, M.D.	4214 Cypress Hill Road Pine, AZ 85544	4214 Cypress Hill Road Pine, AZ 85544	$0.00			1
10/20/2011	10/26/2011	2010599	State of Arizona	Carole Mathewson	Carole Mathewson	$0.00		Gila County Superior Court	0
		Subpoena	Michael P. Lowe, M.D.	925 W. Madera Lane Payson, AZ 85541	925 W. Madera Lane Payson, AZ 85541	$0.00			1
10/20/2011	10/26/2011	2010599	State of Arizona	Walter Paddock	Walter Paddock	$0.00		Gila County Superior Court	0
		Subpoena	Michael P. Lowe, M.D.	403 Black Forest Lane Payson, AZ 85541	403 Black Forest Lane Payson, AZ 85541	$0.00			1
10/20/2011	10/26/2011	2010599	State of Arizona	Messinger Funeral Home, Mark Waldrop	Messinger Funeral Home, Mark Waldrop	$0.00		Gila County Superior Court	0
		Subpoena	Michael P. Lowe, M.D.	302 W. Aero Drive Payson, AZ 85541	302 W. Aero Drive Payson, AZ 85541	$0.00			1
10/20/2011	10/26/2011	2011CR000523	State of Arizona	Twyla Pfister	Twyla Pfister	$0.00		Payson Regional Justice Court	0
		Summons & Complaint	Twyla Pfister	815 N. Ponderosa Circle Payson, AZ 85541	815 N. Ponderosa Circle Payson, AZ 85541	$0.00			1
10/20/2011	10/28/2011	2011CR522	State of Arizona	Robin Lynne Snook	Robin Lynne Snook	$0.00		Payson Regional Justice Court	0
		Summons & Complaint	Robin Lynne Snook	209 S. Ponderosa Street, Apt. #18 Payson, AZ 85541	3680 E. Highway 260, Unit B4 Star Valley, AZ 85541	$0.00			3
10/20/2011	10/26/2011	2011CR521	State of Arizona	Tommy Holdren, Jr.	Tommy Holdren, Jr.	$0.00		Payson Regional Justice Court	0
		Subpoena	Tommy Holdren, Jr.	412 S. Ponderosa Street Payson, AZ 85541	801 W. Longhorn Road, #4 Payson, AZ 85541	$0.00			3

ITEMIZED SERVICES by DATE RECEIVED

10/1/2011 TO 10/31/2011

Date Received	Date Served	Case Number / Service	Plaintiff / Defendant	Person To Be Served / Address	Person Served / Address	Fees / Paid	Reference	Agency	Miles / Attempts
10/20/2011	10/26/2011	2011CR516	State of Arizona	Nicolas Victor Garcia	Nicolas Victor Garcia	$0.00		Payson Regional Justice Court	0
		Summons & Complaint	Nicolas Victor Garcia	809 N. Easy Street Payson, AZ 85541	809 N. Easy Street Payson, AZ 85541	$0.00			1
10/20/2011	10/26/2011	2011TR2972	State of Arizona	Nikki Laurien Small	Nikki Laurien Small	$0.00		Payson Regional Justice Court	0
		Summons & Complaint	Nikki Laurien Small	909 W. Granada Way Payson, AZ 85541	909 W. Granada Way Payson, AZ 85541	$0.00			1
10/20/2011	10/26/2011	2011TR002927	State of Arizona	GCSO, Deputy R. Chagolla	GCSO Clipboard	$0.00		Payson Regional Justice Court	0
		Subpoena	Michael Solomon	108 W. Main Street Payson, AZ 85541	108 W. Main Street Payson, AZ 85541	$0.00			1
10/20/2011	10/26/2011	2011TR002926	State of Arizona	GCSO, Deputy R. Chagolla	GCSO Clipboard	$0.00		Payson Regional Justice Court	0
		Subpoena	Edmund Rusin	108 W. Main Street Payson, AZ 85541	108 W. Main Street Payson, AZ 85541	$0.00			1
10/20/2011	10/24/2011	2009TR12917	State of Arizona	Payson Police Department, Chief Don Engler	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	Richard Madison Burt	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/20/2011	10/24/2011	2009TR12917	State of Arizona	Payson Police Department, Ofc. J. LaManna	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	Richard Madison Burt	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/20/2011	10/24/2011	2009TR12917	State of Arizona	Payson Police Department, Detective M. Van Camp	PPD Dispatch	$0.00		Payson Regional Justice Court	0
		Subpoena	Richard Madison Burt	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/20/2011	10/20/2011	2011CV693OP	Charles Frank Falbo, Jr.	Roberta Kaye Miller	Roberta Kaye Miller	$0.00		Payson Regional Justice Court	0
		Order Of Protection	Roberta Kaye Miller	4980 Fuller Road Guest house Strawberry, AZ 85544	4980 Fuller Road Guest house Strawberry, AZ 85544	$0.00			1
10/21/2011	10/24/2011	2011TR012448	State of Arizona	David McCarthy	Michael Reardon	$0.00		Payson Magistrate Court	0
		Subpoena	Ray Lott	410 E. Jura Circle Payson, AZ 85541	410 E. Jura Circle Payson, AZ 85541	$0.00			1
10/21/2011	10/24/2011	2011TR012448	State of Arizona	Kevin Medina	Kevin Medina	$0.00		Payson Magistrate Court	0
		Subpoena	Ray Lott	805 W. Longhorn Road, #4 Payson, AZ 85541	805 W. Longhorn Road, #4 Payson, AZ 85541	$0.00			1
10/21/2011	10/22/2011	2011CV694OP	Roberta Kaye Miller	Charles Frank Falbo, Jr.	Charles Frank Falbo, Jr.	$0.00		Payson Regional Justice Court	0
		Order Of Protection	Charles Frank Falbo, Jr.	4980 Fuller Strawberry, AZ 85544	4980 Fuller Strawberry, AZ 85544	$0.00			2
10/24/2011	10/31/2011	2011CR12431	State of Arizona	Donald Wayne Robertson, Jr.	Unserved	$0.00		Payson Magistrate Court	0
		Summons & Complaint	Donald Wayne Robertson, Jr.	220 Rainbow Lane P.O. Box 512 Tonto Basin, AZ 85553		$0.00			2
10/24/2011	10/24/2011	2011CV696OP	Terra Lynn Cluff	Garrett Lanyi	Garrett Lanyi	$0.00		Payson Regional Justice Court	0
		Order Of Protection	Garrett Lanyi	McDonald's 107 E. Highway 260 Payson, AZ 85541	McDonald's 107 E. Highway 260 Payson, AZ 85541	$0.00			2

ITEMIZED SERVICES by DATE RECEIVED

10/1/2011 TO 10/31/2011

Date Received	Date Served	Case Number / Service	Plaintiff / Defendant	Person To Be Served / Address	Person Served / Address	Fees / Paid	Reference	Agency	Miles / Attempts
10/24/2011	10/28/2011	2011CR537	State of Arizona	Brandon Chester Lietz, aka Leitz	Unserved	$0.00		Gila County Superior Court	0
		Summons	Brandon Chester Lietz, aka Leitz	3786 Ellison Drive Pine, AZ 85544		$0.00			3
10/24/2011	10/26/2011	2010599	State of Arizona	Gladys Grubb	Gladys Grubb	$0.00		Gila County Superior Court	0
		Subpoena	Michael P. Lowe, M.D.	511 W. Sherwood Payson, AZ 85541		$0.00			1
10/24/2011	11/1/2011	2011CR012432	State of Arizona	Daniel Glen Parker	Daniel Glen Parker	$0.00		Payson Magistrate Court	0
		Summons & Complaint	Daniel Glen Parker	535 W. Thiele Lane #10 Payson, AZ 85541	108 W. Main Street Payson, AZ 85541	$0.00			4
10/24/2011	10/31/2011	CR20110401	State of Arizona	Michael Edward Bilyeu	Unserved	$0.00		Gila County Superior Court	0
		Summons	Michael Edward Bilyeu	703 E Frontier Street #15 Payson, AZ 85541		$0.00			5
10/24/2011	10/28/2011	2011CR12428	State of Arizona	Rebecca Lynn Hays	Rebecca Lynn Hays	$0.00		Payson Magistrate Court	0
		Summons & Complaint	Rebecca Lynn Hays	300 W. Bonita Street, #22 Payson, AZ 85541	404 E. Wade Lane Payson, AZ 85541	$0.00			1
10/24/2011	10/28/2011	2011CR12429	State of Arizona	Scott Daniel Jackson	Scott Daniel Jackson	$0.00		Payson Magistrate Court	0
		Summons & Complaint	Scott Daniel Jackson	301 W. Bonita Street, #5 Payson, AZ 85541	301 W. Bonita Street, #5 Payson, AZ 85541	$0.00			1
10/24/2011	10/28/2011	2011CR12427	State of Arizona	Scott Daniel Jackson	Scott Daniel Jackson	$0.00		Payson Magistrate Court	0
		Summons & Complaint	Scott Daniel Jackson	301 W. Bonita Street, #5 Payson, AZ 85541	301 W. Bonita Street, #5 Payson, AZ 85541	$0.00			1
10/24/2011	10/28/2011	2011CR12426	State of Arizona	Amanda Blair-Nickerson	Amanda Blair-Nickerson	$0.00		Payson Magistrate Court	0
		Summons & Complaint	Amanda Blair-Nickerson	307 E. Juniper Street, #2 Payson, AZ 85541	307 E. Juniper Street, #2 Payson, AZ 85541	$0.00			1
10/24/2011	10/28/2011	2011CR534	State of Arizona	Dashney Hatch	Verna A. Combs	$0.00		Payson Justice Court	0
		Summons & Complaint	Dashney Hatch	125 S. Rainbow Drive Star Valley, AZ 85541	94 Rainbow Drive Star Valley, AZ 85541	$0.00			1
10/25/2011	10/25/2011	2011CV698OP	Jolene Schaff	Randy Gildersleeve	Randy Gildersleeve	$0.00		Payson Regional Justice Court	0
		Order Of Protection	Randy Gildersleeve	3680 E. Highway 260 C-23 Star Valley, AZ 85541	3680 E. Highway 260 C-23 Star Valley, AZ 85541	$0.00			1
10/26/2011	10/28/2011	2011TR1513	State of Arizona	Department of Public Safety, Marrisa Gittisarn, Criminalist	DPS Clipboard - Payson	$0.00		Payson Regional Justice Court	0
		Subpoena	Sunny Rae Jolie	DPS Crime Lab Phoenix, AZ	Payson DPS Office Payson, AZ 85541	$0.00			1
10/26/2011	10/28/2011	2011TR1513	State of Arizona	Department of Public Safety, Giang Pham, Criminalist	DPS Clipboard - Payson	$0.00		Payson Regional Justice Court	0
		Subpoena	Sunny Rae Jolie	DPS Crime Lab - Phoenix ,	Payson DPS Office Payson, AZ 85541	$0.00			1
10/26/2011	10/31/2011	CR2010636	State of Arizona	Matt Bullard	Unserved	$0.00		Gila County Superior Court	0
		Subpoena	Luis Carlos Dorame-Ruiz	161 Midway (Wonder Valley) Payson, AZ 85541		$0.00			3

ITEMIZED SERVICES by DATE RECEIVED

10/1/2011 TO 10/31/2011

Date Received	Date Served	Case Number / Service	Plaintiff / Defendant	Person To Be Served / Address	Person Served / Address	Fees / Paid	Reference	Agency	Miles / Attempts
10/27/2011	10/28/2011	2011CR12164	State of Arizona	Payson Police Department, Ofc. J. Davies	PPD Dispatch	$0.00		Payson Magistrate Court	0
		Subpoena	William Lewis Burge, Jr.	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/27/2011	10/31/2011	2011CR12164	State of Arizona	Ellen Janet Hamilton	Ellen Janet Hamilton	$0.00		Payson Magistrate Court	0
		Subpoena	William Lewis Burge, Jr.	Wal-Mart 300 N. Beeline Highway Payson, AZ 85541	Wal-Mart 300 N. Beeline Highway Payson, AZ 85541	$0.00			3
10/27/2011	10/31/2011	2011CR12164	State of Arizona	Tami Levendoski	Tami Levendoski	$0.00		Payson Magistrate Court	0
		Subpoena	William Lewis Burge, Jr.	WalMart 300 N. Beeline Highway Payson, AZ 85541	WalMart 300 N. Beeline Highway Payson, AZ 85541	$0.00			1
10/27/2011	10/28/2011	DO201100396	[redacted] minor c/o Brenda Zastrow-Greer, mother	[redacted] minor c/o Mike & Julie Stevens, parents	Julie Stevens	$0.00		Gila County Superior Court	0
		Order Of Protection	[redacted] minor c/o Mike & Julie Stevens, parents	710 Mazatzal Circle Payson, AZ 85541	806 W. Longhorn Road Payson, AZ 85541	$0.00			4
10/27/2011	10/31/2011	2011UD012006	State of Arizona	Town of Payson-Community Development Dept., Sean Tanner	Town of Payson-Community Development Dept., Sean Tanner	$0.00		Payson Magistrate Court	0
		Subpoena	Brighton Gerhart	303 N. Beeline Highway Payson, AZ 85541	303 N. Beeline Highway Payson, AZ 85541	$0.00			2
10/28/2011	10/31/2011	2011CR012445	State of Arizona	Calandra Polingyumptewa	Calandra Polingyumptewa	$0.00		Payson Magistrate Court	0
		Summons & Complaint	Calandra Polingyumptewa	101 S. Whiting Payson, AZ 85541	101 S. Whiting Payson, AZ 85541	$0.00			1
10/28/2011	10/31/2011	2011CR012444	State of Arizona	Calandra Polingyumptewa	Calandra Polingyumptewa	$0.00		Payson Magistrate Court	0
		Summons & Complaint	Calandra Polingyumptewa	101 S. Whiting Payson, AZ 85541	101 S. Whiting Payson, AZ 85541	$0.00			1
10/28/2011	10/31/2011	2011CR012443	State of Arizona	Calandra Polingyumptewa	Calandra Polingyumptewa	$0.00		Payson Magistrate Court	0
		Summons	Calandra Polingyumptewa	101 S. Whiting Payson, AZ 85541	101 S. Whiting Payson, AZ 85541	$0.00			1
10/31/2011	10/31/2011	2011CV708OP	Charlotte Faye Daly	Jordan Fowler	Unserved	$0.00		Payson Regional Justice Court	0
		Order Of Protection	Jordan Fowler	136 N. Starlight Drive Star Valley, AZ 85541		$0.00			2

MILEAGE FOR THE MONTH OCT. 2011

DATE	MILES DRIVEN BY B-185		MILES DRIVEN BY B-12	
10/3			137	
10/4				
10/5			150	
10/6	37			
10/7	84		62	
10/10	122			
10/11	107			
10/12	105			
10/13	75			
10/14	55			
10/17	62			
10/18	81			
10/19	138			
10/20	74			
10/23				
10/24			89	
10/25				
10/26			64	
10/27				
10/28	44		77	
10/29			17	
10/30				
10/31	33		153	
DAYS	**1017**		**749**	

Total Miles Driven By The Constable's Office **1766** **Month** **2011**

GILA COUNTY TREASURER'S RECEIPT
GILA COUNTY, ARIZONA

DATE 11/1/11

GRANT #

DEPOSIT TO FUND Gila County Treasurer FUND # T-91620061

REMITTING DEPT Payson Regional Constable

SERVICE RENDERED Constable Ethics Standards + Training Board Writ fees collected

Account Code	Revenue Description	Amount	
T-91620061	Payson Regional Constable	25	00
	Ethics Committee Fund -		
	fees collected for writs		
	served for the month of		
	October 2011		
	5 @ $5.00 / each		
	reference our check # 2276		
	dated 11/1/11		
		25	00

Authorized Signature 3270 Title Payson Regional Constable #324

SUMMARY OF DEPOSIT

Currency	
Coins	
Checks	
Total	

TREASURER By Date

TREASURER

98322

PAYSON CONSTABLE
108 W. MAIN ST. 928-474-3844
PAYSON, AZ 85541

2276
91-527/1221 6128
0703680454

DATE 11/1/11

PAY TO THE ORDER OF Gila County Treasurer $ 25.00

Twenty five and no/100 DOLLARS

Wells Fargo Bank, N.A. Arizona wellsfargo.com

FOR Writ fees collected for October 2011 3270

⑈000002276⑈ ⑆122105278⑆ 0703680454⑈

GILA COUNTY TREASURER'S RECEIPT
GILA COUNTY, ARIZONA

DATE 11/1/11

GRANT #

DEPOSIT TO FUND Gila County Treasurer FUND #

REMITTING DEPT Payson Regional Constable

SERVICE RENDERED Service fees collected for the month of October 2011

Account Code	Revenue Description	Amount	
1005-324-3405-80	Service fees collected from	2,546	80
X-1005-01-32400-4614	October 1, 2011 to October 31,		
	2011 from		
	the Payson Regional Constable		
	Reference our check# 2277		
	dated 11/1/11		
		2,546	80

Authorized Signature 3236 Title Payson Regional Constable #324

SUMMARY OF DEPOSIT

Currency	
Coins	
Checks	
Total	

TREASURER By Date

TREASURER

98323

PAYSON CONSTABLE
108 W. MAIN ST. 928-474-3844
PAYSON, AZ 85541

2277
91-527/1221 6128
0703680454

DATE 11/1/11

PAY TO THE ORDER OF Gila County Treasurer $ 2,546.80

Two thousand five hundred forty six and 80/100 DOLLARS

Wells Fargo Bank, N.A.
Arizona
wellsfargo.com

FOR Service fees collected for October 2011 3236

⑈000000 2277⑈ ⑆122105278⑆ 0703680454⑈

ARF-974 **4- I**

Regular BOS Meeting

Meeting Date: 12/06/2011

Reporting Period: Payson Regional Justice of the Peace's Office October 2011 Monthly Reports

Submitted For: Dorothy Little

Submitted By: Dorothy Little, Justice of the Peace-Payson Region, Superior Court

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Information

Subject

Payson Regional Justice of the Peace's Office October 2011 Monthly Reports

Suggested Motion

Approval of the October 2011 monthly activity reports submitted by the Payson Regional Justice of the Peace's Office

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Attachments

October 2011 Statistics

October Financial reports

LIMITED JURISDICTION COURTS MONTHLY STATISTICAL REPORT

Page 1 Processing

Court ID: 404

County: PAYSON REGIONAL JUSTICE COURT Report Month/Year: October 2011

CRIMINAL TRAFFIC

	D.U.I. (a)	Serious* Violations (b)	All Other Violations (c)	TOTAL (d)
Pending 1st of Month	96	6	141	243
Filed	18	2	10	30
Transferred In	0	0	0	0
SUBTOTAL	114	8	151	273
Transferred Out	0	0	0	0
Other Terminations	19	0	21	40
TOTAL TERMINATIONS	19	0	21	40
Statistical Correction	0	0	0	0
Pending End of Month	95	8	130	233

***A.R.S. 28-661 (if misdemeanor), -662,-663,-664,-665,-693,-708. See Instructions.**

TRAFFIC FAILURE TO APPEAR**

Pending 1st of Month	Filed	Trans In	SUB-TOTAL	Trans Out	Other Term.	TOTAL TERM.	Stat. Corr.	Pending End of Month
201	0	0	201	0	6	6	0	195

****READ:** These are FORMAL FTA FILINGS AND DISPOSITIONS CHARGING ANOTHER CRIMINAL OFFENSE, not bench warrants for failure to appear. FTA filings should also have original traffic complaint recorded in the CRIMINAL TRAFFIC SECTION above until that traffic filing has been terminated. Issuing a bench warrant or an FTA does not terminate the traffic filing.

Criminal Traffic/FTA Court Trials Held: 0 Criminal Traffic/FTA Jury Trials Held: 0

CIVIL TRAFFIC

Pending 1st of Month	Filed	Trans In	SUB-TOTAL	Trans Out	Default Judg-ment	Other Term.	TOTAL TERM.	Stat. Corr.	Pending End of Month
800	169	0	969	1	19	197	217	0	752

Civil Traffic Hearings Held: 4

VIOLATIONS OF A.R.S. 28-702.01 AND 28-702.04
(Part of Civil Traffic Above)

Filed 59 Trans In 0 TOTAL 59

LIMITED JURISDICTION COURTS MONTHLY STATISTICAL REPORT

Court ID: 404 **Page 2 Processing**

County: PAYSON REGIONAL JUSTICE COURT Report Month/Year: October 2011

MISDEMEANOR

	Pending 1st of Month (a)	Filed (b)	Trans In (c)	SUB TOTAL (d)	Tran Out (e)	Other Term (f)	TOTAL TERM (g)	Stat. Corr. (h)	Pending End of Month (j)
Misdemeanor (Non-Traffic)	575	72	0	**647**	0	84	84	*0*	**563**
Failure to Appear (Non-Traffic)	65	0	0	**65**	0	0	0	*0*	**65**
TOTAL	640	72	0	**712**	0	84	84	0	**628**

TRIALS HELD

Misdemeanor Court/FTA Trials Held: **1** Misdemeanor/FTA Jury Trials Held: **0**

FELONY

Pending 1st of Month (a)	Filed (b)	Trans In (c)	SUB TOTAL (d)	Trans Out (e)	Other Term (f)	TOTAL TERM (g)	Stat. Corr. (h)	Pending End of Month (j)
40	**2**	**0**	42	**0**	**2**	2	0	**40**

Felony Preliminary Hearings Held: **0** Felony, Misdemeanor, Criminal Traffic Initial: Appearances: **141**

LOCAL NON-CRIMINAL ORDINANCES

	Pending 1st of Month	Filed	SUB-TOTAL	Terminated	Stat. Corr.	Pending End of Month
Parking	**0**	**0**	0	**0**	0	**0**
Non-Parking	**0**	**0**	0	**0**	0	**0**
TOTAL	0	0	0	0	0	**0**

LIMITED JURISDICTION COURTS MONTHLY STATISTICAL REPORT

Page 3 Processing

Court ID: 404

County: PAYSON REGIONAL JUSTICE COURT Report Month/Year: October 2011

CIVIL COMPLAINTS

	Small Claims (a)	Forcible Detainer (b)	Other Civil (c)	TOTAL (d)
Pending 1st of Month	**61**	**15**	**220**	**296**
Filed	**8**	**8**	**28**	**44**
Transferred In	**0**	**0**	**0**	**0**
SUBTOTAL	**69**	**23**	**248**	**340**
Transferred Out	**0**	**0**	**0**	**0**
Other Terminations	**4**	**6**	**31**	**41**
TOTAL TERMINATIONS	**4**	**6**	**31**	**41**
Statistical Correction	0	0	0	**0**
Pending End of Month	**65**	**17**	**217**	**299**

Small Claims Hearings Held/Defaults: **1**

Civil Court Trials Held: **8**

Small Claims Hearings Held/Defaults Before Volunteer Hearing Officer: **0**

Civil Jury Trials Held: **0**

DOMESTIC VIOLENCE/HARASSMENT PETITIONS

	Filed	Order Issued	Petition Denied	TOTAL TERM.
Domestic Violence	**8**	**9**	**0**	**9**
Harassment	**6**	**5**	**1**	**6**

HEARINGS HELD TO REVOKE OR MODIFY ORDER OF PROTECTION INJUNCTION AGAINST HARASSMENT

Order of Protection: **1**

Injunction Against: **0**

SPECIAL PROCEEDINGS/ACTIVITIES

Peace Bond Complaints Filed: **0**

Fugitive Complaints Filed: **0**

Juvenile Hearings Held: **0**

Search Warrants Issued: **6**

LIMITED JURISDICTION COURTS MONTHLY STATISTICAL REPORT

Page 4 Processing

Court ID: 404

County: PAYSON REGIONAL JUSTICE COURT

Report Month/Year: October 2011

WARRANTS OUTSTANDING

TRAFFIC WARRANTS OUTSTANDING

D.U.I.	**171**
Serious Violations	**10**
All Other Violations	**552**
TRAFFIC TOTAL	**733**

CRIMINAL WARRANTS OUTSTANDING

Felony	**140**
Misdemeanor	**781**
CRIMINAL TOTAL	**921**

MAIL BY THE 20TH WORKING DAY OF MONTH:

Arizona Supreme Court
Administrative Office of the Courts
1501 W. Washington St., Suite 410
Phoenix, AZ 85007-3327

ATTN: Research/Statistics Unit
(602) 542-9376

Signature of the Judge/Magistrate (or designee)

Dorothy A. Little
Name of Preparer

11-17-11
Date of Preparation

PAYSON JUSTICE COURT TREASURER'S RECAP FY2012

OCTOBER, 2011 FUND NAME	AZTEC CODE	ACCOUNT CODE	ACCOUNT CODE	TOTAL AMOUNT ALLOCATED	5% FILL THE GAP SET ASIDE	ADJUSTED BALANCE
Alternative Dispute Resolution	ZADR		T848-2061	$ 61.94	$ 3.10	$ 58.84
Arson Detection Reward Fund 41-2167D	ZADRF		T901-2061	$ -	$ -	$ -
Attorney Fee Reimbursement	ZATT	1005.314-3350.00	X10501314004429	$ 50.00		$ 50.00
Confidential Address Assessment - State Treasurer	ZCAA1			$ -	$ -	$ -
Confidential Address Assessment - Local	ZCAA2			$ -	$ -	$ -
Citizens Clean Elections	ZCEF		T888-2061	$ 1,250.59		$ 1,250.59
Criminal Justice Enhancement 67%	ZCJEF		T812-2061	$ 5,877.06	$ 293.85	$ 5,583.21
Defensive Driving Diversion Fee	ZDDS	1005.314-3400.90	X105-4609	$ 3,500.00	$ 175.00	$ 3,325.00
DNA State Surcharge 3% 12-116.01C	ZDNAS		T872-2061	$ 835.96	$ 41.80	$ 794.16
Elected Officials Retirement Fund 15.30%	ZEORF		T801-2061	$ 463.11	$ 23.16	$ 439.95
Base Fees (General Fund)	ZFEE	1005.314-3400.15	X105-4615	$ 1,301.04	$ 65.05	$ 1,235.99
Forensic Investigation Fund	ZFIF			$ -	$ -	$ -
Base Fines (General Fund)	ZFINE	1005.314-3510.10	X105-4831	$ 11,265.35	$ 563.27	$ 10,702.08
Fill the Gap Surcharge 7%	ZFTGS		T870-2061	$ 875.44	$ 43.77	$ 831.67
Failure To Pay Warrant Surcharge 10%	ZFTPS	1005.314.3400.17	X10501314004861	$ -	$ -	$ -
Extra DUI Assessment $500	ZGFDU		T912-2061	$ 3,451.32	$ 172.57	$ 3,278.75
Judicial Collection Enhancement $7	ZJCL	4741.314-3400.15	X36001314004615	$ 469.00		$ 469.00
Judicial Collection Enhancement Local %	ZJCLF	4741.314-3400.15	X36001314004615	$ 206.03	$ 10.30	$ 195.73
Judicial Collection Enhancement $13	ZJCS		T818-2061	$ 871.00		$ 871.00
Judicial Collection Enhancement %PC	ZJCSF		T840-2061	$ 471.51	$ 23.58	$ 447.93
Jail (Incarceration) Fees	ZJF	1005.300-3405.40	X10502340004651	$ 853.59		$ 853.59
Local Costs	ZLCL	1005.314-3510.10	X105-4831	$ -	$ -	$ -
Administrative Costs	ZMISC	1005.314-3400.99	X105-4886	$ 694.37	$ 34.72	$ 659.65
Medical Services Enhancement 13%	ZMSEF		T813-2061	$ 1,625.69	$ 81.28	$ 1,544.41
2011 Additional Assessment - State Treasurer	ZOS1		T930-2061	$ 794.54	$ 39.73	$ 754.81
2011 Additional Assessment - County Treasurer	ZOS2		T931-2061	$ 99.32	$ 4.97	$ 94.35
Officer Safety Equipment - City Police (CP)	ZOS3			$ -	$ -	$ -
Officer Safety Equipment - Sheriff (SHF)	ZOS4		T933-2061	$ 174.82	$ 8.74	$ 166.08
Officer Safety Equipment - DPS (DPS)	ZOS5		T934-2061	$ 218.46	$ 10.92	$ 207.54
Officer Safety Equipment - MVD/ADOT (MVD)	ZOS6			$ -	$ -	$ -
Officer Safety Equipment - Game and Fish (GF)	ZOS7		T936-2061	$ 4.00	$ 0.20	$ 3.80
Officer Safety - Registrar of Contractors (ZRCA)	ZOS8			$ -	$ -	$ -
Officer Safety Equipment - Animal Control (AC)	ZOS10			$ -	$ -	$ -
Officer Safety - Tonto Apache Police (TAR)	ZOS14			$ -	$ -	$ -
Overpayment Forfeited	ZOVF	1005.314-3510.10	X105-4831	$ -	$ -	$ -
Adult Probation Fee	ZPBA	4042.335-3405.30	X25001335-4835	$ -	$ -	$ -
Probation Surcharge 2006 ($10.00)	ZPRS6		T871-2061	$ 175.82	$ 8.79	$ 167.03
Probation Surcharge 2009 ($20.00)	ZPRS9		T871-2061	$ 2,768.57	$ 138.43	$ 2,630.14
Probation Surcharge $5.00	ZPRSU		T871-2061	$ 10.00	$ 0.50	$ 9.50
Reimbursement to County Attorney 60%	ZREIM	3544.301-3400.11	X18201301004620	$ 1,486.90		$ 1,486.90
Reimbursement to Superior Court 40%	ZREIM	4574.333-3400.16	X226333004864	$ 991.26		$ 991.26
Security Enhancement Fee (Local)	ZSECE			$ -	$ -	$ -
Warrant Fee (Local)	ZWAR	1005.314-3510.10	X105-4831	$ 60.00	$ 3.00	$ 57.00
AZ Native Plant Fund	ZANP		STATE	$ -	$ -	$ -
Bulk Merchandise Civil Penalty	ZBULK		STATE	$ -	$ -	$ -
Child Passenger Restraint	ZCPRF		STATE	$ -	$ -	$ -
Drug and Gang Enforcement Fines	ZDECJ		STATE	$ 1,046.05	$ 52.30	$ 993.75
DUI Abatement	ZDUIA		STATE	$ -	$ -	$ -
Domestic Violence Shelter Fund	ZDVSF		STATE	$ -	$ -	$ -
FARE Special Collection Fee 19%	ZFAR1		STATE	$ 1,480.84		$ 1,480.84
FARE Delinquency Fee $35.00	ZFAR2		STATE	$ 1,028.99		$ 1,028.99
Game and Fish - Wildlife	ZGF		STATE	$ 8.28	$ 0.41	$ 7.87
HURF 1 28-5438, 2533C	ZHRF1		STATE	$ -	$ -	$ -
HURF 3 28-5433C, 4139	ZHRF3		STATE	$ -	$ -	$ -
HURF - to DPS	ZHRFD		STATE	$ -	$ -	$ -
Prison Construction Fund	ZPCOF		STATE	$ 3,182.42	$ 159.12	$ 3,023.30
Registrar of Contractors	ZRCA		STATE	$ -	$ -	$ -
State Highway Fund	ZSHWY		STATE	$ -	$ -	$ -
State Highway Work Zone Fund	ZSHWZ		STATE	$ -	$ -	$ -
Display Suspended Plates (DPS)	ZSLPD		STATE	$ -	$ -	$ -
State Photo Enforcement Base Fine	ZSPBF		STATE	$ -	$ -	$ -
State Photo Enforcement Clean Election Surcharge	ZSPCE		STATE	$ -	$ -	$ -
Bad Check Program - County Attorney	ZBAD		COUNTY ATTY	$ 50.00		$ 50.00
HURF - to Sheriff's Office 28-5533G	ZHRFS		SHERIFF	$ -	$ -	$ -
Display Suspended Plates (Sheriff's Office)	ZSLPS		SHERIFF	$ 122.01	$ 6.10	$ 115.91
HURF - to City Police	ZHRFC		CITY POLICE	$ -	$ -	$ -
Display Suspended Plates (City Police)	ZSLPC		CITY POLICE	$ 8.83	$ 0.44	$ 8.39
TOTALS				**$ 47,834.11**	**$ 1,965.10**	**$ 45,869.01**
			TOTAL ADJUSTED BALANCE VERIFICATION			**$ 45,869.01**

DATE	CHECK NO.	AMOUNT	MONTHLY REMITTANCE TO:
11/4/11	4487	**$ 41,125.06**	GILA COUNTY TREASURER
	4488	**$ 6,534.75**	ARIZONA STATE TREASURER
	4489	**$ 50.00**	GILA COUNTY BAD CHECK PROGRAM
	4490	**$ 115.91**	SHERIFF SUSPENDED PLATES AND HURF
	4491	**$ 8.39**	CITY POLICE SUSPENDED PLATES AND HURF
		$ 47,834.11	**TOTAL DISTRIBUTIONS THIS MONTH**

I, DOROTHY A. LITTLE, Gila County Justice of the Peace, do hereby certify this is a true and correct copy of the funds collected by Payson Justice Court for OCTOBER, 2011.

_____

DOROTHY A. LITTLE
Gila County Justice of the Peace

ARF-972 **4- J**

Regular BOS Meeting

Meeting Date: 12/06/2011

Reporting Period: Globe Regional Justice of the Peace's Office October 2011 Monthly Reports

Submitted For: Mary Navarro

Submitted By: Mary Navarro, Justice Court Operations Mgr, Superior Court

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Information

Subject

Globe Regional Justice of the Peace's Office October 2011 Monthly Reports

Suggested Motion

Approval of the October 2011 monthly activity reports submitted by the Globe Regional Justice of the Peace's Office.

Attachments

Globe Regional Justice Court report for October 2011

Globe Regional Justice Court monthly report for October, 2011

Globe Regional Justice Court monthly report for October, 2011

GLOBE JUSTICE COURT TREASURER'S RECAP FY2012

OCTOBER, 2011 FUND NAME	AZTEC CODE	ACCOUNT CODE	ACCOUNT CODE	TOTAL AMOUNT ALLOCATED	5% FILL THE GAP SET ASIDE	ADJUSTED BALANCE
Bulk Merchandise Civil Penalty	ZBULK		STATE	$ -	$ -	$ -
Child Passenger Restraint	ZCPRF		STATE	$ 117.38	$ 5.87	$ 111.51
Drug and Gang Enforcement Fines	ZDECJ		STATE	$ 279.50	$ 13.98	$ 265.52
Domestic Violence Shelter Fund	ZDVSF		STATE	$ -	$ -	$ -
FARE Special Collection Fee 19%	ZFAR1		STATE	$ 1,065.97		$ 1,065.97
FARE Delinquency Fee $35.00	ZFAR2		STATE	$ 1,024.29		$ 1,024.29
Game and Fish - Wildlife	ZGF		STATE	$ 5.43	$ 0.28	$ 5.15
Extra DUI Assessment $500	ZGFDU		STATE	$ 3,108.01	$ 155.41	$ 2,952.60
HURF 1 28-5438, 2533C	ZHRF1		STATE	$ -	$ -	$ -
HURF 3 28-5433C, 4139	ZHRF3		STATE	$ -	$ -	$ -
HURF - to DPS	ZHRFD		STATE	$ -	$ -	$ -
Registrar of Contractors	ZRCA		STATE	$ -	$ -	$ -
Display Suspended Plates (DPS)	ZSLPD		STATE	$ 266.62	$ 13.34	$ 253.28
State Photo Enforcement Base Fine	ZSPBF		STATE	$ -	$ -	$ -
State Photo Enforcement Clean Election Surcharge	ZSPCE		STATE	$ -	$ -	$ -
Alternative Dispute Resolution	ZADR		T848-2061	$ 35.18	$ 1.76	$ 33.42
Arson Detection Reward Fund 41-2167D	ZADRF		T901-2061	$ -	$ -	$ -
Confidential Address Assessment - State Treasurer	ZCAA1			$ -	$ -	$ -
Confidential Address Assessment - Local	ZCAA2			$ -	$ -	$ -
Citizens Clean Elections	ZCEF		T888-2061	$ 1,280.95		$ 1,280.95
Criminal Justice Enhancement 67%	ZCJEF		T812-2061	$ 6,517.90	$ 325.90	$ 6,192.00
Defensive Driving Diversion Fee	ZDDS	1005.311-3510.10	X105-4831	$ 980.00	$ 49.00	$ 931.00
DNA State Surcharge 3% 12-116.01C	ZDNAS		T872-2061	$ 798.38	$ 39.92	$ 758.46
DUI Abatement	ZDUIA		T889-2061	$ 101.88	$ 5.10	$ 96.78
Elected Officials Retirement Fund 15.30%	ZEORF		T801-2061	$ 262.74	$ 13.14	$ 249.60
Extra Adult Probation Assessment	ZEXAP	4042.335-3405.30	X25001335-4835	$ 9.92	$ 0.50	$ 9.42
Base Fees (General Fund)	ZFEE	1005.311-3400.15	X105-4615	$ 827.99	$ 41.40	$ 786.59
Forensic Investigation Fund	ZFIF			$ -	$ -	$ -
Base Fines (General Fund)	ZFINE	1005.311-3510.10	X105-4831	$ 13,828.61	$ 691.44	$ 13,137.17
Fill the Gap Surcharge 7%	ZFTGS		T870-2061	$ 894.21	$ 44.72	$ 849.49
Failure To Pay Warrant Surcharge 10%	ZFTPS	1005.311.3400.17	X10501311-4861	$ 21.90	$ 1.10	$ 20.80
HURF - to Sheriff's Office 28-5533G	ZHRFS	1005.300-3400.15	X1050234-4615	$ -	$ -	$ -
Judicial Collection Enhancement $7	ZJCL	4740.311-3400.15	X357-4615	$ 859.41		$ 859.41
Judicial Collection Enhancement Local %	ZJCLF	1005.311-3400.15	X105-4615	$ 116.90	$ 5.85	$ 111.05
Judicial Collection Enhancement $13	ZJCS		T840-2061	$ 1,602.29		$ 1,602.29
Judicial Collection Enhancement %PC	ZJCSF		T840-2061	$ 267.53	$ 13.38	$ 254.15
Jail (Incarceration) Fees	ZJF	1005.300-3405.40	X10502442-4651	$ 2,090.71		$ 2,090.71
Local Costs	ZLCL1-5	1005.311-3400.10	X105-4450	$ 115.00	$ 5.75	$ 109.25
Cost of Prosecution Reimbursement 60%	ZLCL6	3544.301-3360.50	X182-4620	$ 35.38		$ 35.38
Cost of Prosecution Reimbursement 40%	ZLCL6	4574.333-3400.16	X22601333-4864	$ 23.58		$ 23.58
County Attorney Bad Check Program	ZLCL7	3545.301-3360.50	X183-4620	$ 25.00	$ 1.25	$ 23.75
Miscellaneous Fees - Local	ZMISC	1005.311-3400.15	X105-4615	$ 206.66	$ 10.34	$ 196.32
Medical Services Enhancement 13%	ZMSEF		T813-2061	$ 1,812.86	$ 90.65	$ 1,722.21
2011 Additional Assessment - State Treasurer	ZOS1		T930-2061	$ 1,234.01	$ 61.71	$ 1,172.30
2011 Additional Assessment - County Treasurer	ZOS2		T931-2061	$ 154.25	$ 7.72	$ 146.53
Officer Safety Equipment - City Police - Globe (CP)	ZOS3		T932-2061	$ 12.00	$ 0.60	$ 11.40
Officer Safety Equipment - Sheriff (SHF)	ZOS4		T933-2061	$ 49.11	$ 2.46	$ 46.65
Officer Safety Equipment - DPS (DPS)	ZOS5		T934-2061	$ 543.92	$ 27.20	$ 516.72
Officer Safety Equipment - MVD/ADOT (MVD)	ZOS6		T935-2061	$ -	$ -	$ -
Officer Safety Equipment - Game and Fish (GF)	ZOS7		T936-2061	$ 8.00	$ 0.40	$ 7.60
Officer Safety - Registrar of Contractors (ROFC)	ZOS8		T937-2061	$ -	$ -	$ -
Officer Safety Equipment - Globe Fire (FD)	ZOS13		T938-2061	$ -	$ -	$ -
Arizona Department of Insurance (ADOI)	ZOS15		T939-2061	$ -	$ -	$ -
Officer Safety Equipment - Miami Police Dept. (MPD)	ZOS16		T940-2061	$ -	$ -	$ -
Health and Human Services (HHS)	ZOS17		T941-2061	$ -	$ -	$ -
Gila County Animal Control (R)	ZOS18		T942-2061	$ -	$ -	$ -
Officer Safety - San Carlos Tribal Police (SCPD)	ZOS19		T943-2061	$ 4.00	$ 0.20	$ 3.80
TriCity Fire Department (TRIFI)	ZOS20		T944-2061	$ -	$ -	$ -
San Carlos Game and Fish (SCGF)	ZOS23		T945-2061	$ -	$ -	$ -
Officer Safety Equip. - Hayden Police Dept. (HPD)	ZOS24		T946-2061	$ -	$ -	$ -
Arizona Department of Liquor (ADL)	ZOS25		T947-2061	$ -	$ -	$ -
Overpayment Forfeited	ZOVF	1005.311.3510.10	X105-4831	$ 4.22	$ 0.22	$ 4.00
Adult Probation Fee	ZPBA	4042.335-3405.30	X25001335-4835	$ 72.89	$ 3.65	$ 69.24
Prison Construction Fund	ZPCOF		T908-2061	$ 2,573.03	$ 128.66	$ 2,444.37
Probation Surcharge 2006 ($10.00)	ZPRS6		T871-2061	$ 150.83	$ 7.54	$ 143.29
Probation Surcharge 2009 ($20.00)	ZPRS9		T871-2061	$ 4,309.01	$ 215.45	$ 4,093.56
Probation Surcharge $5.00	ZPRSU		T871-2061	$ 69.66	$ 3.49	$ 66.17
Public Defender Fees	ZPUBZ	1005.345-3350.00	X105-4429	$ 312.98		$ 312.98
Reimbursement to County Attorney 60%	ZREIM	3544.301.3360.50	X182-4620	$ 3,552.30		$ 3,552.30
Reimbursement to County Attorney 40%	ZREIM	4574.333.3400.16	X22601333-4864	$ 2,368.19		$ 2,368.19
Security Enhancement Fee	ZSECE			$ -	$ -	$ -
State Highway Fund	ZSHWY			$ -	$ -	$ -
State Highway Work Zone Fund	ZSHWZ		T855-2061	$ -	$ -	$ -
Display Suspended Plates (Sheriff's Office)	ZSLPS	1005.300-3510.10	X105-4264	$ -	$ -	$ -

GLOBE JUSTICE COURT TREASURER'S RECAP FY2012

OCTOBER, 2011 FUND NAME	AZTEC CODE	ACCOUNT CODE	ACCOUNT CODE	TOTAL AMOUNT ALLOCATED	5% FILL THE GAP SET ASIDE	ADJUSTED BALANCE
Victims Assistance Fund	ZVAF		T814-2061	$ -	$ -	$ -
Local Warrant Fee	ZWAR			$ -	$ -	$ -
DARE - Sheriff's Office	ZDASO		SHERIFF D.A.R.E	$ -	$ -	$ -
HURF - to City Police	ZHRFC		CITY POLICE	$ -	$ -	$ -
Display Suspended Plates (City Police)	ZSLPC		CITY POLICE	$ -	$ -	$ -
TOTALS				$ 54,000.58	$ 1,989.38	$ 52,011.20
				TOTAL ADJUSTED BALANCE VERIFICATION		$ 52,011.20
				TOTAL RESTITUTION RECEIVED		$ 2,707.57
				TOTAL RECEIPTS THIS MONTH		$ 56,708.15

DATE	CHECK NO.	AMOUNT	MONTHLY REMITTANCE TO:
11/16/2011	6125	$ 5,678.32	ARIZONA STATE TREASURER
11/16/2011	6126	$ 48,322.26	GILA COUNTY TREASURER
		$ -	GILA COUNTY SHERIFF D.A.R.E.
		$ -	CITY POLICE SUSPENDED PLATES
		$ 54,000.58	TOTAL DISTRIBUTIONS THIS MONTH

I, Gary Goetteman, Justice of the Peace for the Globe Regional Justice Court, do hereby certify to the best of my knowledge, information & belief that this is a true and correct account of funds collected by me for the month of October, 2011.

Justice of the Peace

Subscribed and Sworn to before me this 16th day of November, 2011.

Mary E. Mendez
Notary Public

My Commission Expires: 12-12-2011

OFFICIAL SEAL
MARY E. MENDEZ
NOTARY PUBLIC - State of Arizona
GILA COUNTY
My Comm. Expires Dec. 12, 2011

GLOBE REGIONAL JUSTICE COURT
MONTHLY TRUST REPORT

For the Month of: Oct., 2011

BONDS

BALANCE AT THE BEGINNING OF THE MONTH	**$19,941.46**
RECEIVED DURING THE MONTH	**$13,443.32**
DISBURSED DURING THE MONTH	**$18,867.56**
BALANCE AT THE END OF THE MONTH	**$14,517.22**

Justice of the Peace/Court Admin.

*Auditor General: Monthly trust report-summarize the courts bond and deposit transactions - although bond and deposit monies remain in the court bonds account, it must be included in financial reports – the report must be filed with the county disbursement and it must indicate beginning balances, deposits, withdrawals and balances due.

ARF-958 **4- K**

Regular BOS Meeting

Meeting Date: 12/06/2011

Reporting Period: Human Resources weekly reports for the month of November 2011.

Submitted For: Berthan DeNero

Submitted By: Erica Raymond, Human Resources Assistant, Human Resources

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Information

Subject

Human Resources weekly reports for the month of November 2011.

Suggested Motion

Acknowledgement of the Human Resources weekly reports for all personnel action items approved by the County Manager for the month of November 2011, as follows: November 1, 2011, November 8, 2011, November 15, 2011, November 22, 2011, and November 29, 2011.

Attachments

11/1/11 Human Resources Agenda

11/8/11 Human Resources Agenda

11/15/11 Human Resources Agenda

11/22/11 Human Resources Agenda

11/29/11 Human Resources Agenda

HUMAN RESOURCES ACTION ITEMS
NOVEMBER 1, 2011

DEPARTURES FROM COUNTY SERVICE:

1. Tayari Coatie-Flemming – Probation – Juvenile Detention Officer – 10/24/11 – General Fund – DOH 10/24/11 – Declined Position

HIRES TO COUNTY SERVICE

2. Marianne Catherine Seligman – Recorder's Office – Recorder's Clerk – 11/07/11 – General Fund – Replacing Charlotte Williams
3. Debra Kay French – Recorder's Office – Recorder's Clerk – 11/07/11 – General Fund – Replacing Tambra Armenta
4. Kevin Kittle – Probation – Juvenile Detention Officer – 11/07/11 – General Fund – Replacing Tayari Coatie-Flemming
5. Kimberly Sue Blaine – Health and Emergency Services – Administrative Clerk – 11/03/11 – WIC Fund – Replacing Denise Hanson

TEMPORARY HIRES TO COUNTY SERVICE:

6. Ruben Garcia – Community Services – Temporary Community Services Worker – 11/07/11 – GEST Fund
7. Joy Powell – Community Services – Temporary Community Services Worker – 11/07/11 – GEST Fund

DEPARTMENTAL TRANSFERS:

8. Debra Gildersleeve – Probation – From Administrative Clerk Senior – To Probation Aide – 10/24/11 – Various Funds
9. Charlotte Williams – Recorder's Office – From Recorder's Clerk – To Recorder's Clerk Senior – 09/26/11 – General Fund
10. Diana Jones – From Public Works – To Finance – Management Analyst – 07/04/11 – From Various Funds – To General Fund

END PROBATIONARY PERIOD:

11. Doris Root – Community Services – Community Services Worker – 10/11/11 – GEST Fund
12. Helene Lopez – Community Services – Community Services Worker – 11/23/11 – GEST Fund

REQUEST PERMISSION TO POST:

13. Public Works Facilities and Land Management – Administrative Clerk Specialist – Vacated by Larry Dooly – Date Vacated 11/07/11 – Waiver of 120 Day Hiring Freeze approved 10/17/11
14. Health Services – Accounting Clerk – Vacated by Renee Omstead – Date Vacated 06/17/11
15. Health Services – Administrative Clerk Sr. – Vacated by Sharon Caridi – Date Vacated 09/23/11 – Waiver of 120 Day Hiring Freeze approved 09/19/11
16. Community Services – Community Services Worker – New Position

SHERIFF'S PERSONNEL ACTION ITEMS

DEPARTURES FROM COUNTY SERVICE:

17. Melody Schneider – Sheriff's Office – Detention Officer – 10/18/11 – General Fund – DOH 12/20/10 – Unsuccessful completion of probationary period
18. Casper Taki – Sheriff's Office – Detention Officer – 10/28/11 – General Fund – DOH 07/05/11 - Resignation

HIRES TO COUNTY SERVICE:

19. Richard K. Claydon – Sheriff's Office – Detention Officer – 11/07/11 – General Fund – Replacing John Rittenbach

HUMAN RESOURCES ACTION ITEMS
NOVEMBER 8, 2011

DEPARTURES FROM COUNTY SERVICE:

1. Ruben Garcia – Community Services – Community Services Worker – 11/07/11 – GEST Fund – DOH 11/07/11 – Employment Offer Rescinded
2. Joy Powell – Community Services – Community Services Worker – 11/07/11 – GEST Fund – DOH 11/07/11 – Employment Offer Rescinded
3. Mellie Marin – Probation – Juvenile Detention Officer – 10/26/11 – General Fund – DOH 09/18/06 – Resignation
4. Arthur Alvarado – Public Works – Road Maintenance/Equipment Operator – 10/27/11 – Public Works Fund – DOH 11/14/05 – Resignation
5. Eduard J. Gonzales – BOS – Temporary Laborer – 10/14/11 – Constituent Services II Fund – DOH 07/05/11 – Temporary employment ended
6. Justin P. Flores – BOS – Temporary Laborer – 10/14/11 – Constituent Services II Fund – DOH 07/05/11 – Temporary employment ended
7. Archie Speer – Public Works – Temporary Operator Loader – 10/24/11 – Public Works Fund – DOH 03/07/11 – Temporary employment ended
8. Mark A. Guerena – Public Works – Temporary Engineering Technician – 08/05/11 – Public Works Fund – DOH 05/23/11 – Temporary employment ended
9. Samuel Leverance – Public Works – Temporary Surveyor Assistant – 10/24/11 – Public Works Fund – DOH 06/01/09 – Temporary employment ended

HIRES TO COUNTY SERVICE

10. Jessica Alexander – Health and Emergency Services – Community Health Assistant – 11/14/11 – Health Start Program Fund – Replacing Kasey Jankowski

TEMPORARY HIRES TO COUNTY SERVICE:

11. Travis Shields – Superior Court General – Temporary Bailiff – 10/26/11 – General Fund

DEPARTMENTAL TRANSFERS:

12. Nicholas Montague – From Community Services – To Finance – From Accountant – To Accountant Sr. – 11/07/11 – From Various Funds – To General Fund

END PROBATIONARY PERIOD:

13. Leslie Mora – Health/WIC – Community Health Assistant – 10/25/11 – Various Funds

SHERIFF'S PERSONNEL ACTION ITEMS

DEPARTURES FROM COUNTY SERVICE:

14. David W. Luhm – Sheriff's Office – IT Administrator and Support Senior – 10/14/11 – General Fund – DOH 02/07/00 – Resignation
15. Jane E. Holst – Sheriff's Office – Detention Officer – 10/25/11 – General Fund – DOH 03/03/08 - Deceased

PERSONNEL ACTION ITEMS
NOVEMBER 15, 2011

HIRES TO COUNTY SERVICE:

1. Emelle Silvers – Probation – Juvenile Detention Officer – 11/17/11 – General Fund – Replacing Mellie Marin
2. Julie Anderson – Recorder – Voter Outreach Assistant – 10/24/11 – General Fund – Replacing Vino Burnette
3. Peter Poarch – Recorder – Recorder Clerk – 11/07/11 – General Fund – Replacing Teri Berumen
4. Barbara Quiroz-Garcia – Health and Emergency Services – Community Health Assistant Part Time – 11/17/11 – 94% Health Fund/6% Commodity Supplement Food Program – Replacing Charlene Becker

VOLUNTEERS:

5. Miriam Jones – Globe Regional Justice Court – Volunteer – 09/22/11
6. Travis Badgett – Globe Regional Justice Court – Volunteer – 10/02/11

POSITION REVIEW:

7. John Perez – Public Works – Building Maintenance Technician Senior – 10/24/11 – From Sheriff Facilities Fund To Facilities Fund
8. William McDaniel – Public Works – Building Maintenance Technician Senior – 10/24/11 – From Facilities Fund – To Sheriff Facility Fund

REQUEST PERMISSION TO POST:

9. Health and Emergency Services – Animal Control Worker – Vacated by Amber Martinez

SHERIFF'S PERSONNEL ACTION ITEMS

HIRES TO COUNTY SERVICE:

10. Peter Beesley – Sheriff's Office – Detention Officer – 11/21/11 – General Fund – Replacing Yvonne Alvarez

END PROBATIONARY PERIOD:

11. Cynthia Claydon – Sheriff's Office – Detention Officer – 11/22/11 – General Fund
12. Ruben Duarte – Sheriff's Office – Detention Officer – 11/22/11 – General Fund

HUMAN RESOURCES ACTION ITEMS
NOVEMBER 22, 2011

DEPARTURES FROM COUNTY SERVICE:

1. Cheryl Hale – Recorder's Office – Recorder's Clerk – 10/07/11 – General Fund – DOH 08/16/11 – Resignation

TEMPORARY HIRES TO COUNTY SERVICE:

2. Manuel Rodriguez – BOS – Temporary Laborer – 11/14/11 – Constituent Services II Fund

POSITION REVIEW:

3. Lisa Wilckens – Assessor's Office – From Property Appraiser – To Property Appraiser 1 – 10/14/11 – General Fund

REQUEST PERMISSION TO POST:

4. Health and Emergency Services – Administrative Clerk Senior – Vacated by Brenda Chris Kell – Date Vacated 09/06/11

SHERIFF'S PERSONNEL ACTION ITEMS

POSITION REVIEW:

5. Gary Allan Eggert – Sheriff's Office – Deputy Sheriff – 11/03/11 – General Fund – Housing Allowance Allotment

HUMAN RESOURCES ACTION ITEMS
NOVEMBER 29, 2011

DEPARTURES FROM COUNTY SERVICE:

1. Gaila D. Curry – Superior Court Division I – Judicial Assistant – 11/10/11 – General Fund – DOH 01/02/03 – Retirement

HIRES TO COUNTY SERVICE:

2. Amber Martinez – Health and Emergency Services – Animal Regulations Enforcement Officer – 12/12/11 – Rabies Control Fund – Replacing Devin Chavez
3. Kenneth Wortman – County Attorney – Detective – 12/12/11 – Cost of Prosecution Fund – Replacing Carlos Mejia

END OF PROBATION:

4. Denise Hansen – Emergency Management – Administrative Clerk Sr. – 12/08/11 – General Fund
5. Brenda Cova – Probation – Administrative Clerk Sr. – 11/9/11 – State Aid Enhancement Fund
6. Jessica Ortega – Probation – Juvenile Detention Shift Supervisor – 11/23/11 – General Fund

POSITION REVIEW:

7. Joe Mendoza – Community Development – From Deputy Director/Chief Building Official – To Chief Building Official – General Fund – Change in title
8. Michael Lorka – Probation – Juvenile Detention Officer – 12/05/11 – General Fund – Change in position control number
9. Melanie Howell – County Attorney – From Legal Secretary – To Legal Secretary Sr. – General Fund – Promotion Plan, has completed four years of Legal Secretary work

SHERIFF'S PERSONNEL ACTION ITEMS

TEMPORARY HIRES TO COUNTY SERVICE:

10. William J. Newman – Sheriff's Office – Emergency Response – 09/25/11 – General Fund
11. William Keagle – Sheriff's Office – Emergency Response – 09/25/11 – General Fund
12. Arthur J. Wilder – Sheriff's Office – Emergency Response – 09/25/11 – General Fund

END PROBATIONARY PERIOD:

13. Marcus J. Teague, Jr. – Sheriff's Office – Property and Evidence Custodian – 11/22/11 – General Fund
14. Kace T. Loya – Sheriff's Office – Detention Officer – 11/22/11 – General Fund

ARF-981 **4- L**

Regular BOS Meeting

Meeting Date: 12/06/2011

Reporting Period: Report for Approved Contracts Under $50,000 for weeks ending November 11, 2011, November 18, 2011, and November 25, 2011

Submitted For: Joseph Heatherly **Submitted By:** Valrie Bejarano, Contracts Support Specialist, Finance Department

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Information

Subject

Report for approved contracts under $50,000 for weeks ending November 11, 2011, November 18, 2011, and November 25, 2011.

Suggested Motion

Acknowledgment of contracts under $50,000 which have been approved by the County Manager for weeks of:
November 5, 2011, through November 11, 2011
November 12, 2011, through November 18, 2011
November 19, 2011 through November 25, 2011

Attachments

Contract 110711 Traffic Safety Inc.

Contract 110311 ALT Inc.

6880.102/4-2011 Moonlite Contract Amendment #1

Contract 103111 Glass Masters

Contract 110411 Linda Koury

Interlock Agreement Town of Payson

Copier AR-161 Maintenance Agreement

Sublime Software Maintenance Agreement

Public Fiduciary Attorney Service Contract Amendment #1

Prints for AZ Revised Statues for BOS

County Manager Approved Contracts Under $50K for Weeks 11-11-11, 11-18-11, 11-25-11

Tommie C. Martin, District I
P.O. Box 2297 Payson, AZ. 85547
(928) 474-2029

Michael A. Pastor, District II
1400 E. Ash St. Globe, AZ. 85501
(928) 425-3231 Ext. 8753

Shirley L. Dawson, District III
1400 E. Ash St. Globe, AZ. 85501
(928) 425-3231 Ext. 8511

GILA COUNTY
www.gilacountyaz.gov

Don E. McDaniel Jr., County Manager
Phone (928) 425-3231 Ext.8761

Joseph T. Heatherly, Finance Director
Phone (928) 425-3231 Ext. 8743

FAX (928) 425-0319
TTY: 7-1-1

SERVICE AGREEMENT NO. 110711

HOUSTON MESA ROAD STRIPING

THIS AGREEMENT, made and entered into this 10th day of November, **2011**, by and between the Gila County Board of Supervisors, a political subdivision of the State of Arizona, hereinafter designated the County, and Traffic Safety Inc., of the City of Prescott Valley, State of Arizona, hereinafter designated the Contractor.

WITNESSETH: The Contractor, for and in consideration of the sum to be paid him by the County, in the manner and at the time hereinafter provided, and of the other covenants and agreement's herein contained, hereby agrees, for himself, his heirs, administrators, successors, and assigns as follows:

ARTICLE I – SCOPE OF SERVICES: The Contractor shall provide for the complete provision in the scope of work below of the Houston Mesa Road Striping Project in a good and workmanlike and substantial manner and to the satisfaction of the County under the direction of the Gila County Engineering Department or designee.

Houston Mesa Road is located at the north end of Payson and begins at State Route 87.

Contractor shall stripe the road with a 4" wide painted double yellow strip with beads on centerline and 4" wide painted white edge lines with beads.

The length along centerline is 7 miles or 37,000 feet. The total linear feet of yellow paint will be 74,000. The total linear feet of white paint will be 74,000.

The County will sweep the road prior to striping and provide any necessary traffic control during the project.

Project must be completed no later than November 18, 2011.

Contractor Fee

Item Description	Unit	Quantity	Price	Total
Yellow 4" Striping	LF	74,000	$ 0.065	$ 4,810.00
White 4" Striping	LF	74,000	$ 0.065	$ 4,810.00
				$ 9,620.00

ARTICLE II – TERMINATION: The County reserves the right to terminate the Contract, in whole or in part at any time, when in the best interest of the County, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work as directed in the notice.

ARTICLE III - INDEMNIFICATION: Contractor shall indemnify, defend, save and hold harmless the County of Gila and its 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 Contractor or any of its owners, officers, directors, agents, employees or subcontractors. 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 Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the County, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the County.

ARTICLE IV – INSURANCE REQUIREMENTS: Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The County in no way warrants that the minimum limits contained herein are sufficient to protect the 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 is free to purchase additional insurance as may be determined necessary.

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 and broad form contractual liability coverage.

- General Aggregate $2,000,000
- Products – Completed Operations Aggregate $1,000,000
- Personal and Advertising Injury $1,000,000
- Each Occurrence $1,000,000

a. The policy shall be endorsed to include the following additional insured language: **"The County of Gila shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor".**

2. **Worker's Compensation and Employers' Liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	$100,000
Disease – Each Employee	$100,000
Disease – Policy Limit	$500,000

a. Policy shall contain a **waiver of subrogation** against the County of Gila.

3. **Automobile Liability**

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) $1,000,000

a. The policy shall be endorsed to include the following additional insured language: **"The County of Gila shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including automobiles owned, leased, hired or borrowed by the Contractor".**

B. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, the following provisions:

1. On insurance policies where the County of Gila is named as an additional insured, the County of Gila shall be an additional insured 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.
2. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.
3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

C. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, reduced in coverage or endorsed to lower limits except after thirty (30) days prior written notice has been given to the County. Such notice shall be sent directly to **Gila County Procurement, 1400 E. Ash St., Globe, Arizona, 85501,** and shall be sent by certified mail, return receipt requested.

D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed or approved unlicensed companies in the state of Arizona and with an "A.M. Best" rating of not less than B+ VI. The County 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 County with certificates of insurance (ACORD form or equivalent approved by the County) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the County 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 **Gila County Procurement, 1400 E. Ash St., Globe, Arizona, 85501**. The County project/contract number and project description shall be noted on the certificate of insurance. The County reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

F. **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as additional insured's under its policies **or** Contractor shall furnish to the County separate certificates and endorsements for each subcontractor. All coverage's for subcontractors shall be subject to the minimum requirements identified above.

G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by the County Attorney, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

ARTICLE V – LEGAL ARIZONA WORKERS ACT COMPLIANCE: Contractor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Contractor's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Contractor shall further ensure that each subcontractor who performs any work for Contractor 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 Contractor and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of Contractor'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 Contractor 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, Contractor 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 Contractor approval if MWBE preferences apply) as soon as possible so as not to delay project completion.

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

ARTICLE VI – LAWS AND ORDINANCES: This agreement shall be enforced under the laws of the State of Arizona. Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Contractor. The Contractor shall comply with the applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the Act.

ARTICLE VII– ANTI-TERRORISM WARRANTY: Pursuant to A.R.S. §35-397 the Contractor 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.

ARTICLE VIII – CANCELLATION: This agreement is subject to cancellation pursuant to A.R.S. §38-511. If the Agreement is terminated, the county shall be liable only for payment for services rendered and accepted material received by the County before the effective date of termination.

ARTICLE IX – RELATIONSHIP OF THE PARTIES: Contractor is an independent contractor of the County. Contractor represents that he has or will secure, at his own expense, all personnel required in performing the services under this contract. Such personnel shall not be employees of or have any contractual relationship with the County. All personnel engaged in work under this contract shall be fully qualified and shall be authorized or permitted under State and local law to perform such services. Contractor warrants that he has obtained or will obtain Worker's Compensation Insurance for his employees working on this contract and that any subcontractors will likewise obtain Worker's Compensation Insurance for of their employees working on this contract. It is further agreed by Contractor that he shall obey all state and federal statutes, rules, and regulations which are applicable to provisions of the services called for herein. Neither Contractor nor any employee of the Contractor shall be deemed an officer, employee, or agent of the County.

ARTICLE X – NON-APPROPRIATIONS CLAUSE: Contractor acknowledges that the County is a governmental entity, and the contract validity is based upon the availability of public funding under its authority. In the event that public funds are unavailable and not appropriated for the performance of County's obligations under this contract, then this contract shall automatically expire without penalty to County after written notice to Contractor of the unavailability and non-appropriation of public funds. It is expressly agreed that the County shall only activate this non-appropriation provision as an emergency fiscal measure. The County shall not activate this non-appropriation provision for its convenience, to circumvent the requirements of this contract, or to enable the County to contract with another Contractor for the same supplies or services covered under this Addendum.

ARTICLE XI – ENTIRE CONTRACT CLAUSE: The Contractor and the County have read this Contract and agree to be bound by all of its terms, and further agree that it constitutes the entire contract between the two parties and may only be modified by a written mutual contract signed by the parties. No oral agreement or oral provision outside this Contract shall have any force or effect

ARTICLE XII – NON-WAIVER OF ENFORCEABILITY: Failure of the County to enforce, at any time, any of the provisions of this Contract, or to request at any time performance by Contractor of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions, nor in any way affect the validity of this contract or any part thereof, or the right of the County to enforce each and every provision

ARTICLE XIII – GOVERNING LAW: Both parties agree that this Contract shall be governed by the laws of the state of Arizona. The parties further agree that the jurisdiction for any legal disputes arising out of this Contract shall be the Superior Court of the State of Arizona. The parties agree that even if this Contract does not specifically reference any provision required by state or federal law, those state and federally required provisions are incorporated into this Contract by this reference as though they were specifically listed herein.

ARTICLE XIV– TERM: Contract shall be effective date signed by the County Manager and expires November 18, 2011

ARTICLE XV – PAYMENT/BILLING: All invoices shall be submitted to Gila County Accounts Payable, 1400 E. Ash St, Globe, Arizona and include the following information:

- Purchase Order Number
- Contract Number
- Invoice Number
- Service Location
- Vendor Name and Address
- Description of Service

Any alterations to the scope of work resulting in a change in cost must have prior written approval by the County. Any unauthorized work may result in non-payment to the vendor.

Gila County employs a "Net 15" payment term for services meaning the payment will be issued fifteen (15) days from the date the County receives the invoice from the Contractor. Purchase orders sent to the Contractor reflect these terms and conditions.

The Contractor shall have a current I.R.S. W-9 form on file with the County unless not required by law. The County shall not remit payment if the Contractor does not have a current W-9.

IN WITNESS WHEREOF, two (2) identical counterparts of this contract, each which shall include original signatures and for all purposes be deemed an original thereof, have been duly executed by the parties hereinabove named, on the date and year first above written.

In return for the performance of Contract No. 110711 by the Contractor, the County agrees to pay the amount of not more than **$ 9,620.00** including all applicable taxes through a payment schedule as described in the Contract documents and as may be modified and executed by change orders.

GILA COUNTY

_____

Don E. McDaniel Jr., County Manager

Date: _____

TRAFFIC SAFETY INC.

_____

Signature

_____

Print Name

Date: _____

IN WITNESS WHEREOF, two (2) identical counterparts of this contract, each which shall include original signatures and for all purposes be deemed an original thereof, have been duly executed by the parties hereinabove named, on the date and year first above written.

In return for the performance of Contract No. 110711 by the Contractor, the County agrees to pay the amount of not more than **$ 9,620.00** including all applicable taxes through a payment schedule as described in the Contract documents and as may be modified and executed by change orders.

GILA COUNTY

Don E. McDaniel Jr., County Manager

Date: 11/14/11

TRAFFIC SAFETY INC.

Signature

Russel Hardy

Print Name

Date: 11/9/2011

Tommie C. Martin, District I
P.O. Box 2297 Payson, AZ. 85547
(928) 474-2029

Michael A. Pastor, District II
1400 E. Ash St. Globe, AZ. 85501
(928) 425-3231 Ext. 8753

Shirley L. Dawson, District III
1400 E. Ash St. Globe, AZ. 85501
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GILA COUNTY
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Don E. McDaniel Jr., County Manager
Phone (928) 425-3231 Ext.8761

Joseph T. Heatherly, Finance Director
Phone (928) 425-3231 Ext. 8743

FAX (928) 425-0319
TTY: 7-1-1

SERVICE AGREEMENT NO. 110311

ROADYARD SHOP PAVING PROJECT
CONSTRUCTION MATERIAL TESTING

THIS AGREEMENT, made and entered into this 16th day of November, **2011**, by and between the Gila County Board of Supervisors, a political subdivision of the State of Arizona, hereinafter designated the County, and ATL, Inc., of the City of Phoenix, State of Arizona, hereinafter designated the Contractor.

WITNESSETH: The Contractor, for and in consideration of the sum to be paid him by the County, in the manner and at the time hereinafter provided, and of the other covenants and agreement's herein contained, hereby agrees, for himself, his heirs, administrators, successors, and assigns as follows:

ARTICLE I – SCOPE OF SERVICES: The Contractor shall provide for the complete provision in the scope of work below of the construction material testing for the Gila County Roadyard Shop Paving Project in a good and workmanlike and substantial manner and to the satisfaction of the County under the direction of the Public Works Project Manager or his designee.

The Contractor will provide all labor and equipment required to perform field and laboratory quality control services on the project. This will include part time P.E, part time Q.C. Supervisor, subgrade preparation, asphalt curb and gutter, testing/inspection and will be based on the requirements of the project specifications and the special provisions.

Additional Information:

- Contractor is an AASHTO Accredited Laboratory
- Contractor is certified as an MBE/DBE/SBE with city, county, and state agencies to provide construction management, construction specialty inspections, construction materials testing, and geotechnical engineering services.
- Contractor's Phoenix/Globe laboratory will be utilized for this project.

The Contractor will respond to any call-out in two (2) to four (4) hours. The time and cost required for quality control testing during construction of the project will be directly related to the Contractor's scheduling and production. The Contractor's fees for construction materials testing services will be based upon applicable unit prices.

Fee Information **(Invoicing based on a 2-hour minimum)**

Description	Units	Rates
Clerical	Hourly	$ 38.00
Construction Tech II (Soils, Aggregates, Concrete & Asphalt)	Hourly	$ 45.00
Construction Tech III (Soils, aggregates, concrete & Asphalt	Hourly	$ 52.00
Lead Construction Tech	Hourly	$ 58.00
Q.C. Supervisor	Hourly	$ 80.00
Professional Engineer	Hourly	$ 125.00
Project Manager	Hourly	$ 90.00
Staff Engineer	Hourly	$ 70.00
Q.C. Reports	Weekly	$ 75.00
Nuke Gauge	Daily	n/c
Ultrasonic or Mag Particle Equipment	Daily	$ 25.00
Concrete Compression Breaks	Each	$ 12.00
Hold Cylinder(s)	Each	$ 5.00
Mortar/Grout-Prisms/Cubes	Each	$ 20.00
Standard Proctor	Each	$ 95.00
Sieve Analysis (Coarse & Fine)	Each	$ 55.00
Sieve Analysis (Clayey Material)	Each	$ 95.00
Plasticity Index	Each	$ 45.00
Plasticity Index Wet Preparation	Each	$125.00
Moisture Content	Each	$ 15.00
Specific Gravity (Coarse)	Each	$ 55.00
Specific Gravity (Fine)	Each	$ 70.00
Sand Equivalent	Each	$ 95.00
Core Rig	Daily	$ 25.00
Core Rig Bit Wear (per core)	Each	$ 9.00
Fractured Faces	Each	$ 60.00
Per Diem	Daily	$ 75.00
Trip Charge	Each	$ 85.00
Overtime	Hourly	$ 1.35 x ST

Invoicing

All invoices shall be submitted to Gila County Accounts Payable, 1400 E. Ash St, Globe, Arizona and include the following information:

- Purchase Order Number
- Contract Number
- Invoice Number
- Serviced Location
- Vendor Name and Address
- Description of Service

ARTICLE II – TERMINATION: Contract shall terminate thirty (30) days after written notice is received by either party to the other. Upon receipt of the notice, work in progress will be completed and any summaries and/or status reports shall be prepared and submitted, all within thirty (30) days. The County's financial obligation shall cover only the work performed up to the notice to terminate plus thirty (30) days, and not work completed thereafter.

ARTICLE III - INDEMNIFICATION: Contractor shall indemnify, defend, save and hold harmless the County of Gila and its 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 Contractor or any of its owners, officers, directors, agents, employees or subcontractors. 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 Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the County, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the County.

ARTICLE IV – INSURANCE REQUIREMENTS: Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The County in no way warrants that the minimum limits contained herein are sufficient to protect the 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 is free to purchase additional insurance as may be determined necessary.

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 and broad form contractual liability coverage.
   - General Aggregate $2,000,000
   - Products – Completed Operations Aggregate $1,000,000
   - Personal and Advertising Injury $1,000,000
   - Each Occurrence $1,000,000

   a. The policy shall be endorsed to include the following additional insured language: **"The County of Gila shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor".**

2. **Worker's Compensation and Employers' Liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	$100,000
Disease – Each Employee	$100,000
Disease – Policy Limit	$500,000

a. Policy shall contain a **waiver of subrogation** against the County of Gila.

3. **Automobile Liability**
   Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

   Combined Single Limit (CSL) $1,000,000

   The policy shall be endorsed to include the following additional insured language: **"The County of Gila shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including automobiles owned, leased, hired or borrowed by the Contractor".**

B. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, the following provisions:

1. On insurance policies where the County of Gila is named as an additional insured, the County of Gila shall be an additional insured 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.
2. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.
3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

C. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, reduced in coverage or endorsed to lower limits except after thirty (30) days prior written notice has been given to the County. Such notice shall be sent directly to **Gila County Purchasing, 1400 E. Ash St., Globe, AZ, 85501,** and shall be sent by certified mail, return receipt requested.

D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed or approved unlicensed companies in the state of Arizona and with an "A.M. Best" rating of not less than B+ VI. The County 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 County with certificates of insurance (ACORD form or equivalent approved by the County) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the County 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 **Gila County Purchasing, 1400 E. Ash St., Globe, AZ, 85501**. The County project/contract number and project description shall be noted on the certificate of insurance. The County reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

F. **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as additional insured's under its policies **or** Contractor shall furnish to the County separate certificates and endorsements for each subcontractor. All coverage's for subcontractors shall be subject to the minimum requirements identified above.

G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by the County Attorney, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

ARTICLE V – LEGAL ARIZONA WORKERS ACT COMPLIANCE: Contractor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Contractor's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Contractor shall further ensure that each subcontractor who performs any work for Contractor 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 Contractor and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of Contractor'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 Contractor 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, Contractor 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 Contractor approval if MWBE preferences apply) as soon as possible so as not to delay project completion.

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

ARTICLE VI – LAWS AND ORDINANCES: This agreement shall be enforced under the laws of the State of Arizona. Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Contractor. The Contractor shall comply with the applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the Act.

ARTICLE VII– ANTI-TERRORISM WARRANTY: Pursuant to A.R.S. §35-397 the Contractor 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.

ARTICLE VIII – CANCELLATION: This agreement is subject to cancellation pursuant to A.R.S. §38-511. If the Agreement is terminated, the county shall be liable only for payment for services rendered and accepted material received by the County before the effective date of termination.

ARTICLE IX– TERM: Contract shall be effective date signed by the County Manager and expires January 31, 2012.

ARTICLE X – PAYMENT: The Scope of Services as outlined above will be performed with the not-to-exceed without written authorization budget of $3,000.00.

Any alterations to the scope of work resulting in a change in cost must have prior written approval by the County. Any unauthorized work may result in non-payment to the vendor.

Gila County employs a "Net 15" payment term for services meaning the payment will be issued fifteen (15) days from the date the County receives the invoice from the Contractor. Purchase orders sent to the Contractor reflect these terms and conditions.

IN WITNESS WHEREOF, two (2) identical counterparts of this contract, each which shall include original signatures and for all purposes be deemed an original thereof, have been duly executed by the parties hereinabove named, on the date and year first above written.

In return for the performance of Contract No. 110311 by the Contractor, the County agrees to pay the amount of not more than **$ 3,000.00** including all applicable taxes through a payment schedule as described in the Contract documents and as may be modified and executed by change orders.

GILA COUNTY

Don E. McDaniel Jr., County Manager

Date: 11/15/11

ATL, INC.

Signature

FRANK C. RIVERA

Print Name

Date: 11.4.11

APPROVED AS TO FORM

Bryan B. Chambers, Chief Deputy County Attorney
for Daisy Flores, County Attorney

AMENDMENT NO. 1

Gila County Contract 6880.102/4-2011

Janitorial Service Payson Administration Building

Effective May 3, 2011, Gila County and Moonlite Janitorial entered into an agreement whereby Moonlite Janitorial would provide janitorial services to the Payson Administration Building for a period of one (1) year.

Amendment No. 1 to contract 6880.102/4-2011 will add the following to the Scope of Services for the agreement.

SCOPE OF SERVICES: On an as need basis upon the absence of the County Facilities maintenance employees Moonlite Janitorial will perform janitorial service for the Gila County Complex located at 714 S. Beeline Highway, Payson, AZ. Services are provided Monday-Friday after 5:00 pm. Services will be provided at this location only upon County request.

Gila County Court Complex, 714 S. Beeline Highway, Payson, AZ, services shall include but not be limited to the following:

- Sweep outside landings and steps;
- Vacuum interior;
- Clean all restrooms;
- Clean door windows and handles;
- Dust window ledges; and
- Empty trash

FEES: A fee of $900.00 per week will be charged for the scope of services outlined above.

IN WITNESS WHEREOF, two (2) identical counterparts of this amendment, each which shall include original signatures and for all purposes be deemed an original thereof, have been duly executed by the parties hereinabove named, on this 16th day of November, 2011.

GILA COUNTY:

Don E. McDaniel

Don E. McDaniel Jr., County Manager

Date: 11/15/11

MOONLITE JANITORIAL

Jeffrey D Gaskill

Signature

Jeffrey D Gaskill

Print Name

Date: 11/5/11

Tommie C. Martin, District I
P.O. Box 2297 Payson, AZ. 85547
(928) 474-2029

Michael A. Pastor, District II
1400 E. Ash St. Globe, AZ. 85501
(928) 425-3231 Ext. 8753

Shirley L. Dawson, District III
1400 E. Ash St. Globe, AZ. 85501
(928) 425-3231 Ext. 8511

GILA COUNTY
www.gilacountyaz.gov

Don E. McDaniel Jr., County Manager
Phone (928) 425-3231 Ext.8761

Joseph T. Heatherly, Finance Director
Phone (928) 425-3231 Ext. 8743

FAX (928) 425-0319
TTY: 7-1-1

SERVICE AGREEMENT NO. 103011

GUERRERO BUILDING REMODEL LOBBY GLASS INSTALLATION

THIS AGREEMENT, made and entered into this 22nd day of November, **2011**, by and between the Gila County Board of Supervisors, a political subdivision of the State of Arizona, hereinafter designated the County, and Glass Masters Inc., of the City of Payson, State of Arizona, hereinafter designated the Contractor.

WITNESSETH: The Contractor, for and in consideration of the sum to be paid him by the County, in the manner and at the time hereinafter provided, and of the other covenants and agreement's herein contained, hereby agrees, for himself, his heirs, administrators, successors, and assigns as follows:

ARTICLE I – SCOPE OF SERVICES: The Contractor shall provide for the complete provision in the scope of work below of the Lobby Glass Installation for the Guerrero Building Remodel Project in a good and workmanlike and substantial manner and to the satisfaction of the County under the direction of the Gila County Facilities Manager or designee.

Contractor shall provide all materials and installation of the glass per below specifications in the entrance lobby of the Guerrero Building.

Specifications

One - 4040 Florence Pass Through Window

- Keyed Lock
- ¼" Clear Laminated Safety Glass
- Duranodic Bronze Frame

One - 4040 Commercial Fixed Window

- ¼" Clear Laminated Safety Glass
- Bronze

One – 6040 Commercial Fixed Window

- ¼" Clear Laminated Safety Glass
- Bronze

Invoicing

All invoices shall be submitted to Gila County Accounts Payable, 1400 E. Ash St, Globe, Arizona and include the following information:

- Purchase Order Number
- Contract Number
- Invoice Number
- Serviced Location
- Vendor Name and Address
- Description of Service

ARTICLE II – TERMINATION: Contract shall terminate thirty (30) days after written notice is received by either party to the other. Upon receipt of the notice, work in progress will be completed and any summaries and/or status reports shall be prepared and submitted, all within thirty (30) days. The County's financial obligation shall cover only the work performed up to the notice to terminate plus thirty (30) days, and not work completed thereafter.

ARTICLE III - INDEMNIFICATION: Contractor shall indemnify, defend, save and hold harmless the County of Gila and its 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 Contractor or any of its owners, officers, directors, agents, employees or subcontractors. 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 Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the County, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the County.

ARTICLE IV – INSURANCE REQUIREMENTS: Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The County in no way warrants that the minimum limits contained herein are sufficient to protect the 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 is free to purchase additional insurance as may be determined necessary.

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 and broad form contractual liability coverage.

• General Aggregate	$2,000,000
• Products – Completed Operations Aggregate	$1,000,000
• Personal and Advertising Injury	$1,000,000
• Each Occurrence	$1,000,000

   a. The policy shall be endorsed to include the following additional insured language: **"The County of Gila shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor".**

2. **Worker's Compensation and Employers' Liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	$100,000
Disease – Each Employee	$100,000
Disease – Policy Limit	$500,000

   a. Policy shall contain a **waiver of subrogation** against the County of Gila.

3. **Professional Liability (Errors and Omissions Liability)**

Each Claim	$1,000,000
Annual Aggregate	$2,000,000

   a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

B. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, the following provisions:

1. On insurance policies where the County of Gila is named as an additional insured, the County of Gila shall be an additional insured 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.
2. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.
3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

C. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, reduced in coverage or endorsed to lower limits except after thirty (30) days prior written notice has been given to the County. Such notice shall be sent directly to **Gila County Purchasing Department, 1400 E. Ash St., Globe, AZ, 85501** and shall be sent by certified mail, return receipt requested.

D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed or approved unlicensed companies in the state of Arizona and with an "A.M. Best" rating of not less than B+ VI. The County 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 County with certificates of insurance (ACORD form or equivalent approved by the County) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the County 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 **Gila County Purchasing Department, 1400 E. Ash St., Globe, AZ, 85501.** The County project/contract number and project description shall be noted on the certificate of insurance. The County reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

F. **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as additional insured's under its policies **or** Contractor shall furnish to the County separate certificates and endorsements for each subcontractor. All coverage's for subcontractors shall be subject to the minimum requirements identified above.

G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by the County Attorney, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

ARTICLE V – LEGAL ARIZONA WORKERS ACT COMPLIANCE: Contractor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Contractor's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Contractor shall further ensure that each subcontractor who performs any work for Contractor 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 Contractor and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of Contractor'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 Contractor 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, Contractor 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 Contractor approval if MWBE preferences apply) as soon as possible so as not to delay project completion.

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

ARTICLE VI – LAWS AND ORDINANCES: This agreement shall be enforced under the laws of the State of Arizona. Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Contractor. The Contractor shall comply with the applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the Act.

ARTICLE VII– ANTI-TERRORISM WARRANTY: Pursuant to A.R.S. §35-397 the Contractor 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.

ARTICLE VIII – CANCELLATION: This agreement is subject to cancellation pursuant to A.R.S. §38-511. If the Agreement is terminated, the county shall be liable only for payment for services rendered and accepted material received by the County before the effective date of termination.

ARTICLE IX– TERM: Contract shall be effective date signed by the County Manager and expires December 31, 2011.

ARTICLE X – PAYMENT: The Scope of Services as outlined above will be performed ~~with the not-to-exceed without written authorization budget of~~ for $1,850.00

Any alterations to the scope of work resulting in a change in cost must have prior written approval by the County. Any unauthorized work may result in non-payment to the vendor.

Gila County employs a "Net 15" payment term for services meaning the payment will be issued fifteen (15) days from the date the County receives the invoice from the Contractor. Purchase orders sent to the Contractor reflect these terms and conditions.

IN WITNESS WHEREOF, two (2) identical counterparts of this contract, each which shall include original signatures and for all purposes be deemed an original thereof, have been duly executed by the parties hereinabove named, on the date and year first above written.

In return for the performance of Contract No. 103011 by the Contractor, the County agrees to pay the amount of not more than **$ 1,850.00** including all applicable taxes through a payment schedule as described in the Contract documents and as may be modified and executed by change orders.

GILA COUNTY

Don E. McDaniel Jr., County Manager

Date: 11/22/11

GLASS MASTERS INC.

Signature

Toby Egbert

Print Name

Date: 11/01/2011

APPROVED AS TO FORM

Bryan B. Chambers, Chief Deputy County Attorney
for Daisy Flores, County Attorney

Tommie C. Martin, District I
P.O. Box 2297 Payson, AZ. 85547
(928) 474-2029

Michael A. Pastor, District II
1400 E. Ash St. Globe, AZ. 85501
(928) 425-3231 Ext. 8753

Shirley L. Dawson, District III
1400 E. Ash St. Globe, AZ. 85501
(928) 425-3231 Ext. 8511

GILA COUNTY
www.gilacountyaz.gov

Don E. McDaniel Jr., County Manager
Phone (928) 425-3231 Ext.8761

Joseph T. Heatherly, Finance Director
Phone (928) 425-3231 Ext. 8743

FAX (928) 425-0319
TTY: 7-1-1

PROFESSIONAL SERVICES CONTRACT NO. 110411

FINANCIAL REPORTS CONSULTING

THIS AGREEMENT, made and entered into this 14th day of November, **2011**, by and between the Gila County Board of Supervisors, a political subdivision of the State of Arizona, hereinafter designated the **County,** and **Linda Koury**, of the City of Globe, County of Gila, State of Arizona, hereinafter designated the **Consultant**.

WITNESSETH: That the Consultant, for and in consideration of the sum to be paid him by the County, in the manner and at the time hereinafter provided, and of the other covenants and agreements herein contained, hereby agrees, for himself, his heirs, administrators, successors, and assigns as follows:

ARTICLE I – SCOPE OF SERVICES: Assignment includes training and assistance to staff in preparation of grant fund reports for financial statement presentation, and reconciliation and set-up of Bond Projects and Forest Service Reports.

Additional work will include working with Public Works staff in development of an internal operating procedure manual for accounting processes, and also preparation and training in use of spreadsheets for ease in record keeping.

ARTICLE II – SCHEDULE/FEES: The work is to begin on November 16, 2011 and is estimated to be completed by May 18, 2012. Work will be completed by utilizing several current internal staff to assist in gathering and preparation of financial statements and associated support work papers.

FEES – The following Fees shall apply:

- The Consultant will be paid an hourly rate of $50.00 per hour.
- The Consultant shall prepare a monthly recap and submit it to the Public Works Fiscal Services Manager monthly with a short description of the work accomplished.

ARTICLE III – TERMINATION: Contract shall terminate thirty (30) days after written notice is received by either party to the other. Upon receipt of the notice, work in progress will be completed and any summaries and/or status reports shall be prepared and submitted, all within thirty (30) days. The County's financial obligation shall cover only the work performed up to the notice to terminate plus thirty (30) days, and not work completed thereafter.

ARTICLE IV - INDEMNIFICATION CLAUSE: Consultant shall indemnify, defend, save and hold harmless the County of Gila and its 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 Consultant or any of its owners, officers, directors, agents, and employees. 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 Consultant 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 Consultant from and against any and all claims. It is agreed that Consultant will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Consultant agrees to waive all rights of subrogation against the County, its officers, officials, agents and employees for losses arising from the work performed by the Consultant for the County.

ARTICLE V – LEGAL ARIZONA WORKERS ACT COMPLIANCE: Consultant hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Consultant's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Consultant shall further ensure that each subcontractor who performs any work for Consultant 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 Consultant and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of Consultant'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 Consultant 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, Consultant 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 Consultant approval if MWBE preferences apply) as soon as possible so as not to delay project completion.

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

ARTICLE VI – LAWS AND ORDINANCES: This agreement shall be enforced under the laws of the State of Arizona. Consultant shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Consultant. The Consultant shall comply with the applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the Act.

ARTICLE VII – ANTI-TERRORISM WARRANTY: Pursuant to A.R.S. §35-397 the Consultant 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.

ARTICLE VIII – CANCELLATION: This agreement is subject to cancellation pursuant to A.R.S. § 38-511. If the Agreement is terminated, the county shall be liable only for payment for services rendered by the County before the effective date of termination.

ARTICLE IX – TERM: The term of the contract shall commence upon award and remain in effect for a period of one (1) year. The Consultant agrees that Gila County shall have the right, at its sole option, to renew the contract period for one additional year. In the event the County exercises such a right, all terms, conditions and provisions of the original contract shall remain the same and apply during the renewal period.

ARTICLE X – PAYMENT: The Scope of Services as outlined above will be performed with a not-to-exceed without written authorization budget of $ 30,000.00 . Additional work, as authorized, will be performed on a Time and Materials basis per a mutually agreed upon fee between the County and the Consultant.

Gila County employs a "Net 30" for payment terms meaning the payment will be issued thirty (30) days from the date the County receives the invoice from the Consultant. Purchase orders sent to the Consultant reflect these terms and conditions and they apply to all invoices received by the County.

IN WITNESS WHEREOF, two (2) identical counterparts of this contract, each which shall include original signatures and for all purposes be deemed an original thereof, have been duly executed by the parties hereinabove named, on the date and year first above written.

In return for the performance of the Contract by the Consultant, the County agrees to pay the amount of not more than **$ 30,000.00** including all applicable taxes through a payment schedule as described in the Contract documents and as may be modified and executed by change orders.

GILA COUNTY:

GILA COUNTY BOARD OF SUPERVISORS

Don E. McDaniel Jr., County Manager

Date: 11/23/11

APPROVED AS TO FORM

Bryan B. Chambers, Chief Deputy County Attorney
for Daisy Flores, County Attorney

CONSULTANT:

LINDA KOURY

Consultant Signature

Lynda Koury
Print Name

Date: 11-4-11

TOWN OF
Payson

Town of Payson
303 N. Beeline Highway
Payson, Arizona, 85541-4306

Town Hall	(928) 474-5242
Police Dept.	(928) 474-5177
Water Dept.	(928) 474-5242
TDD	(928) 472-6449
Fax	(928) 474-4610

August 26, 2011

John R. Armer, Sheriff
Gila County Sheriff's Office
P O Box 311
Globe, AZ 85502

Dear Sheriff Armer:

Enclosed are two original contracts for the 2011 Byrne Justice Assistance Grant Program Award. Please have the documents signed and send a fully executed, signed original back to our office and keep one for your records.

Also attached is letter from Police Chief Don Engler.

I have enclosed a self-addressed envelope for your convenience.

If you have any questions do not hesitate to contact me.

Sincerely,

Silvia Smith

Silvia Smith, CPM, MMC
Town Clerk
Town of Payson
928-474-5242 ext. 2240
ssmith@paysonaz.gov

COUNCIL DECISION REQUEST

SUBJECT: Department of Justice/Bureau of Justice Assistance Grant

MEETING DATE: August 4, 2011

PAYSON GOAL: NEW: EXISTING: X

ITEM NO.:

TENTATIVE SCHEDULE:

SUBMITTED BY: Donald B. Engler

AMOUNT BUDGETED: $12,361.00

SUBMITTAL TO AGENDA
APPROVED BY TOWN MANAGER

EXPENDITURE REQUIRED: (Town none)

CONT. FUNDING REQUIRED:

DBE

EXHIBITS (If Applicable, To Be Attached):

POSSIBLE MOTION I move to approve the fiscal year 2011 Department of Justice/Bureau of Justice Assistance Grant in the amount of $12,361.00 and the associated Memorandum of Understanding.

SUMMARY OF THE BASIS FOR POSSIBLE MOTION: The fiscal year 2011 Edward Byrne Memorial Justice Assistance Grant is a local program that the Payson Police Department has made an application for, and the award amount is $12,361.00 for fiscal year 2011. The items proposed to be purchased through this grant are a Universal Mobile Extraction Device that will allow us to obtain information from suspect's cell phones and other mobile devices. Equipment will be utilized by detectives and assist other agencies when needed; funding for our award-winning National Night Out event to promote police/community partnerships and crime prevention in our community.

PROS: As stated above, this is a $12,361.00 grant to the Town of Payson that does not require any matching funds. There are quarterly report requirements on this grant and this will be taken care of by staff of the department.

CONS: NONE

PUBLIC INPUT (if any):

BOARD/COMMITTEE/COMMISSION ACTIONS/RECOMMENDATIONS (if any) (give dates and attach minutes):

FUNDING:

Acct: Budget: Available: Expense: Remaining:

AUG 04 2011 I. 1*

COUNCIL DECISION REQUEST

Acct:	Budget:	Available:	Expense:	Remaining:
Acct:	Budget:	Available:	Expense:	Remaining:

BA: _____ Date: _____

THE STATE OF _Arizona_

COUNTY OF ___Gila_

INTERLOCK AGREEMENT
BETWEEN THE TOWN OF Payson, __AZ__ **AND COUNTY OF** Gila, __AZ__

2010 BYRNE JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD

This Agreement is made and entered into this __4th_day of _August, 2011, by and between The COUNTY of Gila, acting by and through its governing body, the Board of Supervisors, hereinafter referred to as COUNTY, and the TOWN of Payson, acting by and through its governing body, the TOWN Council, hereinafter referred to as TOWN, both of Gila County, State of Arizona, witnesseth:

WHEREAS, this Agreement is made under the authority of Government Code: and

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party: and

WHEREAS, each governing body finds that the performance of the Agreement is in the best interests of both parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this agreement: and

NOW THEREFORE, the COUNTY and TOWN agree as follows:

Section 1

The Town of Payson acknowledges that they have been identified as a disparate community and must enter into a memorandum of understanding with the Gila County Sheriff's Office for allocation of grant funds within Gila County, Arizona.

Section 2

It has been agreed that the disparate jurisdictions of the Town of Payson and the Gila County Sheriff's Office within Gila County agree that it is acceptable for the Town of Payson Police Department be allowed to accept funds in the amount of $12,361.00 from the Department of Justice under the FY11 Edward Byrne Memorial Justice Assistance Grant Program.

Section 3

Nothing in the performance of this Agreement shall impose any liability for claims against COUNTY other than claims for which liability may be imposed by the Tort Claims Act.

Section 4

Nothing in the performance of this Agreement shall impose any liability for claims against TOWN other than claims for which liability may be imposed by the Tort Claims Act.

Section 5

Each party to this agreement will be responsible for it own actions in providing services under this agreement and shall not be liable for any civil liability that may arise from the furnishing of the services by the other party.

Section 6

The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

Section 7

By entering into this Agreement, the parties do not intend to create any obligations express or implied other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

TOWN OF Payson, AZ

Donald B. Engler

Town of Payson Police Chief

COUNTY OF Gila, AZ

John R. Armer

Gila County Sheriff

APPROVED AS TO FORM:

Town Attorney

APPROVED AS TO FORM:

for

County Attorney

Contract Authorization

COUNTY MANAGER

Don E. McDaniel Jr. 11/22/11

Don E. McDaniel Jr.

Beeline Business Equipment
706A N. Beeline Hwy
Payson, AZ 85541
Ph: 928-472-8914 Fax: 928-472-8921

FULL SERVICE MAINTENANCE AGREEMENT

DATE **October 13, 2011**

Customer **Gila County Narcotics Task Force**

Address **102 E. Sherwood Drive**

City **Payson** State **AZ** Zip **85541**

Contact **Claudia J. DalMolin, Bureau Commander**

Phone Number **928-701-4412** · Location of Equipment **Same** Machine Model **AR-161**

SERVICE AGREEMENT COVERAGE

Includes all parts and labor, including: preventive maintenance. Includes consumables: Toner, developer, drums, fuser rollers, excludes paper.
Service performed during regular business hours. (8am-5pm M-F)

1-3 hour average response time for all regular copier problems
1 hour or less response time on all down copier problems
Beeline will add all your toner for your or leave extra supplies in your office.

Includes **18,000 copies a year**

Start Meter **108,461** End Meter **126,461**

Start Date **10/01/2011** End Date **09/30/2012**

$389.95 _____ **Annual Service Contract Price plus Applicable Tax**

$0.01_____ Overage Per Copy

NOTE

Full Service Contracts Do Not Cover Networking Issues like email problems or crashed computers, reinstallation of software, adding new computers or scanners after the initial installation. Service Contracts cover only the copier system and the service of the copier itself and the install connection. Networking issues will be billed per hourly rate.

Contract Requirements

Dedicated grounded power line, use of Beeline Business Equipment approved surge protector, use of 87 Bright, 20 Bond quality paper. Supplies other then paper to be purchased from Beeline Business Equipment.

ALL INVOICES DUE UPON RECEIPT.

Result of NON-Compliance to Contract Requirements Voiding of entire contract at the customers expense and/or service charges for service calls caused by inadequate power and/or surge protection, or supplies purchased from another vendor.

Please Note: If you do not have a dedicated line and damage occurs to electrical circuits during a storm, it may not be covered in the service agreement

Attachment "A" is made a binding part of this agreement as set forth herein.

THANK YOU FOR CHOOSING BEELINE BUSINESS EQUIPMENT

Don E. McDaniel Jr. 11/22/11
Customer Agreement & Date
Don E. McDaniel Jr., Gila County Manager

Barbara Stock 10/31/11
Beeline Business Agreement & Date

ATTACHMENT "A"

Anti-Terrorism Warranty: Pursuant to **A.R.S. §35-397** the Supplier 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.

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."

Cancellation: This agreement is subject to cancellation pursuant to A.R.S. §38.511.

AGREEMENT APPROVED AS TO FORM:

Bryan B. Chambers, Chief Deputy County Attorney
***for* Daisy Flores, County Attorney**

Sublime Enterprise, Inc DBA: Sublime Solutions, Inc

Phone: 877-273-1200
Fax: 863-639-0714
PO Box 1332
Londonderry, NH 03053 USA
Visit Us Online: www.sublimesolution.net

QUOTE INFORMATION:
Valid Till: 10/31/2011
Quote Number:
77837000003397201
Quote Stage: Delivered

Account Gila County Superior Court

Contact Information:
Name Sarah Bennett
Email sbennett@courts az gov
Phone (928) 402-8679

Account Name Gila County Superior Court
Contact Name Sarah Bennett
Address
1400 E Ash St
Globe
AZ
USA
85501

Account Name Gila County Superior Court
Contact Name Sarah Bennett
Address
1400 E Ash St
Globe
AZ
USA
85501

	Quantity	List Price	Sublime Price	Total
Premier Maintenance - ABR Advanced Server Bundle w/ UR (Co-term)	3	$213.50	$192.15	$576.45
Premier Maintenance - ABR Advanced Server Bundle w/ UR (Co-term)	4	$252.23	$227.01	$908.04
Premier Maintenance - ABR Advanced Server Bundle w/ UR (Co-term)	3	$440.92	$396.82	$1,190.46
			Tax:	$0.00
			Discount:	$0.00
			Grand Total:	$2,674.95

Net 30 Terms Please Note Quote Reflects a Co-Term of All Current Licensing Owned by Gila County Superior Court

Attachment "A" by mention is made a binding part of this agreement as set forth herein

GILA COUNTY MANAGER
Don E. McDaniel 11/23/11
Don E. McDaniel Jr.

SUBLIME SOLUTION SENIOR CONSULTANT
Don McCabe
Don McCabe

APPROVED AS TO FORM
Bryan B. Chambers, Gila County Chief Deputy County Attorney

ATTACHMENT "A"

Anti-Terrorism Warranty: Pursuant to **A.R.S. §35-397** the Supplier 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.

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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.

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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."

Cancellation: This agreement is subject to cancellation pursuant to A.R.S. §38.511.

Tommie C. Martin, District I Supervisor
610 E. Highway 260, Payson, AZ 85541
(928) 474-2029 Ext. 7100

Michael M. Pastor, District II Supervisor
1400 E. Ash St. Globe, AZ. 85501
(928) 425-3231 Ext. 8753

Shirley L. Dawson, District III Supervisor
1400 E. Ash St., Globe, AZ 85501
(928)425-3231 Ext. 8511

GILA COUNTY
www.gilacountyaz.gov

Don E. McDaniel Jr.,, County Manager,
1400 E. Ash St., Globe, AZ 85501
Phone (928) 425-3231 Ext.8761

Joseph T. Heatherly, Finance Director
1400 E. Ash St., Globe, AZ 85501
(928)425-3231 Ext. 8743

FAX ((28)425-8104
TTY: 7-1-1

PROFESSIONAL SERVICES CONTRACT
BETWEEN
GILA COUNTY AND JOHN PERLMAN, ATTORNEY AT LAW

AMENDMENT NO. 1

Effective December 12, 2009, Gila County and John S. Perlman, Attorney at Law, entered into a contract whereby Mr. Perlman would serve as an independent contractor as Attorney for the Gila County Public Fiduciary and be responsible for generating pleadings pertinent to Guardianship, Conservatorship and Probate matters.

The contract expires November 30, 2011. Per page 1, Section 1, of the contract, the parties may agree to renew the contract for as many as two (2) additional one (1) year periods.

Amendment No. 1 will allow the contract term to be extended one (1) year from December 1, 2011, to November 30, 2012. Total annual compensation of contract shall not exceed $25,000.00.

All other terms, conditions and provisions of the original Contract shall remain the same and apply during the renewal period.

IN WITNESS WHEREOF, three (3) identical counterparts of this amendment, each which shall include original signatures and for all purposes be deemed an original thereof, have been duly executed by the parties hereinabove named, on this 22nd day of November, 2011.

GILA COUNTY :
GILA COUNTY MANAGER

11/22/11
Don E. McDaniel Jr.

APPROVED AS TO FORM

Bryan B. Chambers, Chief Deputy County Attorney
for Daisy Flores, County Attorney

CONTRACTOR:
JOHN S. PERLMAN, ATTORNEY AT LAW

John S. Perlman

WEST ORDER FORM – Conversion to Assured Print Pricing Service

610 Opperman Drive, P.O. Box 64833
St. Paul, MN 55164-1803
Tel: 651/687-8000 kaitlin.berg@thomsonreuters.com or Fax 651-848-9380

WEST®
A Thomson Reuters business

Check West account status below as applicable: Rep Name & Number 0102148 KAITLIN BERG

New ____ (NACI Form attached) **Existing with Increase Credit Limit** _____ (NACI Form attached)

Existing with no changes X **Existing with changes** ____ (Permanent name change must attach a Customer Name Change Form)

Acct # 1000314910 PO # _____ Date 10/10/2011

Name/Subscriber GILA COUNTY SUPERVISORS BOARD Bill To Acct # _____

Order Confirmation Contact Name JANICE COOK

E-Mail JCOOK@CO.GILA.AZ.US

Permanent Address Change _____ **One-Time Ship To** _____ **Additional Ship To** _____ **Additional Bill To** _____

Name _____ Attn: _____

Address _____ Suite/Floor _____

City _____ State _____ County _____ Zip _____

Print Product(s) Converting to Assured Print Pricing

Full Svc #	Assured Print Pricing Service Products	Quantity	Monthly Charges	Other	Monthly Assured Print Pricing Charges
39030002	AZ LEGISLATIVE SERVICE	1	31.96		31.96
21040304	AZ REVISED STATUTES ANNOTATED	1	185.00		185.00
21043761	AZ REVISED STATUTES VOLUME 3A	2	4.00		8.00
40036023	AZ SESSION LAWS BOUND VOLUME	1	13.00		13.00

Notes: 601817C10153

*** Total Monthly Charges $** 237.96

____ **Subscriber's Initials for 24 Month Assured Print Pricing Service Minimum Term** Subscriber agrees to commit to a Minimum Term of 24 months and the Monthly Assured Print Pricing Charges for the second 12 months not to increase by more than 6% over Monthly Assured Print Pricing Charges for the initial 12 months.

____ **Subscriber's Initial for 36 Month Assured Print Pricing Service Minimum Term** Subscriber agrees to commit to a Minimum Term of 36 months and the Monthly Assured Print Pricing Charges for the second 12 months not to increase by more than 5% over Monthly Assured Print Pricing Charges for the initial 12 months and Monthly Assured Print Pricing Charges for the third 12 months not to increase by more than 5% over Monthly Assured Print Pricing Charges for the second 12 months.

Upon conclusion of the Minimum Term, this Order Form will automatically renew for consecutive 12-month periods ("Renewal Term"), and the Monthly Assured Print Pricing Charges for the Renewal Term will increase 7% per year unless either party gives written notice of cancellation to the other party at least 30 days in advance of any Renewal Term, including the first Renewal Term. Additionally, West may at its discretion provide Subscriber with notice at least 60 days in advance of any Renewal Term of a Monthly Assured Print Pricing Charges increase different from 7% after which Subscriber shall have 30 days to provide West with written notice of cancellation if Subscriber does not wish to renew. Subscription service may consist of updates and/or supplements to the service, including but not limited to: pocket parts, pamphlets, replacement or ancillary volumes; loose-leaf pages and other related supplemental materials. Subscriber hereby requests that West provide subscription services for the herein-described products, billed as set forth above.

General Provisions. This Order Form is subject to approval by West, a Thomson Reuters business ("West") in St. Paul, Minnesota and is governed by Minnesota law and may not be terminated during the Minimum Term. The state and federal courts sitting in Minnesota will have exclusive jurisdiction over any claim arising from or related to this agreement. Applicable sales, use, personal property, value added tax (VAT) or equivalent, ad valorem and other taxes are payable by Subscriber. Subscriber may be charged interest for overdue subscriptions and for other open account charges. If any subscription, subscription services or open account charges remain unpaid 30 days after becoming due, all amounts that are or would become due and payable for the remaining Term shall become immediately due and payable at the sole option of West. Interest charges may be adjusted to the then-highest current rate allowable on Minnesota contracts. This Order Form is non-transferable. All collection fees, including but not limited to attorneys fees, are payable by Subscriber. Transportation and handling charges (FOB origin) will be added for special shipment(s). West may request a current financial statement and/or obtain consumer credit report on the undersigned individual to determine creditworthiness. West will only request consumer credit information on the undersigned if the undersigned is applying for credit as an individual or if the undersigned's consumer credit information is necessary for West to consider granting credit to the aforementioned company. If Subscriber inquires whether a credit report was requested, West will provide information of such, if a report was received and the name, address and telephone number of the agency that supplied the report.

AUTHORIZED REPRESENTATIVE FOR ORDER FORM

Printed Name Don E. McDaniel Jr.

Title Gila County Manager

Date 11/22/11

Signature X Don E McDaniel Jr

Attachment "A" as by mention is a binding part of this agreement.

*** Total Charges includes charges from attached page 2, if applicable.**

APPROVED AS TO FORM:

Bryan B. Chambers, Chief Deputy Gila County Attorney

For Credit Card Transactions only: **Visa** _____ **Master Card** _____ **Am Ex** _____

Card # _____ **Expir. Date** _____ **Total Amt. to Charge** _____

ATTACHMENT "A"

Anti-Terrorism Warranty: Pursuant to **A.R.S. §35-397** the Supplier 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.

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.

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Cancellation: This agreement is subject to cancellation pursuant to A.R.S. §38.511.

Publication Title	Qty	Monthly App Cost	APP Annual Cost	2011 Estimated Cost	Savings
AZ LEGISLATIVE SERVICE	1	$ 31.96	$ 383.52	$ 383.52	$ -
AZ REVISED ANNOTATED STATUTES	1	$ 185.00	$ 2,220.00	$ 2,427.00	$ (207.00)
AZ REVISED ANNOTATED STATUTES VOLUME 3A	2	$ 8.00	$ 96.00	$ 96.00	$ -
AZ SESSION LAWS BOUND VOLUME	1	$ 13.00	$ 156.00	$ 171.00	$ (15.00)
Totals		**$ 237.96**	**$ 2,855.52**	**$ 3,077.52**	**$ (222.00)**

	2011	2012	2013	
Staying with your Current Plan (typical 15% increases)	$ 3,077.52	$ 3,539.15	$ 4,070.02	$ 10,686.69
Converting to Assured Print Pricing (3yr w/5% increases)	$ 2,855.52	$ 2,998.30	$ 3,148.21	$ 9,002.03
Savings Over 3 Year Term				**$ 1,684.66**

COUNTY MANAGER APPROVED CONTRACTS UNDER $50,000

November 5, 2011, to November 11, 2011

Number	Title	Amount	Term	Approved	Renewal Option	Summary
No activity to report.						

November 12, 2011, to November 18, 2011

Number	Title	Amount	Term	Approved	Renewal Option	Summary
110711	Houston Mesa Road Striping	$ 9,620.00	11-14-11 to 11-18-11	11-14-11	Expires	Striping 7 miles of Houston Mesa Road at the north end of Payson.
110311	Construction Material Testing for Roadyard Shop Paving Project	$ 3,000.00	11-16-11 to 1-31-12	11-16-11	Expires	Field and laboratory quality control service for the roadyard paving project.
6880.102/4-2011	Janitorial Service as Needed for the County Beeline Complex	$ 900 per week	5-3-11 to 5-2-12	11-16-11	Renewable for 2 more 1 yr terms	Janitorial service for the Payson Beeline Hwy complex as needed upon facilities employees absence.

November 19, 2011, to November 25, 2011

Number	Title	Amount	Term	Approved	Renewal Option	Summary
103111	Lobby Glass Installation for Guerrero Remodel	$ 1,850.00	11-23-11 to 12-31-11	11-22-11	Expires	Materials and installation for the lobby glass in the entrance of the Guerrero Building.
110411	Accounting Services Agreement	$ 30,000.00	11-14-11 to 11-13-12	11-22-11	Option to renew	Training and assistance to Public Works admin staff in preparation and reconciliation of accounting and reports.
	Interlock Agreement for Byrne Grant	$ 12,361.00	FY 2011	11-22-11	Expires	Town of Payson Interlock Agreement for the 2011 Edward Byrne Justice Assistance Grant Program Award to the Payson Police Department/Gila County Sheriff's Office.

	Copier Maintenance Agreement Task	$ 4,679.40	10-1-11 to 9-30-12	11-22-11	Expires	Maintenance agreement for SO Task Force AR-161 copier.
	Software Maintenance Agreement	$ 2,675.92	11-16-11 to 12-31-12	11-22-11	Expires	ABR Advanced Server Bundle maintenance agreement for Superior Court MIS.
	Attorney Provided Service for Public Fiduciary	$ 25,000.00	12-1-11 to 11-30-12	11-22-11	Renewable for 2 more 1 yr terms	Attorney provided service for guardianship, conservatorship, probate, Public Fiduciary.
	Arizona Revised Statue Prints for BOS	$ 2,855.52	10-10-11 to 10-9-14	11-22-11	Expires	Agreement renewal for the following document prints, Arizona Revised Annotated Statues, Arizona Legislative Service, Arizona Revised Annotated Statues Volume 3A, and Arizona Session Laws Bound Volume kept for the Board of Supervisors

ARF-992 **4- M**

Regular BOS Meeting

Meeting Date: 12/06/2011

Reporting Period: October 18, 2011, November 1, 2011, and November 15, 2011, BOS Meeting Minutes & November 14, 2011, BOE Meeting Minutes

Submitted For: Marilyn Brewer, Deputy Clerk, BOS **Submitted By:** Marilyn Brewer, Deputy Clerk, BOS, Clerk of the Board of Supervisors

---

Information

Subject

October 18, 2011, November 1, 2011, & November 15, 2011, BOS Meeting Minutes & November 14, 2011, BOE Meeting Minutes

Suggested Motion

Approval of the October 18, 2011, November 1, 2011, and November 15, 2011, BOS meeting minutes and November 14, 2011, Board of Equalization meeting minutes.

Attachments

BOS 10-18-11 Meeting Minutes

BOS 11-01-11 Meeting Minutes

BOS 11-15-11 Meeting Minutes

BOE 11-14-11 Meeting Minutes

BOARD OF SUPERVISORS MINUTES
GILA COUNTY, ARIZONA

Date: October 18, 2011

TOMMIE C. MARTIN Chairman	**JOHN F. NELSON** Clerk of the Board
SHIRLEY L. DAWSON Vice-Chairman	By: Marian Sheppard Chief Deputy Clerk
MICHAEL A. PASTOR Member	Gila County Courthouse Globe, Arizona

---

PRESENT: Tommie C. Martin, Chairman (via ITV conferencing); Shirley L. Dawson, Vice-Chairman; Michael A. Pastor, Supervisor; Don McDaniel, Jr., County Manager; John Nelson, Deputy County Manager/Clerk; Marian Sheppard, Chief Deputy Clerk; and Bryan Chambers, Chief Deputy County Attorney.

Item 1 – Call to Order – Pledge of Allegiance – Invocation

The Gila County Board of Supervisors met in a regular session at 10:00 a.m. this date in the Board of Supervisors hearing room. Leona Bowman led the Pledge of Allegiance and David Caddell from Living Waters Community Church in Globe delivered the invocation.

Item 2 – PRESENTATIONS:

2A. Presentation in recognition of businesses that have hired disabled citizens of Gila County through the Gila Employment and Special Training Program (G.E.S.T.) and their continuing support of the G.E.S.T. Program.

David Caddell, G.E.S.T. Program Manager, advised that over 40 businesses in Gila County provide employment to G.E.S.T. clients. He invited all of them to today's meeting to publicly acknowledge their commitment to G.E.S.T. clients. Mr. Caddell announced the participating companies/organizations and he had a certificate and poster for each participant. Acknowledgement was provided to the following: Wal-Mart store #1334-Claypool; Wal-Mart store #1369-Payson; Chili's-Payson; Miami Senior Center; Payson Senior Center; First Assembly of God Church-Payson; Safeway-Payson; New Ewe-Payson; Wendy's-Payson; Wendy's-Globe; Dan Good Flooring-Payson; Liquor Stable-Globe; Wayne Smith, Arrow Development Company; Globe Center, LLC; Pioneer Trailer Park-Globe; Connie's Store-Globe; Radanovich Construction & Development Company-Globe; Fry's-Globe; Gary Grounds State Farm Insurance Agency-Globe; Tom

Moody-Globe; Gila County Public Fiduciary; Gila County; Zen's Café-Globe; McDonalds-Globe; Sonic-Globe; Town of Miami; Taco Bell-Globe; Basha's-San Carlos; Globe Public Schools; Miami Public Schools; KIKO Radio-Globe; Gordon's IGA-Kearny; Big O Tires-Globe; Al's Automotive-Globe; Layton Financial Group; Copper Mountain Inn-Globe; Arizona Silver Belt Newspaper-Globe; DC Cattle Company-Globe; Christy's Cottage-Payson. Mr. Caddell also announced the following four businesses which are no longer in operation: Country Kitchen-Globe; Burger King-Globe; Padgett's Automotive-Globe; and Gollipops-Payson. In ending his presentation he invited everyone to enjoy cake at the Globe Courthouse and at the Payson Administration Building. Mr. Caddell stated that a display of assistive technology could also be viewed in the Courthouse foyer and vocational rehabilitation counselors through the Department of Economic Security were also present to answer any questions, as follows: Deborah Worth, Angela Hardy, Melissa Lopez and Peggy Reed. Chairman Martin thanked Mr. Caddell for taking the time to ensure that these companies/organizations receive public recognition for all they provide to G.E.S.T. clients and said it is something that should have been done much sooner. Mr. Caddell also recognized the members of his staff who were present at the meeting. Vice-Chairman Dawson and Supervisor Pastor also thanked Mr. Caddell and his staff for today's presentation and all of their efforts in their daily work.

2B. Presentation of 2010 financial audit findings by Dennis Osuch, partner of LarsonAllen.

Dennis Osuch, partner of LarsonAllen, thanked the Board of Supervisors for the opportunity to provide an overview of the recent audit that was conducted for Gila County. As background information, the firm of LarsonAllen has contracted with the state of Arizona Auditor General's Office and was assigned to audit Gila County's financial statements beginning with 2010. Mr. Osuch advised that he met with County Manager Don McDaniel and Finance Director Joe Heatherly to review the findings of the audit, which are outlined in the draft single audit act report, and it is related to government audit standards. He then reviewed the purpose of conducting an audit, which is for his company to provide an opinion on Gila County's financial statements in accordance with general acceptable accounting principles. The firm issued an unqualified opinion for Gila County. The major federal programs with regard to compliance and controls are also audited; however, an opinion is only issued on internal controls for federal programs. He explained that "deficiencies" are divided into 3 categories: the most severe are called "material weaknesses"; the next are "significant deficiencies" and lastly, findings that are less severe include a management letter. He advised that he brought 2 items to management's attention: outstanding checks and Board of Supervisors (BOS) minutes. He advised that the County is behind in writing minutes, and he recommended that written minutes be brought up to date and to have future minutes ready for approval by the following BOS meeting. He stated that his company

reported 16 material weaknesses for Gila County with the majority related to segregation of duties. He advised that one of the more significant adjustments was the landfill cash balance. The firm proposed a restatement of the previous years' financial statements for the landfill because in the previous financial statements, it was not clear that Gila County had the money to pay for the landfill. The landfill cash balance was previously included on the books and he stated, "You do have money set aside to pay for landfill liability. We did a restatement to include that cash balance....With the restatement that even though that cash is restricted, it is restricted to pay that liability at the landfill." The other area was largely related to year-end accruals for some of the larger grants, such as the WIA (Workforce Investment Act) grant, PILT (Payment In Lieu of Taxes) grant, Edward Byrne Memorial grant, ARRA (American Recovery and Reinvestment Act) Weather Assistance grant and a couple of other grants. He advised that some adjustments may have to be made to accrue those revenues, so the County is looking to implement a more centralized grants accounting. Regarding compliance with federal programs, 3 material weaknesses and 5 significant deficiencies were identified. Of the 3 material weaknesses, one was because the financial statements were not ready by March 31st, and the others were related to grant accruals. Of the 5 significant deficiencies, it was noted there is a need for improvement in internal controls. A uniform expenditure limitation report will be issued in the near future; however, one piece of information is still needed. An unqualified opinion will be issued for that. Mr. Osuch concluded his presentation and then asked the Board for any questions. Each Board member thanked Mr. Osuch for his presentation.

2C. Public recognition of 10 employees for August's "Spotlight on Employees" Program, as follows: Alex Cunningham, Gary Denton, Larry Dooly, Antoinette Gonzales, Bob Hickman, David Hom, William McDaniel, Bertina Pratt, Mark Warden and Rhonda Wood.

Juley Bocardo-Homan, Human Resources Deputy Director, presented gift cards as recognition awards to 10 employees for August's "Spotlight on Employees" Program as follows: Alex Cunningham, Gary Denton, Larry Dooly, Antoinette, Gonzales, Bob Hickman, David Hom, William McDaniel, Bertina Pratt, Mark Warden and Rhonda Wood. Each Board member thanked the employees for their dedicated work.

Item 3 – REGULAR AGENDA ITEMS:

3A. (Motion to adjourn as the Gila County Board of Supervisors and convene as the Gila County Library District Board of Directors.) Information/Discussion/Action to approve Special Services Agreement No. 6000.600.SURVEY between the Gila County Library District and Ms. Deborah Leverance, evaluator, for an amount not to exceed $1,500 to develop and conduct a survey of all Kindergarten teachers within the

First Things First Gila Region to collect data regarding the number of children who entered school in August 2011 who possess reading readiness skills. (John Nelson) (Motion to adjourn as the Gila County Library District Board of Directors and reconvene as the Gila County Board of Supervisors.)

Upon motion by Vice-Chairman Dawson, seconded by Supervisor Pastor, the Board adjourned as the Gila County Board of Supervisors and convened as the Gila County District Board of Directors.

John Nelson, Deputy County Manager/Clerk, advised that earlier this year the Board approved for the second year the First Things First literacy grant which included an increase in funding of $1,500 to conduct a survey. He stated, "We already do a survey, but what is missing is corresponding our children entering Kindergarten for readiness. The purpose is for all Kindergarten teachers and principals in the area to determine a baseline." A request for proposals was issued and based on the proposal submitted by Deborah Leverance, he recommended the Board's approval. Upon motion by Supervisor Pastor, seconded by Vice-Chairman Dawson, the Board approved Special Services Agreement No. 6000.600.SURVEY between the Gila County Library District and Ms. Deborah Leverance, evaluator, for an amount not to exceed $1,500 to develop and conduct a survey of all Kindergarten teachers within the First Things First Gila Region to collect data regarding the number of children who entered school in August 2011 who possess reading readiness skills.

Upon motion by Vice-Chairman Dawson, seconded by Supervisor Pastor, the Board adjourned as the Gila County Library District Board of Directors and reconvened as the Gila County Board of Supervisors.

3B. Information/Discussion/Action to consider issuing official comments from the Board of Supervisors to the U.S. Fish and Wildlife Service regarding the draft economic analysis and draft environmental assessment of the proposed designation of critical habitat for the threatened Chiricahua Leopard Frog.

Mr. Nelson stated that the U.S. Fish and Wildlife Service is proposing a designation of critical habitat for the Chiricahua Leopard Frog and comments are being accepted until October 21, 2011. Most of the area being proposed is in northern Gila County. He read aloud a portion of the proposed official comment letter from the Board of Supervisors and he recommended that the Board authorize the submittal of the letter. Chairman Martin advised that the (May 16, 2011) official comment letter issued by the Coalition of Arizona/New Mexico Counties for Stable Economic Growth be attached to the Board's letter. Upon motion by Vice-Chairman Dawson, seconded by Supervisor Pastor, the Board unanimously approved sending a letter to the U.S. Fish and Wildlife Service issuing its official comments regarding the draft economic analysis and

draft environmental assessment of the proposed designation of critical habitat for the threatened Chiricahua Leopard Frog with the Coalition of Counties letter attached.

3C. Information/Discussion/Action to authorize staff to issue a Call for Bids for the Payson Administration Building Remodel Project. Said Call is to be written to allow the Project to be bid and implemented in logical phases or as one complete project.

Steve Stratton, Public Works Division Director, advised that cost estimates for this project were included with this agenda item for 3 areas: to remodel the Payson Administration Building; needed improvements with regard to information technology (IT); and needed improvements to the parking lot. Chairman Martin commented that she believes the hearing room portion of the project is imperative for two reasons; to increase the space of the current conference room and to have it appear as a hearing room, more like the Board's hearing room in Globe. Mr. Stratton commented that the paperwork that was submitted is not a bid, but rather it's a "soft" estimate and he believes it may be high in some areas. Chairman Martin pointed out that the cost estimate included personal computers for Board members, another Smart Board and a cabinet – all of which she said the Board already has those items. As for the parking lot portion, she said that it shows almost $62,000 of concrete sidewalk with ADA (Americans with Disabilities Act) access and it already exists. She stated, "I think we need to remodel this room and have it set up as a hearing room. Beyond that I can't believe we can have that kind of money tied up in that. I realize we need more wiring for IT." Vice-Chairman Dawson agreed with Chairman Martin on the items that the Board already has, and that she knows there has been a conversation on the parking lot. She voiced her opposition to the cost to divide the conference room as she did not believe it was necessary as proven with the use of the Globe hearing room, which does not have dividers. Secured doors for access at times when the room would be used for meetings, which are not during regular business hours, was an expense that Vice-Chairman Dawson feels would be necessary at an extra cost if the room were to be divided. She stated, "I don't believe we have to expend all the money in this proposal; keep it simple. If you decide to have to divide the room, then we would look at the structural integrity of the flooring, but not at this time." At this time the Board members and Mr. Stratton discussed the added cost to divide the room and the security of the building as a result of dividing it. Supervisor Pastor questioned the source of funding for this project. Mr. Nelson recommended that funding for this proposed project would come from bond funds. He stated, "Currently there is $600,000 approximately of bond funds that have not been committed. That would reserve enough money to pay off what we have remaining on some construction contracts we are currently holding, plus hopefully remodel the entire Guerrero Building as planned. There still is some bids we have not received, but we think we have sufficient money to do that; that would leave $600,000. With this remodel in Payson as

planned at $360,000, the security remodel that would be proposed for this facility of $250,000, less what was budgeted in the CIP (capital improvement projects) would give us sufficient bond funds to complete this project, but that would be the end of the bond funds and there would be no other projects really coming out of that of any significance." Supervisor Pastor replied that when the bond issue was proposed to the taxpayers, the County's main focus was to move the probation department out of the former County hospital building, which is now owned by a private company. He stated that the amount paid in rent for the probation department from 2005 to present is approximately $850,000. He concluded by stating that he agrees that some remodeling needs to be done in the Payson Administration Building, but it doesn't mean it has to be done at the same time. He stated, "We need to look at what we need to do with the probation department; that should be our first priority. If that isn't feasible, we could direct staff to look at both issues; probation and remodel. I can't agree to a $300,000 plus remodel at the Payson (Administration Building) complex. We need to look at something there, but also stay focused on (moving) the Probation Department, if it's feasible." Another concern of his were the comments he has recently received from employees that feel this expense is not necessary due to the County seat being in Globe and the fact that employees have not been given raises for several years. Supervisor Dawson felt that paying rent for the probation department needs to stop as soon as possible as that was a focal point in getting voters to vote in favor of the bond issue. She stated, "We need to economically get a safe room and large enough to function in Payson…I agree with Supervisor Pastor that the cost is too much." Chairman Martin stated, "I would like to direct staff to bring back a recommendation (to the Board). We need to move probation. We need a better setup (in the Payson Administration Building) as it was a concern when we bought it; also the parking. We can stage our way into making it useful…" Supervisor Pastor and Vice-Chairman Dawson both agreed that directing staff to bring a recommendation to the Board of Supervisors at a future date would be a good idea. No Board action was taken on this item.

3D. Information/Discussion/Action to authorize the advertisement of Invitation for Bids No. 091411-1 for the purchase of one or more new fleet vehicles as specified for Gila County.

Mr. Stratton stated that part of the Fleet Department's business plan is to purchase some vehicles during the 3rd and 4th quarters of this year. He stated that 2 vehicles will be used by the Sheriff's Office, 1 vehicle will be used by the Facilities Department, 3 vehicles will be used by the Community Development Division, 3 vehicles will be used by the Health Department, and 1 vehicle will be used by the Engineering Department, of which the vehicle for the Engineering Department will be paid for with HURF (Highway User Revenue Funds). When Supervisor Pastor asked for the total number of vehicles to be purchased, he responded with "12". Mr. Stratton then explained the process for determining which vehicles will be replaced. For example, a patrol vehicle

would be viewed differently. The mileage and repair costs are also factored into the decision. He emphasized that the size of the fleet is never increased. Upon motion by Supervisor Pastor, seconded by Vice-Chairman Dawson, the Board unanimously authorized the advertisement of Invitation for Bids No. 091411-1 for the purchase of one or more new fleet vehicles as specified for Gila County.

3E. Information/Discussion/Action to approve the distribution of Local Transportation Assistance Funds (LTAF II) to senior centers and other entities for their continued transportation operation at a set percentage per the attached list.

Mr. Stratton stated that for many years the County has used LTAF funds to subsidize transit within the senior centers and other entities that qualify. As a result of the Legislature sweeping these funds, the County has been holding back funds in anticipation of providing funding for this year. Mr. Stratton asked the Board to decide to divide 50% or 55% of the amount expended for transit services in 2010 for use in 2011. He mentioned that the list attached to this agenda item, which contains the names of the entities that would receive the proposed funding, includes the Copper Spike excursion train. The railroad company was recently sold to another company, and the new owners have decided to discontinue using the Copper Spike excursion train, so Mr. Stratton inquired whether the Board wanted to distribute that funding evenly to the other entities that were on the list. Vice-Chairman Dawson asked that the funding remain allocated for the Copper Spike for the present time as there are local efforts being made to request that the excursion service be continued by the new company. Supervisor Pastor read aloud a letter submitted by Jerry Ellison, Sr., a resident of Globe, regarding this agenda item. Mr. Ellison wrote that he is in a wheel chair and he would like to receive some transportation assistance because the area in which he lives does not receive any transportation assistance at this time. Mr. Stratton confirmed that transportation service is not provided in Mr. Ellison's area; however, the Arizona Department of Transportation (ADOT) is conducting a study due to multiple requests from citizens living in the same area as Mr. Ellison. Upon motion by Vice-Chairman Dawson, seconded by Supervisor Pastor, the Board unanimously approved a 50% distribution of Local Transportation Assistance Funds (LTAF II) to senior centers and other entities for their continued transportation operations as stated on the distribution list attached to this agenda item.

3F. Information/Discussion/Action to adopt Resolution No. 11-10-03, which authorizes the execution of an Intergovernmental Agreement IGA/JPA 11-028I (AG Contract No. P001 2011 002870) between Gila County and the State of Arizona, Department of Transportation, at an estimated total project cost of $506,903 for pedestrian rest stop shelters in various locations within Pine and Strawberry.

Mr. Stratton advised that this money can only be used for pedestrian rest stop shelters; however, his staff has been in touch with local schools and the locations of the shelters could also be utilized for school bus stops if the schools choose to use them. He advised that the County did not receive funding for the initial application that was submitted as the committee reviewing the applications did not feel that the shelters were aesthetically pleasing. Further review was conducted on the type of shelter and the ADOT Board of Directors approved the application with a different style of shelter being used that would blend in more with the surrounding areas. There is a cash match requirement of $28,893 of which HURF will be used instead of County funding. Don Ascoli, a resident of Payson, submitted a public participation form to address this issue. Mr. Ascoli stated that given the state of Arizona's current economy, he was not certain that this was the best use for this funding. He requested the name of a contact person at the state level and Mr. Stratton advised that he would provide that information to Mr. Ascoli after the meeting. Upon motion by Supervisor Pastor, seconded by Vice-Chairman Dawson, the Board unanimously adopted Resolution No. 11-10-03, which authorizes the execution of an Intergovernmental Agreement IGA/JPA 11-028I (AG Contract No. P001 2011 002870) between Gila County and the State of Arizona, Department of Transportation, at an estimated total project cost of $506,903 for pedestrian rest stop shelters in various locations within Pine and Strawberry. **(A copy of the Resolution is permanently on file in the Board of Supervisors' Office).**

3G. Information/Discussion/Action to review all bids submitted for Invitation for Bids No. 080211-1 for the Roadyard Shop Paving Project; award to the lowest, responsible and qualified bidder; and authorize the Chairman's signature on the award contract for the winning bidder.

Mr. Stratton advised that an invitation for bids was advertised for this project which includes some paving, fencing and concrete work at the new County Roadyard shop area. There is a low bidder, AJP Electric, Inc., for this project and another bidder submitted a formal protest. Mr. Stratton advised that a protest letter from the law firm of Lewis and Roca on behalf of Combs Construction has been submitted to Gila County. He stated that letter and all of the other correspondence and documentation was provided to the Board as part of this agenda item. Mr. Pastor advised that two public participation forms were submitted for this agenda item. Chairman Martin called on Michael Pagonic of AJP Electric, Inc. to speak. Mr. Pagonic advised that his company submitted 2 responses to Lewis and Roca's protests, which state that AJP Electric is not qualified to perform this project. Mr. Pagonic advised that he has never done work for Combs Construction nor Lewis and Roca. He also advised that his company has been licensed since 1999 and since that time the company has expanded beyond doing electrical work. Mr. Pagonic advised that the specifications (specs) used for this bid are the same as are used by ADOT, and that ADOT has prequalified his company to do the work outlined in the bid

specs. He informed the Board that AJP Electric has previously done work on ADOT projects. Chairman Martin then called on Robert Roos to speak on behalf of Combs Construction Company, Inc. Mr. Roos stated that the title of this project is a paving project and based on Combs' estimate, 38% of the work is paving and fencing work and with the concrete work added, the job is approximately 40% of work of which AJP Electric is not qualified. He advised that the specs prepared by the County engineer incorporate ADOT specs, which are common specs that are familiar to Arizona contractors who work on ADOT projects. One of the requirements of the ADOT program is for contractors to get prequalification from ADOT, and anyone can obtain information from the internet for those companies that are prequalified by ADOT. Mr. Roos then handed out a page from ADOT's listing of those companies that are "prequalified" to do certain types of work with AJP Electric highlighted.

At 12:01 p.m., Chairman Martin announced a short break so that she could receive Mr. Roos' handout. She reconvened the meeting at 12:09 p.m.

Chairman Martin called on Mr. Roos to continue speaking. Mr. Roos stated that ADOT initially prequalified AJP to perform electrical work, but subsequently drainage and grading, miscellaneous concrete work, and signage were added to AJPs' prequalification categories per ADOT. He stated that the handout contained the correct information as to the types of work AJP is prequalified to perform per ADOT. Mr. Roos emphasized that AJP is not prequalified to perform paving work. He advised that Combs is prequalified for all of the categories of work that are listed in the bid specs. Mr. Roos stated, "Combs is the lowest and responsive contractor for this project. It asks that you award even though it is slightly higher." Mr. Pagonic advised that AJP is not planning on paving this project, even though the project is named as a paving project. AJP plans on performing about 75% of the work and subcontracting out the remaining 25% of the work. He referred to a job in Somerton that AJP put down about 20,000 square feet of sidewalk of which that project was approved by ADOT. Mr. Pagonic also referenced a project recently completed by AJP at the Payson Airport, which was not listed as a reference. He pointed out that project included a lot of grading and draining, asphalt paving and a little electrical work, and that AJP completed most of that work. He provided a contact name for that project and suggested that a reference check be made on AJP's performance on that project.

At this time Mr. Stratton recommended that the Board of Supervisors go into executive session at which time Chairman Martin asked for a motion. Upon motion by Supervisor Pastor, seconded by Vice-Chairman Dawson, the Board unanimously voted to go into executive session at 12:20 p.m.

At 12:48 p.m. Chairman Martin reconvened the regular session. Mr. Stratton recommended that the Board award the contract for this agenda item to AJP Electric, Inc. Upon motion by Vice-Chairman Dawson, seconded by Supervisor

Pastor, the Board unanimously awarded a contract to AJP Electric, Inc. in the amount of $299,326.50 for the Roadyard Shop Paving Project - Invitation for Bids No. 080211-1.

3H. Information/Discussion/Action to authorize the advertisement of Invitation for Bids No. 091511-1 for pavement marking of County roads.

Mr. Stratton advised that this project is to pave the County roads and the Engineering Department will be going by lineal footage to allow some changes through the course of the contract. Upon motion by Supervisor Pastor, seconded by Vice-Chairman Dawson, the Board unanimously authorized the advertisement of Invitation for Bids No. 091511-1 for pavement marking of County roads.

3I. Information/Discussion/Action to authorize the Chief Deputy Clerk of the Board to remove Assessor's tax parcel numbers 301-04-082, 208-03-321-A, 208-03-321-B, 206-21-042-B, and 304-04-212-Q from the November 15, 2011, BOS Property Tax Sale/Auction advertisement; proceed with the administrative process of selling the properties to Gila County, City of Globe, Town of Miami and Town of Payson for $1 each; and issue quit claim deeds for said sales.

Marian Sheppard, Chief Deputy Clerk, advised of the statutory process pertaining to real property that was newly deeded to the state of Arizona by the County Treasurer in 2011, and the County's process to offer certain properties to Gila County or city or town within Gila County for $1 per parcel if it would benefit that entity, such as a roadway. She stated that the statutes recently changed, which are now more in line with a process the Board of Supervisors adopted several years ago; however, the sale may only take place if the County, or a city, town or special taxing district in the County uses the property for a public purpose related to transportation or flood control. Ms. Sheppard has received verification that each of the subject parcels listed on the agenda will be used for a public purpose for transportation. Upon motion by Supervisor Pastor, seconded by Vice-Chairman Dawson, the Board unanimously authorized the Chief Deputy Clerk of the Board to remove Assessor's tax parcel numbers 301-04-082, 208-03-321-A, 208-03-321-B, 206-21-042-B, and 304-04-212-Q from the November 15, 2011, BOS Property Tax Sale/Auction advertisement; proceed with the administrative process of selling the properties to Gila County, City of Globe, Town of Miami and Town of Payson for $1 each; and issue quit claim deeds for said sales.

3J. Information/Discussion/Action to authorize staff to proceed with the proper documentation and paperwork to quit claim the Gila Pueblo Campus and the westerly 38 acres (approximately) of the Payson Campus to the Gila County Community College District, for Board consideration at its November 1, 2011, Regular Meeting. Further, for staff to prepare the

Sales Agreement between Gila County and the Rim Country Higher Education Separate Legal Entity whereby Gila County would sell the easterly 15 acre (approximately) portion of the Payson property to the Rim Country Higher Education Separate Legal Entity without the requirements of a public auction including bidding, posting, and advertising the property per A.R.S. Section 11-251 Paragraph 9 for the Board's consideration at its November 15, 2011, Regular Meeting.

Don McDaniel, County Manager, advised that the Board reviewed this item in a joint work session with the Gila County Community College Board on September 27, 2011. Since that time Mr. McDaniel has met further with Kenny Evans, Payson Town Mayor and Chairman of the Rim Country Higher Education Separate Legal Entity (SLE); Mike Vogel; and Dr. Steve Cullen, Senior Dean of Gila County Community College. Also since that time, County staff has been putting together a survey of the property; however, Public Works found discrepancies on the survey, so it is being resurveyed. He informed the Board that the original intent of the State Board of Directors for Community Colleges was to transfer these types of properties used for college campuses back to the individual college districts around the state with the exception of the campuses in Gila County. A state law was later enacted to allow the Gila County transfer to take place that otherwise would not have been able to take place. Mr. McDaniel recommended that the Board of Supervisors authorize County staff to prepare the quit claim deed to transfer approximately 38 acres to the Gila County Community College District for the college campus in Payson and the 22 acres in Globe for the Gila Pueblo campus. The legal descriptions on the quit claim deed for the Payson parcel of land will be based on a property survey, which he believes could be accomplished by the Board's November 1st meeting. He also recommended that staff be allowed to begin the process to actually sell the remaining 15 acres (approximately) of the Payson campus, which will be used by the Payson Separate Legal Entity for a 4-year university. He stated that staff needs to develop a sales agreement with the Rim Country Higher Education SLE that hopefully would be presented to the Board of Supervisors at its November 15th meeting. Chairman Martin paid special thanks to Mr. McDaniel for conducting all of the research and preparing this agenda item in such a short time frame. She stated that a public participation form had been submitted by Thomas Loeffler requesting to address this item. Mr. Loeffler, a resident of Payson, thanked the Board for taking quick action to address this item. Regarding the transfer of the approximately 38 acres, Mr. Loeffler is in favor of having a 4-year college campus possibly located in Payson. His concern is that even though state legislation was enacted to allow this transfer of property to the college district by no later than January 31, 2013, he believes that the college district is not in a good financial position at this time to maintain the buildings and land. He requested that the County continue to maintain the college property until the current fiscal year's budgeted funds have been expended. This will allow the college district additional time to add that expense into the college budget.

With regard to the sale of the approximately 15 acres to the Rim Country Higher Education SLE, he was concerned whether anyone has looked at the design of how the college campus would look and fit on approximately 15 acres due to the shape of the property. If not, he inquired whether there was consideration of some additional acreage to accommodate the buildings. He also wanted the sales agreement to restrict certain types of buildings, such as those used for commercial or industrial purposes. He questioned whether the SLE had available funding for this purchase. Vice-Chairman Dawson addressed Mr. Loeffler's comment with regard to a desire for the County to continue maintaining the college property for a length of time after the transfer of property takes place until the County's budgeted funds for that maintenance has been expended. She stated, "There will be income to the college with regard to the sale of land. The college (district) has to grow up and be responsible….Educational programs and the transfer is again the college growing up and handling however you are going to do this. That is not anything in our business in dictating how that will work out. Do we want a university? Yes, we want a university." Don Ascoli, a resident of Payson submitted a public participation form in order to address this issue. Mr. Ascoli stated, "I support this proposal. I think it's the right thing to do. It not only will increase the visibility of the County as a place to get a good education, but obviously it will help the economy as well for the whole County." Mr. Ascoli also thanked the Board for expeditiously addressing this item. Upon motion by Vice-Chairman Dawson, seconded by Supervisor Pastor, the Board unanimously authorized staff to proceed with the proper documentation and paperwork to quit claim the Gila Pueblo Campus and the westerly 38 acres (approximately) of the Payson Campus to the Gila County Community College District, for Board consideration at its November 1, 2011, Regular Meeting. Further, for staff to prepare the Sales Agreement based upon a current appraisal between Gila County and the Rim Country Higher Education Separate Legal Entity whereby Gila County would sell the easterly 15 acre (approximately) portion of the Payson property to the Rim Country Higher Education Separate Legal Entity without the requirements of a public auction including bidding, posting, and advertising the property per A.R.S. Section 11-251 Paragraph 9 for the Board's consideration at its November 15, 2011, Regular Meeting.

Item 4 – CONSENT AGENDA ACTION ITEMS:

4A. Approval of Amendment No. 3 to an Intergovernmental Agreement, Contract No. HG050277 (ADHS11-004485) between the Gila County Division of Health and Emergency Services and the Arizona Department of Health Services in the amounts of $318,365 for WIC (Women, Infants and Children) services and $50,743 for BFPC (Breast Feeding Peer Counseling) services for the period October 1, 2011, to September 30, 2012.

4B. Approval of an Intergovernmental Agreement (Contract No. ADHS12-010890) between the Gila County Division of Health and Emergency Services (Nutrition Services Program) and the Arizona Department of Health Services in the amount of $5,160 for the continuation of the Commodities Supplemental Food Program (CSFP) / Senior Farmers' Market Nutrition Program (SFMNP) for the period October 1, 2011, to September 30, 2016.

4C. Approval of the Chairman's signature on Amendment No. 1 to Subgrantee Agreement No. 10-AZDOHS-HSGP-777304-01 between the Arizona Department of Homeland Security and the Gila County Department of Emergency Management changing the grant performance period to October 1, 2010, through December 31, 2011.

4D. Approval of the appointments of the following precinct committeemen as submitted by the Gila County Republican Committee: Tonto Basin Precinct - Madra Bernard; Payson 3 Precinct - John D. Bailey; Payson 5 Precinct - William D. Powers; and Payson 8 Precinct - Wanda P. Randall.

4E. Acknowledgment of the resignation of Mr. Sam Baker from the Beaver Valley Fire District Governing Board effective July 9, 2011, and the appointment of Ms. Joyce Lynch to complete the term of Mr. Baker, which expires November 30, 2014.

4F. Acknowledgment of the resignations of Mr. Edgar Armer and Ms. Ginny Ennen from the Houston Mesa Fire District Governing Board and the appointments of Mr. Dick Sizemore to complete the term of Mr. Armer, which expires November 30, 2014, and Ms. Jeanne Schoonover to complete the term of Ms. Ennen, which expires November 30, 2012.

4G. Approval of Amendment No. 3 to Contract No. R016-10-21 with the Governor's Office of Energy Policy to extend the contract termination date from September 30, 2011, to December 30, 2011.

4H. Approval of an Order adopting Plan 1 Revision 1 as the Gila County Community College Redistricting Plan and directing that the new Plan boundaries, including any election precinct boundary changes, shall become effective upon preclearance by the Department of Justice.

4I. Approval of an Order adopting Plan A as the Gila County Supervisorial Redistricting Plan and directing that the new Plan boundaries, including any election precinct boundary changes, shall become effective upon preclearance by the Department of Justice.

4J. Approval of the January 18, 2011, January 25, 2011, February 1, 2011, February 15, 2011, and February 24, 2011, BOS meeting minutes.

4K. Approval of finance reports/demands/transfers for the weeks of October 11, 2011, and October 18, 2011.

October 11, 2011
$539,624.50 was disbursed for County expenses by check numbers 240613 through 240771.

October 18, 2011
$1,265,598.73 was disbursed for County expenses by check numbers 240772 through 240812. **(An itemized list of disbursements is permanently on file in the Board of Supervisors' Office.)**

4L. Acknowledgment of contracts under $50,000 which have been approved by the County Manager for the weeks ending September 30, 2011, and October 7, 2011.

Upon motion by Supervisor Pastor, seconded by Vice-Chairman Dawson, the Board unanimously approved consent agenda items 4A through 4L.

Item 5 - CALL TO THE PUBLIC: Call to the Public is held for public benefit to allow individuals to address issue(s) within the Board's jurisdiction. Board members may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to Arizona Revised Statute §38-431.01(G), action taken as a result of public comment will be limited to directing staff to study the matter, responding to criticism, or scheduling the matter for further discussion and decision at a future date.

Don Ascoli talked about the proposed redistricting of legislative districts in the state. He encouraged the Board of Supervisors to consider taking an action stating that the position of Gila County is to be contained within one legislative district "so we can have some sway representing our view and positions."

Item 6 - At any time during this meeting pursuant to A.R.S. §38-431.02(K), members of the Board of Supervisors and the Chief Administrator may present a brief summary of current events. No action may be taken on issues presented.

Each Board member presented information on current events.

There being no further business to come before the Board of Supervisors, Chairman Martin adjourned the meeting at 1:37 p.m.

APPROVED:

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Tommie C. Martin, Chairman

ATTEST:

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Marian Sheppard, Chief Deputy Clerk

BOARD OF SUPERVISORS MINUTES
GILA COUNTY, ARIZONA

Date: November 1, 2011

TOMMIE C. MARTIN Chairman	**JOHN F. NELSON** Clerk of the Board
SHIRLEY L. DAWSON Vice-Chairman	By: Marilyn Brewer Deputy Clerk
MICHAEL A. PASTOR Member	Gila County Courthouse Globe, Arizona

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PRESENT: Tommie C. Martin, Chairman (via ITV conferencing); Shirley L. Dawson, Vice-Chairman; Michael A. Pastor, Supervisor; Don McDaniel, Jr., County Manager; John Nelson, Deputy County Manager/Clerk; Marian Sheppard, Chief Deputy Clerk; and Bryan Chambers, Chief Deputy County Attorney.

Item 1 – Call to Order – Pledge of Allegiance – Invocation

The Gila County Board of Supervisors met in a regular session at 10:00 a.m. this date in the Board of Supervisors hearing room. Nyra Hillery led the Pledge of Allegiance and Reverend Kelly Woolridge of the Payson First Assembly of God Church delivered the invocation.

Item 2 – PRESENTATIONS:

2A. Public recognition of 14 employees for September's and October's "Spotlight on Employees" Program, as follows: Nancy Rutherford, William Swede Carlson, Sarah White, Betty Vanta, Nyra Hillery, Michael Ybarra, Zack Andrade, Tiffany Sanchez, Richard Stockwell, Tim Scott, Jack Mathews, Sine Scott, Johnnie Perez and Anthony Puskaric.

Erica Raymond, Human Resources Assistant, presented gift cards as recognition awards to 14 employees for September's and October's "Spotlight on Employees" Program as follows: Nancy Rutherford, William Swede Carlson, Sarah White, Betty Vanta, Nyra Hillery, Michael Ybarra, Zack Andrade, Tiffany Sanchez, Richard Stockwell, Tim Scott, Jack Mathews, Sine Scott, Johnnie Perez and Anthony Puskaric. Each Board member thanked the employees for their dedicated work.

Item 3 – PUBLIC HEARINGS:

3A. Public Hearing - Information/Discussion/Action to adopt Resolution No. 11-11-01 designating Homestead Avenue and Kachina Trail as Country Dirt Roads and accepting said roads into the Gila County Maintained Roadway System and to authorize the Chairman's signature on the Country Dirt Road easement.

Steve Stratton, Public Works Division Director, stated that in May of this year a citizens' petition was accepted by the Board of Supervisors to begin the process of designating these roads. The Public Works Division then prepared the easements for the signatures of the citizens residing on these 2 roads, which was a lengthy process to acquire all of the signatures. He recommended that the Board accept these 2 roads into the County's Maintained Roadway System. Chairman Martin opened the public hearing for comments from the public. Hope Barnett, a resident of Globe, inquired as to the time when maintenance on Kachina Trail would begin. Mr. Stratton stated that if the Board accepted these roads into the County's Maintained Roadway System, then they would be scheduled for maintenance; however, he could not provide a definite date at this time. Chairman Martin closed the public hearing and entertained a motion. Upon motion by Vice-Chairman Dawson, seconded by Supervisor Pastor, the Board unanimously adopted Resolution No. 11-11-01 designating Homestead Avenue and Kachina Trail as Country Dirt Roads and accepting said roads into the Gila County Maintained Roadway System, and authorized the Chairman's signature on the Country Dirt Road easement. **(A copy of the Resolution is permanently on file in the Board of Supervisors' Office.)**

Item 4 – REGULAR AGENDA ITEMS:

4A. Information/Discussion/Action to appoint the following employees: Shane Stuler, Kevin Kenney, and Michael O'Driscoll as hearing officers for the Gila County Animal Control Department.

Michael O'Driscoll, Health and Emergency Services Division Director, stated that he has some additional work to do on this particular item and requested that it be pulled from the agenda and he would present it at a later date. Upon motion by Supervisor Pastor, seconded by Vice-Chairman Dawson, the Board unanimously tabled this agenda item until after the first of the year.

4B. Information/Discussion/Action to approve the Order to adopt changes to voting precinct boundaries and regular polling place locations, as set forth in Exhibits A-I, effective upon preclearance by the Department of Justice.

Linda Eastlick, Elections Director, stated that as a result of the County's redistricting process to change the boundaries of the supervisorial districts and

college districts, there are now a number of precinct changes that will be made of which she recommended the Board's approval. A summary of all the changes was provided to the Board, which Ms. Eastlick reviewed with the Board including the old and new revised maps using the new mapping tool. The summary is as follows:

Pine-Strawberry East and Pine-Strawberry West Precincts – The Pine-Strawberry precinct shall be divided north to south along Highway 87 and the new community college district boundary. That portion of the precinct to the east of the highway shall be designated as the Pine-Strawberry East precinct. That portion of the precinct west of the highway shall be designated as the Pine-Strawberry West precinct. The reason for the change is to accommodate new community college district boundaries. Both precincts shall be co-located for voting purposes and the polling place for both shall remain the First Baptist Church of Pine.

Sierra Ancha and Carrizo Precincts – The Sierra Ancha precinct shall be divided north to south along the White Mountain Apache Reservation, which is the new supervisorial boundary. That portion of the precinct to the west shall be designated as the Sierra Ancha precinct. The Eastern portion of the precinct shall be merged into the Carrizo precinct. The reason for the change is to accommodate new supervisorial boundaries and to include additional reservation lands in reservation precincts. The Sierra Ancha polling place will remain in the Roosevelt Baptist Church. There are only two voting age people in the eastern portion being merged into the Carrizo precinct. Voter access will be greatly improved since their polling place is currently located off the reservation in Roosevelt, 77 miles away. The Carrizo polling place, which remains at the Assembly of God Church, is on the reservation, 13 miles away.

Wheatfields Precinct – A new precinct shall be formed along the boundary of the Miami No. 1 and the Globe No. 1 precincts between Hicks Road on the south, Wheatfields Road and the new community college district boundary on the west, Jesse Lane on the north and the new supervisorial boundary on the east. The new precinct shall be designated as Wheatfields. The reason for the change is to accommodate new supervisorial and community college district boundaries. The polling place for this precinct shall be co-located with the Globe No. 1 polling place at the Globe/Miami Regional Chamber of Commerce. While this polling place is not located within the precinct, voters will be going to the same polling place as they did previously. There is no appropriate polling place inside the precinct boundaries.

Upon inquiry by Chairman Martin, Ms. Eastlick explained that co-location means there will be more than one precinct at the same polling place.

Pinal Creek and Claypool No. 2 Precincts – A new precinct shall be formed along the boundary of the Miami No. 1 and Globe No. 1 precincts and from the northern portion of the Claypool No. 2 precinct, between Bixby Road, Pinal Creek Road and the new supervisorial boundary on the east, Highway 188 and the new community college boundary on the west and the new community college boundary on the south. The new precinct shall be designated as Pinal Creek. The southern portion of the Claypool No. 2 precinct shall be designated

as the Claypool No. 1 precinct. The reason for the new precinct is to accommodate new supervisorial and community college district boundaries. The Pinal Creek polling place shall be co-located with Claypool No. 2 polling place at St. Paul's Lutheran Church as there is no appropriate location in the Pinal Creek precinct. By co-locating the polling place, those voters moving from Claypool No. 2 to the new Pinal Creek precinct will be going to the same polling place as they did previously. For those voters moved from the Globe No. 1 precinct to the Pinal Creek precinct, St. Paul's Lutheran Church is 2.0 miles closer than the previous polling place, which was the Globe-Miami Regional Chamber of Commerce.

Miami No. 1 and Miami No. 3 Precincts – The Miami No. 1 precinct shall be divided east to west beginning just south of Los Arcos Flore Street to the east and following the new college district boundary west to the Gila and Pinal County line. The northern portion shall be designated as the Miami No. 1 precinct. The southern portion shall be merged into the Miami No. 3 precinct. Additionally, the boundary between Miami No. 1 and Miami No. 3 beginning at Canyon Avenue on the west to approximately Latham Boulevard on the east shall be changed to follow the new community college district boundary. The reason for the change is to accommodate new community college district boundaries. The polling place for Miami No. 1 remains at the First Southern Baptist Church. The polling place for Miami No. 3 remains at the Miami Town Hall. The Miami No. 1 polling place is 0.4 miles from the Miami No. 3 polling place.

Claypool No. 3 Precinct – The current polling place for the Claypool No. 3 precinct located at the National Guard Armory/Regional Skill Center shall be eliminated. The new polling place shall be the First Baptist Church, which is located within the Claypool No. 3 precinct. Voting has been conducted at this facility in the past with good success. The reason for the change is the deteriorating physical condition of the Armory building and difficulties moving large equipment located in the polling place in order to conduct voting. The new voting location is 0.5 miles from the old voting location and thus voters will not be significantly impacted.

Globe No. 1 and No. 2 Precincts – The northern and northeastern portions of the Globe No. 2 precinct shall be merged into the Globe No. 1 precinct. The new boundary line between the Globe No. 1 and Globe No. 2 precincts shall begin at US 60 and Broad Street on the west and follow the college district boundary eastward to Third Street. The southwest portion of the Globe No. 2 precinct shall be designated as the Globe No. 2 precinct. The reason for the change is to accommodate new community college district boundaries. Voters impacted by the move into Globe No. 1 precinct will now vote at the Globe-Miami Chamber of Commerce, which is 1.0 mile from the previous polling place at the Lutheran Church. The Globe No. 2 polling place at St. Peter's Lutheran Church shall be eliminated and the Globe No. 2 polling place shall be co-located with the Globe No. 3 polling place at St. John's Episcopal Church. The St. Peter's Lutheran Church shall be eliminated as a polling place due to space constraints, inadequate ADA (Americans with Disabilities Act) compliance, and

declining demographics. The new voting location is .04 miles from the old voting located and thus voters will not be significantly impacted.

Globe No. 3 and East Globe Precincts – The northeastern portion of the Globe No. 3 precinct along the community college boundary at Third Street to the eastern boundary of the precinct shall be merged into the East Globe precinct. The southern portion of the Globe No. 3 precinct shall be designated as the Globe No. 3 precinct. The reason for the change is to accommodate new supervisorial and community college district boundaries. The Globe No. 3 polling place at St. Paul's Methodist Church shall be eliminated and the Globe No. 3 polling place shall be co-located with Globe No. 2 polling place at St. John's Episcopal Church. The reason for the polling place change is to eliminate the use of an ADA noncompliant polling location. The Episcopal Church, which is located in the Globe No. 3 precinct, has appropriate disabled voter access and is located across the street from the previous polling place. Voters will not be impacted by this move. The East Globe polling place shall remain at the Church of the Nazarene. For voters affected by the Globe No. 3 boundary change, the Church of the Nazarene is located 2.3 miles from the previous polling place at St. Paul's Methodist Church.

Globe No. 4 and Globe No. 5 Precincts – The northeastern portion of the Globe No. 4 precinct along the community college boundary at Sixth Street (Josephine) shall be consolidated with the East Globe precinct. The remainder of the Globe No. 4 precinct and the entire precinct shall be consolidated. The new precinct shall be designated as Globe No. 4. The reason for the change is to accommodate new community college district boundaries. The reason for the merging of the remainder of Globe No. 4 and Globe No. 5 is declining demographics. The East Globe polling place shall remain at the Church of the Nazarene. For voters affected by the Globe No. 4 boundary changes, the Church of the Nazarene is located 1.4 miles from the previous polling place at the Gila County Courthouse. The polling place for the merged precinct Globe No. 4 shall be at the Elks Lodge. The Globe No. 4 polling place at the Gila County Courthouse shall be eliminated due to logistical challenges. The Courthouse must be used immediately following the closing of the polls for public access to election results. This has caused the poll workers at the Courthouse, not to mention the public who is waiting, a great deal of consternation as poll workers try to get the polling place shut down in order for the public to enter. The Elks Lodge is not located in the Globe No. 4 precinct; however, it is the most suitable place available and is only 0.5 miles from the center of the precinct. The Courthouse was not located in the Globe No. 4 precinct and was approximately 0.7 miles from the center of the merged precinct.

Globe No. 6 Precinct – The current polling place for the Globe No. 6 precinct shall be moved from the Maranatha Baptist Church and co-located with the Globe No. 4 polling place at the Globe Elks. The reason for this change is to eliminate the use of an ADA noncompliant polling location. The Elks Lodge building has appropriate disabled voter access and is located 2.2 miles from

the previous polling place. Voters will not be seriously impacted by the move as both facilities are just off the same major highway.

Hayden, Winkelman, Christmas Precincts Combined Into Copper Basing Precinct – The boundaries between the Hayden, Winkelman and Christmas precincts shall be dissolved and the entire area shall become a new precinct. The new precinct shall be designated as the Copper Basin precinct. The voting place for the new Copper Basin precinct shall be the Hayden High School. The Hayden, Winkelman and Christmas precincts shall be combined. The reason for the change is declining population, increased permanent early voting and difficulties in recruiting poll workers in these areas. The new precinct shall be called the Copper Basin precinct. The new polling place shall be located at the Hayden High School. This new polling place is 1.9 miles from the Hayden Town Hall polling place, 0.3 miles from the Winkelman Town Hall polling place and 9.0 miles from the Christmas polling place. Hayden and Winkelman voters will not be significantly impacted by the change in the polling place. It is recognized that the Christmas voters will have to drive ten miles further to the new polling place, but they must drive to their current polling place as this is a rural area and it has become extremely difficult to get poll workers to continue to man the previous Christmas polling place in Dripping Springs.

San Carlos and Christmas Precincts – The southeastern boundary between the Christmas and the San Carlos precincts shall be moved to the west to follow the reservation and new community college district boundaries. The reason for the change is to accommodate new college district boundaries and to include additional reservation lands in reservation precincts. There is zero population contained in the area being merged into the San Carlos precinct and, therefore, no voters are affected.

Board members had some questions for clarification about various precincts and polling places, which Ms. Eastlick reviewed with them. Vice-Chairman Dawson stated that during the redistricting 10 years ago, "A lot of updating didn't take place and the public was not aware of the changes that were being made. These are significant changes and we need constant public information going out and there needs to be some kind of checks and balances on this so that come petition time and election time people aren't signing petitions in the wrong precincts, the wrong supervisor district, the wrong college district. On those races it becomes a really significant difference and can cause heartache and anguish and difficulties." Vice-Chairman Dawson recommended that the Recorder's Office get ready for these precinct changes. She will also be encouraging precinct committeemen to become familiar with the new boundaries for their precincts. Ms. Eastlick stated that the Elections Department has already begun working with the Recorder's Office and their staff will now have access to the new mapping tool. She stated that one of the problems in the past was simply the lack of maps with detailed views so this new mapping tool will help tremendously. She also stated that Tom Homan, GIS Systems Analyst Sr. for the Public Works Division, is trying to coordinate all data so that all departments involved will be accessing the same database. The Recorder's Office is already beginning to plan these moves out so that they

can get their records updated; however, the boundaries will not have to be in place for the February election, which is the Presidential Preference Election, so they have some time to complete all the changes. Supervisor Pastor stated that none of these changes will become permanent until they have been cleared by the U.S. Department of Justice (DOJ) and inquired how long that process will take. Ms. Eastlick replied that he was correct and if everything goes right, before Thanksgiving there will be 4 submissions sent to the DOJ. The submission of the supervisorial districts is almost complete, which will be followed by the college district submission, the precinct boundary changes and lastly a submission for the Presidential Preference Election advising of the County's consolidation plan. Once the submissions are sent, the DOJ will have 60 days to report back to the County and, in the meantime, there will be the finishing up of the implementation of the changes in the Recorder's Office. Chairman Martin stated she would like to see the County more proactive than it was 10 years ago and as soon as the detailed maps are available, that the Board be advised of same and that a notice be issued to the public. She also inquired of Ms. Eastlick as to the time the petitions would be available for next year's elections. Ms. Eastlick replied that petitions will be available in January assuming that it is known what the state is doing and that nothing that the state is doing will impact the County. There is a possibility that the boundaries that the state draws could impact either the County's supervisorial or college districts or the precinct boundaries. She did not believe that would be the case right now as it appears that the state is following the reservation lines until getting into the Salt River Canyon and the Roosevelt area, but it is unknown what the state will end up doing and there is a lot of ongoing discussion right now. She stated that the state's plan could drag on, but as long as the County has approval, the Elections Department can go ahead and work within the boundaries that it has and the packets will be available for candidates probably by mid-January. Chairman Martin stated, "I would think that part of the packet needs to be the maps that we are talking about here or access to the maps. I know it's more work, but I think we need in that regard to be more proactive in handing them the information they absolutely need when they walk out of there with a packet as to where the boundaries are, ease to get back to us and at the same time it needs to go out to the precinct committee people as quick as we can get it. We need some maximum public relations on this. We need to have that information out to as many people as possible absolutely as quick as possible... The Recorder's office will have enough on their hands without also expecting them to do the information outreach that I think needs to happen here." Ms. Eastlick replied, "I think it needs to come under the auspices of the Board and we need to put together a publicity campaign." Ms. Eastlick stated that in terms of the website itself she was not sure that the Public Works Division Engineering Department was going to be equipped to launch this into the public preview right away and inquired about this to Mr. Stratton. Mr. Stratton stated that this is an ongoing project. The legal descriptions of the boundaries have to be reviewed and the new boundary changes of the supervisorial and college districts have to be incorporated and

then Tom Homan, GIS Systems Analyst Sr., will plot the boundaries on an aerial mapping photo. Mr. Stratton stated, "I want to make it very clear that right now this is only an in-house tool and there's problems with things we have to work on and it's not ready to go live with the public. This is the very first time anybody has used it other than ourselves inside our department so we want to be very cautious. My instructions to Tom (Homan) and that department have been that I don't want it out to the public until all the bugs are out because I don't want any problems out there. We can work with Linda (Eastlick) and the Recorder's Office in a one-on-one situation, but I really want everybody to understand that this is an ongoing project. We're still working on the land parcel database which is integral to this in layering and making sure the lines are exactly where they need to be. So I want to caution everybody that it's not ready to go live yet." Chairman Martin inquired when Mr. Stratton thought it would be completed. Mr. Stratton replied that it's going to be 6 months to a year before it is done because the County still has its surveying crew out in the field tying points and they have a lot of work to do out there and then that field information has to be put into the database. He reiterated that in order to have very good accuracy of the whole County, it's going to be quite a while. He stated that in certain areas of the County the work is complete, but not the whole County at this time. Chairman Martin inquired, "Is there something that could be done between what we don't have anything of and where we have everything in the next couple of months; just some hard maps that could be used for boundary lines without having to do interactive work; just some good hard maps in January that folks picking up their petitions can count on those maps?" Mr. Stratton replied, "We work on it every day. With a legal description, we can absolutely plot those and feel good about it and we can work with Linda (Eastlick) to get those, but as far as this layering as you're seeing today, that's an ongoing process." Supervisor Dawson stated, "The experience was not a pleasant one 10 years ago and when you have candidates in races with contested elections, which we will have, these maps, when they pick up their petitions, the maps need to be ready to hand to them…We've taken a big step forward and I appreciate that we don't want to put out anything that isn't accurate, but as the mapping people get what the DOJ approves, that has to be available for those candidates so that they know for certain what district boundaries are and likewise the political parties have to know where they can register people for these contested elections. I think the thing that we didn't realize 10 years ago was the fact that when a candidate goes gathering petitions in an area that isn't in their district, lawsuits can result and that instead of it costing Gila County, it ends up costing the innocent candidate who was following just what we thought was the right thing to be doing. I just see a real urgency to get this and if we're going to follow the law and have petitions available, then we need to follow the law and have these accurate maps available and then if there is a lawsuit, it's us that defends, not the candidates." Mr. Stratton stated, "The Engineering Department will work closely with the Elections Department, specifically in those areas where things have changed and one side of the road is one precinct or district and the other

side is another and provide whatever we can in assistance to them." Supervisor Pastor stated that it's going to be a little difficult with the Globe area because of the splitting of precincts down the middle, but the landmarks are pretty distinct and the changes made in the Payson No. 2 precinct into District 3 is also pretty distinct. However, Supervisor Pastor felt that most of the candidates running for positions in those areas would be aware of most of those landmarks so he didn't believe it would be too difficult, but the more information available, the better it would be. Chairman Martin then inquired of Darryl Griffin, Internet Technology Director, that as the County launches its new website, if it would be possible to have all of this information and plans available to the public within the next 90 days. Mr. Griffin stated that it would be available and much easier to find. Chairman Martin thanked Ms. Eastlick for her presentation and all of the work she and her staff have completed. Upon motion by Vice-Chairman Dawson, seconded by Supervisor Pastor, the Board unanimously approved the Order to adopt changes to voting precinct boundaries and regular polling place locations, as set forth in Exhibits A-I, effective upon preclearance by the Department of Justice.

4C. Information/Discussion/Action to implement Phase II (a) of the Gila County Courthouse Security Plan at a cost not to exceed $85,000 and to return to the Board of Supervisors in February 2012, for further review and possible approval of Phase II (b) and Phase III.

Berthan DeNero, Human Resources Director, provided an update on Courthouse security both in Globe and Payson, which included working on operational, procedural and training issues; the ongoing process of issuing new employee badges, which is 90% complete in Globe; and scheduling a workplace violence class. In Globe work has been ongoing with panic bars in the stairwells and jury selection is now being held in the Board of Supervisors Hearing room with potential jurors being wanded. An additional team has been formed with Joe Heatherly, Finance Director, in charge which will work on security procedures for cash handling. She requested that the Board approve this item so Phase II (a) can be implemented, which will include big-dollar items such as the installation of key card access, and work on the doors and the elevators so that they can be closed or shut down if needed. Supervisor Pastor related an incident where a potential juror left the Board Hearing room and was wandering around in the Board of Supervisors' office area and he requested that some type of process be implemented to keep that from happening again. Ms. DeNero stated that she would address that issue and notify the Clerk of the Court of same. Supervisor Pastor also inquired when it would be a requirement that all employees wear the new badges. Ms. DeNero stated that as part of the update of the Gila County Merit System Rules & Policies, once it is adopted by the Board, then it will become a requirement; right now it is highly requested. Chairman Martin inquired whether Ms. DeNero has received any feedback from the public or employees on the security changes that have already been implemented. Ms. DeNero stated that she has

not received any comments. Upon motion by Vice-Chairman Dawson, seconded by Supervisor Pastor, the Board unanimously approved the implementation of Phase II (a) of the Gila County Courthouse Security Plan at a cost not to exceed $85,000 and to return to the Board of Supervisors in February 2012, for further review and possible approval of Phase II (b) and Phase III.

4D. Information/Discussion/Action to authorize the Chairman's signature on the amended Intergovernmental Agreement between the City of Globe and Gila County pertaining to the Broad Street Phase II Project.

Mr. Stratton advised that for the past 10 years the County and the City of Globe have discussed this project. All of the details of the project have been worked out with the City of Globe with regard to funding and the responsibility of each entity for each particular item in the project. Vice-Chairman Dawson inquired whether sidewalks are included in this phase of the project. Mr. Stratton replied that on the majority of the project there will be sidewalks; however, the County still lacks 2 particular easements of which his department is working on obtaining those easements. If those 2 property owners grant an easement, then the sidewalk will be for the whole distance and if they do not, the sidewalk will skip those 2 properties. He stated that the volume of traffic on that road dictates that something must be done, not only with regard to the vehicular traffic, but also the pedestrian traffic. This project will eliminate the "Y" intersection at the Walliman Road-Skyline intersection and it will become a "T" intersection, which is much safer. The project will begin at the location where Phase 1 ended all the way to the underpass of the railroad, which is the reason the County widened the railroad underpass a couple of years ago. Chairman Martin inquired whether there are any plans to extend this project at some future time. Mr. Stratton advised that there has been discussion about a Phase III, which would tie Six Shooter Canyon into Walliman Road with another creek crossing on Upper Pinal. A study was conducted about 4-6 years ago extending it on out to Highway 77; however, at this time, it is his opinion that the County needs to work with the Arizona Department of Transportation because the new proposed routes on the new highway could be in conflict with the extension to Highway 77. Chairman Martin stated that she likes the Phase III part because it would give an additional exit out of that area in the event of a potential forest fire. Mr. Stratton stated that a potential forest fire and also flooding were being reviewed. Chairman Martin encouraged him to continue working on Phase III. Mr. Stratton stated that work is continuing at the current time; however, because of the limitation of funds and grants through Central Arizona Association of Governments, it is going to slow down the process. Upon motion by Supervisor Pastor, seconded by Vice-Chairman Dawson, the Board unanimously authorized the Chairman's signature on the amended Intergovernmental Agreement between the City of Globe and Gila County pertaining to the Broad Street Phase II Project.

4E. Information/Discussion/Action to authorize the Chairman's signature on Termination and Release of Lease for the real property location at 4053 East Highway 60, Claypool, AZ between Freeport-McMoRan Miami, Inc. and Gila County effective July 1, 2011.

Mr. Stratton stated that the effective date for the termination of this lease was July 1, 2011; however, the County was asked to remain on the books a little bit longer until the Gila County Community College District had in place a good lease with Freeport, which they now have. This property is better known as the "Old Armory" and it was occupied by the County's Facilities Department. This was presented to the Board in 2009 at which time the County was looking at obtaining bond funds. One of the proposed uses of the bond funds was to relocate the Facilities Department to a County-owned building rather than remaining at the Armory building. The Facilities Department has since relocated to a County-owned facility, so the lease can now be terminated. Mr. Stratton stated that this termination is agreeable to Freeport McMoRan and he recommended approval by the Board. Upon motion by Vice-Chairman Dawson, seconded by Supervisor Pastor, the Board unanimously authorized the Chairman's signature on the Termination and Release of Lease for the real property location at 4053 East Highway 60, Claypool, AZ between Freeport-McMoRan Miami, Inc. and Gila County effective July 1, 2011.

4F. Information/Discussion/Action to adopt the County Supervisors Association 2011 Legislative Summit Report and authorize the County Manager and Deputy County Manager to support or oppose any legislation which furthers those goals and priorities or is in the best interests of Gila County.

Don McDaniel, County Manager, stated that each Board member has had the opportunity to review the various pieces of legislation that CSA (County Supervisors Association) has brought forward and the supervisors voted on those at the Legislative Summit in October. This agenda item will provide an opportunity for the Board to vote on and support the legislation. As the opportunity arises and the proposed legislation moves forward, each Board member may individually support these pieces of legislation knowing that the full Board has approved them. Approval will also give authorization to the County Manager and Deputy County Manager to speak on behalf of the Board with regard to these pieces of legislation. Vice-Chairman Dawson noted that there were also 3 other statements included in the legislative packet. Supervisor Pastor stated that those 3 were considered the CSA policy priorities and included the prisoner shifts, the mandated county contributions and HURF (Highway User Revenue Funds) funding shifts along with the 14-15 legislative proposals that the Board was reviewing today. Mr. McDaniel stated that there were 11 proposals that CSA supported and 4 that the County was going to jointly support with other agencies. He reviewed the 3 top priorities that are not specifically legislative matters. One priority is to repeal the adult

prisoner shift that was passed last year and will go into effect July of next year; the second was to eliminate the freeze or freeze-mandated county contributions that Gila County has so far been able to escape; and the third was to also eliminate or freeze the shifts from HURF to the Department of Public Safety and the Motor Vehicle Division. Vice-Chairman Dawson stated that she wanted to make sure that publicity goes out locally and especially emphasizes the repeal of the prisoners shift. Mr. McDaniel stated that the County has just issued a press release of a summary of the Legislative Summit and what topics the County values that will go to all of the media in Gila County. Depending on the newspaper print dates, it should be coming out in the next week or so. Mr. McDaniel also encouraged personal contacts with the legislators. Upon motion by Supervisor Pastor, seconded by Vice-Chairman Dawson, the Board unanimously adopted the County Supervisors Association 2011 Legislative Summit Report and authorized the County Manager and Deputy County Manager to support or oppose any legislation which furthers those goals and priorities or is in the best interests of Gila County.

Item 5 – CONSENT AGENDA ACTION ITEMS:

5A. Approval of Amendment No. 5 to an Intergovernmental Agreement (Contract No. DE111006001) between the Arizona Department of Economic Security and Gila County Board of Supervisors to add subsection 34.2 to Section 34.0 - Audit, and add subsection 35.2 to Section 35.0 - Applicable Law.

5B. Approval to accept the reappointment of Cindy Fletcher, representing the private sector, to the Gila/Pinal Workforce Investment Board for an additional four-year term retroactive from July 27, 2011, to July 26, 2015.

5C. Approval of an Intergovernmental Agreement for Election Services between Gila County Department of Elections and the Town of Payson to provide voting equipment for their mayor and council election on March 13, 2012, and run-off election on May 15, 2012, (if needed).

5D. Acknowledgment of the resignation of Mr. Harry Jones from the Whispering Pines Fire District Governing Board and the appointment of Mr. Chris Oberg to complete the term of Mr. Jones, which expires November 30, 2014.

5E. Acknowledgment of the resignation of Ms. Brenda Straw from the Tonto Basin Fire District Governing Board and the appointment of Ms. Kathryn Ann Dorsett to complete the term of Ms. Straw, which expires November 30, 2012.

5F. Approval of Amendment No. 1 to a U.S. Department of Agriculture Forest Service Special Use Authorization to allow the Forest Service to dump at the Buckhead Mesa Landfill and the Forest Service will be extended a fee credit at the landfill in the amount of the annual landfill bill through December 31, 2012.

5G. Approval of the September 2011 Monthly Office Activity Report submitted by The Payson Regional Constable's Office.

5H. Approval of the September, 2011 monthly departmental activity report submitted by the Globe Regional Justice Court.

5I. Approval of the September 2011 monthly departmental activity report submitted by Clerk of the Superior Court.

5J. Approval of the March 1, 2011, March 3, 2011, March 15, 2011, April 12, 2011, April 19, 2011, and June 7, 2011, BOS meeting minutes.

5K. Acknowledgement of the Human Resources weekly reports for all personnel action items approved by the County Manager for the month of October 2011, as follows: October 3, 2011, October 11, 2011, October 18, 2011, and October 25, 2011.

October 3, 2011

Temporary Hires to County Service:

1. Paul R. Larkin – Globe Regional Justice Court – Temporary Pro-Tem – 09/20/11 – General Fund

End Probationary Period:

2. Joseph Williams – Assessor – Appraiser – 10/11/11 – General Fund

Position Review:

3. Robert Whittle – Public Works – Solid Waste Operations Worker – 09/26/11 – Probationary Period extended to October 24, 2011

SHERIFF'S PERSONNEL ACTION ITEMS

Departures from County Service:

4. Kevin M. Fane – Sheriff's Office – Detention Officer – 09/28/11 – General Fund – DOH 11/13/06 – Resignation
5. Carl Melford – Sheriff's Office – Detention Officer – 09/29/11 – General Fund – DOH 02/09/09 – Resignation

Week of October 11, 2011

Departures from County Service:

1. Pablo Lopez – Probation – Deputy Probation Officer Supervisor – 09/30/11 – Various Funds – DOH 08/25/83 – Retirement

Request Permission to Post:

2. Community Services – Administrative Clerk (Temporary) – Vacated by Dawn VanPraag – Date Vacated 09/23/11

SHERIFF'S PERSONNEL ACTION ITEMS

Hires to County Service:

3. Kevin Paul Roberts – Sheriff's Office – Detention Officer – 10/13/11 – General Fund – Replacing Rion Ramirez

Departmental Transfers:

4. Keith Johnson – Sheriff's Office – From Detention Officer – To Detention Officer Sergeant – 10/10/11 – General Fund
5. David Christopher Kell – Sheriff's Office – From Detention Officer – To Detention Officer Sergeant – 10/10/11 – General Fund

Week of October 18, 2011

Departures from County Service:

1. Mark Clark – Animal Control – Hearing Officer (Contractor) – 09/03/11 – Rabies Control Fund – DOH 03/21/01 – Resigned
2. Roxanna Dennhardt – Community Services – Administrative Clerk – 10/07/11 – Multiple Funds – DOH 03/05/07 – Lack of funding
3. Carolyn Haro – Community Services – Manager Community Services – 10/07/11 – Multiple Funds – DOH 10/01/96 – Lack of funding
4. Kimberly Salcido – Probation – Juvenile Detention Officer - 10/03/11 – General Fund – DOH 02/02/09 - Job abandonment

Hires to County Service:

5. Alfonso Alvarez – Recorder – Recorder's Clerk – 10/24/11 – General Fund – Replacing Cheryl Hale
6. Tayari Coatie-Flemming – Probation – Juvenile Detention Officer – 10/24/11 – General Fund – Replacing Kimberly Salcido
7. Elacio Martinez – Probation – Juvenile Detention Officer – 10/24/11 – General Fund – Replacing Michael Collett
8. Colleen Valencia – Clerk of Superior Court – Court Clerk – 10/20/11 – Drug Enforcement Fund – Replacing Jolene Myers

Departmental Transfers:

9. Charlotte Williams – Recorder – From Recorder's Clerk – To Senior Recorder's Clerk – 09/26/11 – General Fund

Request Permission to Post:

10. Health and Emergency Services – Community Health Assistant – Vacated by Charlene Becker – Waiver of 120 Day Hiring Freeze approved on 10/05/11
11. Finance – Accounting Senior – Vacated by Jeremy Thurman – Waiver of 120 Day Hiring Freeze Approved on 10/04/11

SHERIFF'S PERSONNEL ACTION ITEMS

Departmental Transfers:

12. Sharisse Dee – Sheriff's Office – From 911 Dispatcher – To Detention Officer – 10/06/11 - General Fund – Replacing Carl Melford

Position Review:

13. Lisa Dzera – Sheriff's Office – From Part Time Administration Clerk – To Full Time Administration Clerk – 10/10/11 – General Fund

Week of October 25, 2011

Departures from County Service:

1. Gail Widner – Clerk of the Superior Court – Court Administrative Assistant – 10/12/11 – General Fund – DOH 11/14/94 – Resignation
2. Pascal Brown – County Attorney's Office – Deputy County Attorney Senior – 11/04/11 – General Fund – DOH 06/23/06 – Resignation
3. Cory Riley – Public Works – Temporary Solid Waste Operations Worker – 09/24/11 – Solid Waste Fund – DOH 08/17/11 – Temporary position, services no longer required
4. Brenda Christine Kell – Health and Emergency Services – Administrative Clerk Sr. – 10/10/11 – Immunization Fund – DOH 08/20/07 – Unsuccessful completion of probationary period
5. Marilyn Cruz – Public Works – Custodian – 10/07/11 – Facilities Management Fund – DOH 11/30/92 - Retirement

Temporary Hire to County Service:

6. Stephanie Chaidez – Public Fiduciary – Administrative Clerk – 10/20/11 – General Fund

Departmental Transfers:

7. Larry Dooly – Public Works – From Building Maintenance Technician – To Building Maintenance Technician Senior – 11/7/11 – Facilities Management Fund

End Probationary Period;

8. Kevin Kenney – Health and Emergency Services – Rural Addressing Analyst – 10/11/11 – General Fund
9. Charles Turney – Health and Emergency Services – Community Health Assistant Sr. – 10/11/11 – Community Health Grant Fund

SHERIFF'S PERSONNEL ACTION ITEMS

10. Richard Corso – Sheriff's Office – Deputy Sheriff – 10/11/11 – General Fund – DOH 02/18/08 – Termination

5L. Approval of finance reports/demands/transfers for the weeks of October 25, 2011, and November 1, 2011.

October 25, 2011

$1,247,151.11 was disbursed for County expenses by check numbers 240813 through 241079.

November 1, 2011

$1,726,856.83 was disbursed for County expenses by check numbers 241080 through 241271. **(An itemized list of disbursements is permanently on file in the Board of Supervisors' Office.)**

5M. Acknowledgment of contracts under $50,000 which have been approved by the County Manager for weeks ending October 14, 2011, and October 21, 2011.

Copies of the contract reports are permanently on file in the Board of Supervisors' Office.

Upon motion by Supervisor Pastor, seconded by Vice-Chairman Dawson, the Board unanimously approved Consent Agenda action items 5-A through 5-M.

Item 6 - CALL TO THE PUBLIC: Call to the Public is held for public benefit to allow individuals to address issue(s) within the Board's jurisdiction. Board members may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to Arizona Revised Statute §38-431.01(G), action taken as a result of public comment will be limited to directing staff to study the matter, responding to criticism, or scheduling the matter for further discussion and decision at a future date.

Jesse Bryant, a resident of Globe, provided an update to the Board on the state redistricting for the congressional and the legislative districts of Arizona. He again invited the support of Gila County to join with other entities which have passed resolutions in support of the proposals he had previously presented to the Board.

Item 7 - At any time during this meeting pursuant to A.R.S. §38-431.02(K), members of the Board of Supervisors and the Chief Administrator may present a brief summary of current events. No action may be taken on issues presented.

Each Board member presented information on current events.

There being no further business to come before the Board of Supervisors, Chairman Martin adjourned the meeting at 11:45 a.m.

APPROVED:

_____

Tommie C. Martin, Chairman

ATTEST:

_____

Marian Sheppard, Chief Deputy Clerk

BOARD OF SUPERVISORS MINUTES
GILA COUNTY, ARIZONA

Date: November 15, 2011

TOMMIE C. MARTIN
Chairman

SHIRLEY L. DAWSON
Vice-Chairman

MICHAEL A. PASTOR
Member

JOHN F. NELSON
Clerk of the Board

By: Marilyn Brewer
Deputy Clerk

Gila County Courthouse
Globe, Arizona

PRESENT: Tommie C. Martin, Chairman (via ITV conferencing); Shirley L. Dawson, Vice-Chairman; Michael A. Pastor, Supervisor; Don McDaniel, Jr., County Manager; John Nelson, Deputy County Manager/Clerk (via ITV conferencing); Marian Sheppard, Chief Deputy Clerk; and Daisy Flores, County Attorney.

Item 1 – Call to Order – Pledge of Allegiance – Invocation

The Gila County Board of Supervisors met in a regular session at 10:00 a.m. this date in the Board of Supervisors hearing room. Shirley Dawson led the Pledge of Allegiance and Debora Savage delivered the invocation.

Item 2 – REGULAR AGENDA ITEMS:

2A. Supervisors' Annual Property Tax Sale/Auction for the sale of real property deeded to the state of Arizona by Treasurer's Deed in the year 2011.

Vice-Chairman Dawson, speaking on behalf of Chairman Martin for the auction portion of the meeting, advised the public of the bidding procedures. There were 33 properties listed for sale at today's auction. She advised the audience of the statutory process whereby any newly deeded properties must be advertised for sale although the Board is not obligated to sell every parcel. She further advised that the minimum acceptable bid would be the total lien amount as listed on the tax sale list and that all bids are final and no warranties or guarantees as to the condition of the property are given by the County. The Board addressed each of the 33 parcels separately. The auction results were as follows:

Tax Parcel #	Lien Amount	Sale Amount	Purchaser's Name
101-07-021-A	$2,740.94	--	--

101-12-087-A	$850.82	$850.82	Sold to Randall Bohl
101-12-087-B	$951.04	$951.04	Sold to Randall Bohl
206-06-060	$1,551.12	--	--
206-19-502	$1,632.72	--	--
206-21-104-A	$2,348.65	--	--
206-21-515	$2,139.83	--	--
206-21-518	$1,623.58	--	--
206-21-519	$1,623.58	--	--
206-21-520	$1,623.58	--	--
206-21-521	$1,623.58	--	--
206-21-522	$1,620.38	--	--
206-21-523	$1,620.38	--	--
206-21-524	$1,620.38	--	--
206-21-525	$1,620.38	--	--
206-21-526	$1,620.38	--	--
206-21-527	$1,620.38	--	--
206-22-500	$1,462.16	--	--
207-08-221	$1,620.22	$1,620.22	Sold to Rodney Jones
208-03-154	$410.36	--	--
302-23-109-B	$1,766.35	--	--
302-60-193	$873.38	--	--
302-60-194	$563.38	--	--
302-60-195	$4,213.77	--	--
302-60-196	$563.38	--	--
302-60-197	$912.86	--	--
302-60-198-A	$931.74	--	--
302-60-200-C	$693.82	--	--
302-60-202	$2,373.31	--	--
302-60-203	$952.58	--	--
302-60-204	$3,282.56	--	--
302-60-205-E	$4,770.56	--	--
304-01-314-C	$402.16	--	--

Chairman Martin made the motion to approve the sale of tax parcel number 101-12-087-A to Randall Bohl in the amount of $850.82. Chairman Martin then made the motion to approve the sale of tax parcel number 101-12-087-B to Randall Bohl in the amount of $951.04. It was noted on the list of parcels for sale that both of the above noted parcels must be sold together. Vice-Chairman Dawson then called for a vote for both motions. Both motions were unanimously approved by the Board.

Upon motion by Supervisor Pastor, seconded by Chairman Martin, the Board unanimously approved the sale of tax parcel number 207-08-221 to Rodney Jones in the amount of $1,620.22.

Vice-Chairman Dawson closed the Supervisors' Annual Property Tax Sale/Auction.

2B. Information/Discussion/Action to review all proposals submitted for Request for Proposals No. 033011-1 for merchant services; reject or award to the lowest, responsible and qualified bidder.

Joseph Heatherly, Finance Director, requested that the Board reject all proposals that were submitted to the County because recently several questions have arisen internally and all departments need to be reviewed. Since the Request for Proposals was advertised, the Justice of the Peace chose another option, which takes away from the volume as the bid prices are volume-driven. Mr. Heatherly stated that he would probably go out for bids again around the first of the year. Upon motion by Vice-Chairman Dawson, seconded by Supervisor Pastor, the Board unanimously rejected all of the proposals submitted for Request for Proposals No. 033011-1 for merchant services.

2C. Information/Discussion/Action to review all bids submitted for Request for Bids No. 070111-1 for Janitorial Service; award to the lowest, responsible and qualified bidder; and authorize the Chairman's signature on the award contract for the winning bidder.

Mr. Heatherly stated that 12 requests for bids were sent out and 2 were received back. He recommended that a contract be awarded for janitorial services for the facilities located in Globe to G.B. Home Cleaning as this company was the lowest bidder, references were provided and the bid was reviewed by staff from the Public Works Division. Supervisor Pastor inquired if this company would be hiring the temporary County employees that were hired during the interim. Mr. Heatherly replied that this was suggested to the company owner, who stated that they will consider hiring these employees; however, the County cannot tell them who to hire. The Board discussed the costs, which Mr. Heatherly stated are a little bit complicated because some of the additional duties are required quarterly while others are semi-yearly, but the approximate cost would be $105,000 per year. Chairman Martin noted that the other bid received was approximately $3,000 more per month. Upon motion by Supervisor Pastor, seconded by Vice-Chairman Dawson, the Board unanimously awarded a contract to G.B. Home Cleaning in the amount of $6,536.43 per month for Request for Bids No. 070111-1 for Janitorial Service and authorized the Chairman's signature on the award contract.

2D. Information/Discussion/Action to approve the Solar Renewable Energy Credit Purchase Agreement - Grid-Tied Photovoltaic System (APS Contract No. 18703) between Gila County and Arizona Public Service Company for solar energy funding in conjunction with PV Advanced Concepts at no up-front capital investment by Gila County for the County's Central Heights complex.

Steve Stratton, Public Works Division Director, provided a summary to the Board on this item. He stated that in the spring of this year he came before the Board requesting approval to submit several grant applications to Arizona Public Service (APS). One was awarded at that time for 200 kilowatts (kW) at the Globe Courthouse and those solar panels would be placed on parking structures. The Board accepted that grant and then a contract was negotiated with Tioga Energy for the installation to provide the electricity to the County at $.08/kW per hour. Shortly thereafter Mr. Stratton returned to the Board and requested approval to submit grant applications for the Central Heights and Public Works complexes. The County has now been awarded a grant for Central Heights, which is the item being requested for approval today. Mr. Stratton further advised that he will be returning for Board approval in December on an amended agreement with Tioga Energy. He explained that the County has held up the purchase of the Courthouse materials so that it could be put in the same order with the material for this project, which will further lower the County's cost per kW to $.077 per hour rather than the $.08. Mr. Stratton explained that this item is to merely accept the grant from APS and authorize the Chairman to sign the forms. Then hopefully on December 6, 2011, Mr. Stratton stated that he will be back before the Board with the agreement with Tioga Energy and that will conclude this current round of solar energy projects so the work can begin. He noted that these solar panels will also be placed on parking structures at the Central Heights complex and will produce 300 kW. Supervisor Pastor inquired if since these 2 projects are different grants, will the County be able to combine the money to buy material for the whole project or will the County be restricted? Mr. Stratton replied that the County will not be restricted and that is the reason the energy rate will go down because the County will get a better deal by ordering all of the necessary equipment for the installation of both projects at one time, plus there's only one mobilization charge by Kitchell Construction Company, which is the construction contractor. Upon motion by Vice-Chairman Dawson, seconded by Supervisor Pastor, the Board unanimously approved the Solar Renewable Energy Credit Purchase Agreement - Grid-Tied Photovoltaic System (APS Contract No. 18703) between Gila County and Arizona Public Service Company for solar energy funding in conjunction with PV Advanced Concepts at no up-front capital investment by Gila County for the County's Central Heights complex.

2E. Information/Discussion/Action to authorize the issuance of a quit claim deed transferring ownership of a parcel of land in Globe used for the Gila Pueblo Community College Campus and the westerly 32.459 acres of a parcel of land in Payson used for the Gila Community College Campus from Gila County to Gila Community College, a Provisional Community College District pursuant to A.R.S. §15-1409. (Don McDaniel)

Don McDaniel, County Manager, stated that the Board has had the opportunity to discuss this item in a couple of past meetings in which the Board decided it

would be appropriate to proceed with quit claiming these 2 college campus properties to the Gila County (Provisional) Community College District (GCCCD). This item includes a quit claim deed for the entire Gila Pueblo Campus in Globe and for about two-thirds of the Payson Campus for a total of approximately 32.5 acres. Mr. McDaniel recalled that the Board has until January 2013 by special legislation to accomplish this transfer of property. Since it was the original intent of the State College District Board to have these properties under the ownership of the community colleges, he recommended that this be approved by the Board. Chairman Martin advised that there were 2 people present who requested to address the Board. Supervisor Pastor stated that he attended the GCCCD governing board meeting last week and the members had several questions and there was a lot of serious discussion. He noted that Tom Loeffler, a GCCCD governing board member, was present at today's meeting in Payson and requested that Mr. Loeffler speak about the issues. Mr. Loeffler, also a resident of Payson, stated that GCCCD President Bob Ashford could not attend today's meeting and requested that he represent the Board at this meeting. Mr. Loeffler noted that the Board of Supervisors received a copy of the GCCCD's resolution that was passed at its special meeting on November 10, 2011. He emphasized that the second "Whereas" in the resolution basically stated that the GCCCD board does support the selling of land to the Rim Country Education Alliance Separate Legal Entity (SLE) for the purpose of their endeavor to bring a 4-year college to the Payson area. He stated, "The discrepancy I believe is between the agenda that you have today and our motion, our resolution. At our work session on October 3, 2011, between the GCCCD governing board and the Gila County Board of Supervisors, we heard a presentation from Mayor Evans (of Payson) requesting that he would be interested in purchasing about 9-10 acres of our campus property for their 4-year university-phase 1. Subsequent to that on October 15, 2011, at your regular board meeting, agenda item 3J, I believe it was, and this was passed as I found out yesterday, you (the Board of Supervisors) were talking about an approximate 15 acres going towards the SLE purchase and approximately 38 acres would stay and become the northern campus for the GCCCD. We took the motion that was passed and worked off of that acreage and tried to do some of our homework and using some of the projections that others have given us to come up with the acreage that we thought was necessary in Payson to accommodate the potential of a number of students 20 years down the road. So we worked off of those numbers, those approximate numbers. It wasn't until our special meeting on November 10, 2011, that we learned that those numbers had been altered. I know it says approximate, but it looked like from what we understand that it would be almost approximately 22 acres that your motion or your endeavor was looking at making available for the SLE. That, according to my calculations, is about a 45% increase from what your motion was on October 18, 2011, which to me is a little bit outside the realm of approximate. We did discuss this at our board meeting and the conclusion was that we believe that the 15 acres, which was the original concept we were working off of, was an accurate figure and that remaining portion was something that we felt we needed for expansion in the future. I

can go into the reasons why we thought the acreage was important, but I will stop here and answer any questions that you might have." Chairman Martin then called on Mike Vogel, Chairman of the SLE and a resident of Payson. Mr. Vogel stated that in regard to the Payson property on the far-east side, it narrows down considerably to the point where most of it is useless and also take into account that the Arizona Department of Transportation (ADOT) has a right-of-way along the side. There is no way to go north because of a water tank sitting there so basically that part is useless. Mr. Vogel stated that in regard to the balance of the property, "The SLE actually only wanted 10 acres to start with and the properties that are going to be left are unbuildable or so extremely expensive that it won't happen. And, by the way, I talked to the Mayor (Evans) and he is in a meeting currently with Arizona State University (ASU) and if you want to talk to him I can get him on the phone and he is willing to step out and respond. The 22 acres actually came from the County. It did not come from the SLE; in fact, tentatively speaking, nothing has been discussed with the SLE. I understand there's a problem and again I don't believe newspapers, but apparently there's a problem with the appraisal. The SLE had nothing to do with hiring either one of the appraisers. But when you start taking an account of the property to the east and the shoulder or right-of-way for ADOT, you can see how that portion is basically worth nothing. It's just too narrow and we're not able to go north. As far as planning, since day one we have always said that we plan on working with GCCCD; in fact, I've mentioned in a couple of places that at times when we started talking about dormitories, we fully expect to have to work with GCCCD and they would be welcome. I do believe again once we get into it, I believe that there can be agreements for expansion. If the educational building isn't being used, I see no reason why GCCCD can't use it. So the SLE, from 4 years ago, has continually talked about working with GCCCD. Not one time have we ever talked about anything but that, so the 22 acres does work for us. There is a 10-acre parcel in there and I forget the name of the road where they want the line drawn." Chairman Martin responded that the name of the road is Graham Ranch Road. Mr. Vogel continued stating, "We don't have a problem with that, but we do need to have 10 full buildable acres. That's what's required to make this thing work. So if you have questions, I'll answer anything I can and if you want I can call up the Mayor and he'll step out long enough to respond to any questions of him." Vice-Chairman Dawson stated, "On the east corner of this property, Mr. Vogel and others have said, 'Well you can't build on it,' but the master drawings that Mayor Evans had, and I discussed with him the Buttes at that other university (ASU). There's a hotel in the Buttes and on the map that Mayor Evans presented on the master plan he does plan to develop a hotel site in there." Mr. Vogel responded by stating to Vice-Chairman Dawson, "Understand that this is in motion, but as of about 2 months ago or maybe even a month ago that hotel went away because we did not want to purchase that private land. On the south side, that hotel is still going, but on the north side that has been taken off the board. And even with that if you look at the tank, we had problems with that. We would end up having to purchase the entire 40 some acres plus or minus and to date we have chosen not to do that."

Chairman Martin explained, "What I think I also understand about this design is that to get the 10 useful acres, it will take the 22 acres to do that. To get the right-of- way taken out and to get that eastern most tiny little triangle taken out, it will take the 22 to get them the 10 useful acres. That's one thing that it does. The second thing that it does is that there continues to be political pressure on the north side of this property about this Graham Ranch Road, whether a road will go through there or not go through there. And I know that the current mayor has said that as long as he is mayor we won't have a road, but that lasts as long as he is the mayor. The piece of property, that last piece through there, has also been discussion from the Town (of Payson) requiring whoever holds it to have an easement there for a road, for a potential future road. I think that's something that the GCCCD doesn't need to bear the weight of those politics of whether or not there's a road that runs down the side. That can be something between the SLE and the Town, and the GCCCD gets paid for that piece of property. I think the SLE is hanging out in a generous way willing to buy that eastern-most sliver. I believe that's what makes, and I'm going to mix apples and oranges here for a minute, I think that is one of the things that decreases the price of that appraisal we had was including that eastern-most sliver. And yet rather than sitting there with a sliver that we can do nothing with and then this SLE in the middle of it and then again the college on the other side, that it's a better all around deal to have the SLE pay for that sliver that they are not going to use at this point. We're not going to certainly do something with it once we take the center out of it, and that's just more of the Graham Ranch Road line simply squaring up between the 2 of them, an existing situation that the Town and the SLE can decide whether or not they go forward with a road there or not. And that's the only other piece I would add to this conversation for a comment and wondered if you all have any other comments or questions on this." Supervisor Pastor commented, "Right now the agenda item is addressing just the quit claim deed transfer, the ownership for GCCCD Globe campus and the 32.459 acres of the GCCCD Payson campus. I don't believe that the agenda allows us to even really be discussing the remaining 20 acres because that's a different item. Are we dealing with the SLE; are we dealing with the city of Payson? Right now we are just discussing the quit claim deed transfer of those 2 parcels of land and the 22 acres aren't even involved in this agenda item, the way that I look at it." Chairman Martin inquired if Supervisor Pastor was ready to make a motion. Mr. Pastor replied, "Yes, and just so everybody is clear on the point, I think the discussion for the remaining acreage that we are talking about is something that needs to be continued in the discussion that we are having about the ASU-Payson development plan and where we are going with it because I don't think anything is set in stone as far as I can find out. Still, I'm waiting on answers and I don't have any sound information to indicate that this project is going to move soon or going to move later. I would encourage us to just go ahead and make the motion on the quit claim deed transferring ownership of the Globe campus and the 32 acres of the Payson campus, otherwise we'll be here discussing the whole concept of Payson/ASU/GCCCD for the rest of the afternoon and I don't think that really bears any fruit for us at this stage of the

conversation. I know the County Manager has been communicating with the mayor and we've provided some documentation and stuff, but we have not heard any response back so I think we ought to just focus on the agenda item and then we'll get to the rest of the process as we move down the road here if that's agreeable to everybody." Supervisor Pastor then made the motion, which was seconded by Vice-Chairman Dawson, to authorize the issuance of a quit claim deed transferring ownership of a parcel of land in Globe used for the Gila Pueblo Community College Campus and the westerly 32.459 acres of a parcel of land in Payson used for the Gila Community College Campus from Gila County to Gila Community College, a Provisional Community College District pursuant to A.R.S. §15-1409. Mr. Vogel stated, "Just to correct Supervisor Pastor, technically like I said, the SLE has not been involved. And again I hear the naysayers every day. Do I believe this is going to happen? If you can find one person who will tell you I waste my time with anything, I wouldn't be chairman. Is it going to go forward? Yes. Do I think it will go forward with that remaining land? No not with that site. I think somebody's going to own it, but it won't be us and I'm talking as chairman. And I'll emphasize to my board that it's not worth the extra cost to take that balance of the land and go with it. I do believe this is one of those times that it's going to set it back 2 years and that's just the way it is. And if that's how the Board feels, that's fine. I understand there's things that you have to do, but I think we've been very open up front from planning from day one and again we're getting off the subject a little bit, but it also includes that subject. So we've done everything that we can do and like I said it will explode the cost of that land or to build on that portion and then to expect us to buy property that is useless, that's the way it goes. Supervisor Pastor stated to Mr. Vogel, "Mike, there's no intent to delay anything. It's just if you'll read—I think what's happened is this item has become so emotional for everybody and so political. All we are talking about is quit claiming the property that is currently used by the campuses up to and in Payson up to the 32 acres which still has the 20-acre parcel there that you know. The County right now, I think we're waiting for a response from the mayor as to some of the information we've provided him. So there's nothing to hinder the progress of this project. We're just dealing with quit claiming the property that the state is requiring us to do to the GCCCD. And we're just kind of holding the 20 acres to figure out where everybody is going with this thing." Mr. Vogel responded by stating: "Well using that same argument, the state requires it. The SLE is the Rim Country Educational Alliance. It could be quit claim deeded to us and it would be used strictly for education. I saw something that I read yesterday that they didn't want industrial. Okay, by the furthest stretch of the imagination I don't know where that came from." Chairman Martin stated, "I'm going to cut off discussion because we will be discussing this again I believe the 6th of December. I think that's in motion to at least on the 6th of December discuss that parcel and we will keep discussing it at that point. I just want to take action on this item. There's a motion and a second. Any further discussion?" There was no further discussion. The motion was unanimously passed by the Board.

2F. Information/Discussion/Action to approve the FY2011 Edward Byrne Memorial Justice Assistance Grant (JAG) Program Application in the amount of $13,234.

Claudia DalMolin, Chief Administrative Officer for the Sheriff's Office, stated that this grant application will be used to pay for Sheriff's deputy overtime for drug related activities in which they assist. Upon motion by Vice-Chairman Dawson, seconded by Supervisor Pastor, the Board unanimously approved the FY2011 Edward Byrne Memorial Justice Assistance Grant (JAG) Program Application in the amount of $13,234.

Item 3 – CONSENT AGENDA ACTION ITEMS:

3A. Approval of the Chairman's signature on Subgrantee Agreement No. 11-AZDOHS-HSGP-888300-01 between the Arizona Department of Homeland Security and the Gila County Division of Health & Emergency Services for a program award in the amount of $1,395.

3B. Approval of the Chairman's signature on Subgrantee Agreement No. 11-AZDOHS-HSGP-888300-02 for Arizona Department of Homeland Security Grant between the Arizona Department of Homeland Security and the Gila County Division of Health & Emergency Services for a program award in the amount of $112,028.

3C. Approval of Amendment No. 3 to Contract No. DE111073001 between the Arizona Department of Economic Security and the Gila County Division of Community Services, Community Action Program, whereby the Arizona Department of Economic Security will provide additional funding in the amount of $23,139 to the Community Action Program to continue providing case management services for the period July 1, 2011, through June 30, 2012. The total cumulative reimbursement ceiling for this contract is $1,265,774.13, for the entire contract period of July 1, 2010, through June 30, 2015.

3D. Approval of Amendment No. 2 to IGA Contract No. DE111093-001 between Gila County d/b/a Gila Employment and Special Training, and the Arizona Department of Economic Security, Rehabilitation Services Administration, which will replace the existing Facility Location and Staffing Chart with the revised Facility and Staffing Chart dated September 20, 2011 to reflect the corrected address in Payson.

3E. Approval of Amendment No. 3 to Contract No. Gila 10100 between Gila County and Central Arizona Association of Governments to add certain paragraphs to the Contract as required by the U.S. Department of Labor.

3F. Approval of Amendment No. 1 to Contract No. A11PC00100 between the Bureau of Indian Affairs and Gila County, on behalf of the Gila County Juvenile Detention Center, to increase the total contract amount to $63,100 for payment coverage of continuing detention services.

3G. Approval of Amendment No. 2 to Contract No. A11PC00100 between the Bureau of Indian Affairs and Gila County, on behalf of the Gila County Juvenile Detention Center, to increase the contract amount by $12,300 for a total contract amount of $75,400 for payment coverage of continuing detention services.

3H. Authorization for the Gila County Division of Health & Emergency Services Division to accept foundation grant funds from the State Farm Foundation to administer the "Great 9-1-1 Adventure for Kids" pilot project in the amount of $2,500 for the period of January 1, 2012, to October 31, 2012.

3I. Approval to adopt Resolution 11-11-02 naming a previously un-named road in Claypool, Arizona as Michael's Way. (A copy of the Resolution is permanently on file in the Board of Supervisors' Office.)

3J. Approval of an Agreement for Election Services between Gila County and the Town of Payson whereby the Gila County Recorder's Office will provide the Town with "Vote by Mail" election services on March 13, 2012, and, if needed, on May 15, 2012.

3K. Approval to reappoint Ken Volz to the Gila County Personnel Commission for a new four-year term which will expire on December 31, 2015.

3L. Approval to reappoint Forrest Switzer to the Northern Gila County Range Commission for a new three-year term beginning January 1, 2012, and ending December 31, 2014; and to acknowledge and approve the appointment of Otto Wheeten, which will expire December 31, 2013.

3M. Approval of the September 2011 monthly departmental activity report submitted by the Recorder's Office.

3N. Approval of finance reports/demands/transfers for the weeks of November 8, 2011, and November 15, 2011.

November 8, 2011

$1,277,784.01 was disbursed for County expenses by check numbers 241272 through 241452.

November 15, 2011

$1,405,131.16 was disbursed for County expenses by check numbers 241411 through 241552. **(An itemized list of disbursements is permanently on file in the Board of Supervisors' Office.)**

3O. Acknowledgment of contracts under $50,000 which have been approved by the County Manager for weeks ending October 28, 2011, and November 4, 2011.

Copies of the contract reports are permanently on file in the Board of Supervisors' Office.

Upon motion by Supervisor Pastor, seconded by Vice-Chairman Dawson, the Board unanimously approved Consent Agenda Action items 3-A through 3-O.

Item 4 - CALL TO THE PUBLIC: Call to the Public is held for public benefit to allow individuals to address issue(s) within the Board's jurisdiction. Board members may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to Arizona Revised Statute §38-431.01(G), action taken as a result of public comment will be limited to directing staff to study the matter, responding to criticism, or scheduling the matter for further discussion and decision at a future date.

There were no requests to speak from the public.

Item 5 - At any time during this meeting pursuant to A.R.S. §38-431.02(K), members of the Board of Supervisors and the Chief Administrator may present a brief summary of current events. No action may be taken on issues presented.

Each Board member presented information on current events.

There being no further business to come before the Board of Supervisors, Chairman Martin adjourned the meeting at 11:14 a.m.

APPROVED:

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Tommie C. Martin, Chairman

ATTEST:

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Marian Sheppard, Chief Deputy Clerk

BOARD OF EQUALIZATION MINUTES
GILA COUNTY, ARIZONA

Date: November 14, 2011

TOMMIE C. MARTIN Chairman	**JOHN F. NELSON** Clerk of the Board
SHIRLEY L. DAWSON Vice-Chairman	By: Marian Sheppard Chief Deputy Clerk
MICHAEL A. PASTOR Member	Gila County Courthouse Globe, Arizona

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PRESENT: Tommie C. Martin, Chairman (via ITV); Shirley L. Dawson, Vice-Chairman; Michael A. Pastor, Member; Dale Hom, Assessor; Hazel Dillon, Chief Deputy Assessor; Larry Huffer, Chief Appraiser; Gary Holloway, Property Appraiser III Lead (via ITV); Marian Sheppard, Chief Deputy Clerk; and Pam Fisher, Supervisor's Staff Specialist (via ITV).

Item 1 – Call to Order

Chairman Martin called the meeting to order at 9:28 a.m. this date in the Board of Supervisors hearing room. She advised that the Board would only hear agenda items 2A, 2D and 2G as Larry Huffer, Chief Appraiser, was able to reach an agreement with each of the other petitioners prior to this hearing. The petitions that were discussed were based on the Assessor's Notices of Change that were mailed out to property owners for tax year 2012. (A strikethrough has been made to the agenda items for all properties that were previously settled.)

Item 2 – REGULAR AGENDA ITEMS:

A. 9:20 A.M. - Information/Discussion/Action regarding a petition for review of Notice of Change for tax year 2012 submitted by Dennis Bassi for Assessor's tax parcel number 302-07-013.

Chairman Martin called on Dennis Bassi, the petitioner, to present his case. A summary is as follows: The subject property is located in the community of Verde Glen. The home was built in 1966 and it was purchased by Mr. Bassi in 2005. Mr. Bassi compared 8 other properties to his home, of which 6 of them are located on his street and the other 2 are within sight of his property. The subject property has the second oldest home, except for one other home that was built in 1965. The newest property was built in 2005. Mr. Bassi looked at the improvements which have been made to the other properties and he noted

that several have multiple structures which further enhance the improvements. Mr. Bassi requested that his property valuation be reduced to at least $147.46 per square foot due to the age and condition of comparable properties in his neighborhood, and the fact that his property is nearly the oldest property and one of the smallest.

The hearing recessed for a few minutes at this time to allow those in the Payson office to receive a copy of Mr. Huffer's handouts. When the hearing reconvened, Vice-Chairman Dawson pointed out that the names and titles of those present at this hearing were not read into the record, so it was done at this time.

Mr. Huffer referred to a spreadsheet entitled Assessor's Analysis of Petitioner's Comparables for Tax Year 2012. The valuations are based on RealWare assessment software calculations, and are based on a cost approach to value. He provided information on the following parcels: 302-07-013 (subject property); and 302-07-002; 302-07-003; 302-07-004; 302-07-007; 302-07-008; 302-07-009 and 302-07-014 (comparable properties). For each property, Mr. Huffer reviewed the following categories: style – ranch style with 1 story or a 2 story; value per square foot; type of wall framing; and the various add-ons for each property such as a garage, carport, porch, deck, guest house, etc.; floor covering allowance, and whether the structure had a type of heating and/or cooling system. Mr. Bassi mentioned that there was no HVAC (heating, ventilation and air conditioning) adjustment for parcels 302-07-003 and 302-07-004. Mr. Huffer acknowledged that calculation was omitted from the HVAC line item; however, he assured Mr. Bassi that it was not left out of the total calculation. Mr. Huffer also advised that the value of parcel 302-07-007 is really not applicable because it has a "senior freeze" designation, meaning the homeowners meet certain age and income criteria, and as a result of that designation, the full cash value was frozen from a previous tax year. Mr. Huffer advised that the Assessor's Office and the appraisers both use the Marshall and Swift Handbook to determine replacement cost valuations. After comparing the Assessor's comparable properties to the subject property, Mr. Bassi inquired as to the amount of consideration given to a property's age. Mr. Huffer replied that Mr. Bassi's property has a depreciation factor of 27% for the property's age and the comparable properties' age depreciation factor ranged from 24% and 25% and one older property at 28%. Mr. Huffer then reviewed the overall ratings of the properties with regard to the properties' quality of construction. Parcel 302-07-004 was ranked as a "fair" quality and the remaining properties were ranked as an "average" quality. Mr. Bassi requested the various categories for the rankings and an explanation as to the criteria for said rankings. Mr. Huffer invited Mr. Bassi to the Payson Assessor's Office at a future time so that he could view all of the calculations and worksheets for the comparable properties and Mr. Bassi accepted the invitation. Mr. Bassi inquired as to the impact the add-ons have on a property's value. Mr. Huffer replied that the add-ons definitely added value to these properties along with a

lot of other variables. The add-ons for Mr. Bassi's property were valued at $15,437, which is for the finished attic of 576 square feet.

Chairman Martin briefly recessed the meeting at 10:03 a.m. so that Mr. Huffer could receive some additional paperwork from the Payson Assessor's Office. The meeting was reconvened at 10:14 a.m.

An in-depth discussion took place at this time regarding the various add-ons and rankings for each property. Mr. Bassi pointed out that the deck was left off the tax roll for parcel 302-07-009. Mr. Huffer replied that for the yard improvements this property had another improvement that was listed separately, which could possibly be the decks, but that second improvement was later included in the valuation. Chairman Martin pointed out that there would be a second printout for the deck; however, the value matched the spreadsheet. Mr. Bassi questioned the method used to calculate his wood deck, which was answered by Mr. Huffer. Mr. Bassi believes that the value given to his add-ons is too high. Chairman Martin suggested having someone from the Assessor's Office revisit the property and Mr. Huffer replied that last week 2 appraisers were sent out to look at all of these properties; not just to view the add-ons, but to verify all of the information. In ending the conversation, Mr. Huffer replied, "We can recanvass (the properties), but we would have to do it at a later date. As far as the value on the subject property, it appears it was done properly." Chairman Martin asked for a motion at this time. Upon motion by Vice-Chairman Dawson, seconded by Supervisor Pastor, the Board unanimously voted to uphold the Assessor's 2012 total full cash value of $125,394 for parcel number 302-07-013.

~~B. 9:40 A.M. - Information/Discussion/Action regarding a petition for review of Notice of Change for tax year 2012 submitted by Robert Bennett, Manager, of Covenant Interests-Investments, LLC for Assessor's tax parcel number 301-31-040P.~~

~~C. 10:00 A.M. - Information/Discussion/Action regarding a petition for review of Notice of Change for tax year 2012 submitted by Beverley Trester for Assessor's tax parcel number 301-08-129A.~~

D. 10:20 A.M. - Information/Discussion/Action regarding a petition for review of Notice of Change for tax year 2012 submitted by Henry and Irene Sanchez for Assessor's tax parcel number 301-18-014.

This case was heard on the record as the petitioners did not attend this hearing. Mr. Huffer advised that the owners of this property were mailed a 2012 Notice of Change card because the Arizona Legislature passed House Bill 2001 and it was signed by the Governor changing the legal class of residential property that is not the primary residence of the owner. This property was purchased in June 2011 for $75,500 as a foreclosure sale, and it was sold for

less than market value. Mr. Huffer referred to a spreadsheet that he prepared for the subject property and the following comparable properties that are also located in Cool Pines: 301-18-262; 301-18-453; 301-18-263; 301-18-201; 301-18-371; 301-18-405 and 301-18-120. Mr. Huffer advised that he looked to see if there were any other foreclosures and he found a couple of others; one with just a garage. There also was an unusual house that sold for $25,000. Mr. Huffer advised that the shape of that house probably had 25 sides and it was in very poor condition. The full cash value placed on the subject property is $129,030 and he noted that the owners submitted a full cash value ($100,000) on the Petition for Review of Notice of Change, which was higher than the purchase amount. Mr. Huffer proceeded to review all of the comparable properties. He stated, "If we look at the summary, the median sale price is $101.29 per square foot and $64.91 per square foot is the subject valuation. These owners got an exceptional purchase. We recommend that the value remain at $129,030." Chairman Martin asked for a motion at this time. Upon motion by Supervisor Pastor, seconded by Vice-Chairman Dawson, the Board unanimously voted to uphold the Assessor's 2012 total full cash value of $129,030 for parcel number 301-18-014.

~~E. 11:40 A.M. - Information/Discussion/Action regarding a petition for review of Notice of Change for tax year 2012 submitted by Joyce Vacek on behalf of James and Joyce Vacek (1/2 interest) and Robert and Nancy Ellis (1/2 interest) for Assessor's tax parcel number 303-30-042.~~

~~F. 1:50 P.M. - Information/Discussion/Action regarding a petition for review of Notice of Change for tax year 2012 submitted by Ralph Greenthal for Assessor's tax parcel number 303-30-031.~~

G. 2:10 P.M. - Information/Discussion/Action regarding a petition for review of Notice of Change for tax year 2012 submitted by AVS Tax, Inc. on behalf of Thomas and Brenda Tackman for Assessor's tax parcel number 302-17-354D.

At this time Vice-Chairman Dawson asked Mr. Huffer if he could call the petitioners or their representative at AVS Tax, Inc. to see whether anyone would be appearing in person at this hearing and, if not, if they would allow the Board of Equalization to hear the case before the scheduled time. Chairman Martin recessed the meeting at 11:01 a.m. to allow Mr. Huffer time to make a phone call. She reconvened the meeting at 11:38 a.m.

Mr. Huffer advised that he spoke with a representative of AVS Tax, Inc. regarding this case. He confirmed that no one would be attending the hearing and, on behalf of Mr. and Mrs. Tackman, permission was given to proceed with the hearing prior to the scheduled time of 2:10 p.m.

Mr. Huffer showed the location of the parcel on a map. He stated that the parcel is .45 acres and that two parcels were combined into one parcel. A Notice of Change was sent to these property owners because this property is a non-primary residence and is now classified differently due to the passage of House Bill 2001 in the Arizona Legislature and signed by the Governor. He advised that the owners purchased this property along with 3 other parcels for a total of $176,000. The owners believe the value of the subject property should be $97,217 instead of the Assessor's valuation of $228,304. Mr. Huffer compared 2 other comparable properties which are vacant lots; one sold for $30,000 and the other sold for $38,000. Mr. Huffer stated that the Assessor's opinion of value is the same amount given by a professional appraiser during the closing of the property. During the phone call with Jill of AVS Tax, Inc. a few minutes before this hearing, Mr. Huffer advised her of the valuation and although she was at first not happy with the valuation of $176,000 for the subject property, she agreed to that amount. Upon motion by Vice-Chairman Dawson, seconded by Supervisor Pastor, the Board unanimously voted to uphold the Assessor's 2012 total full cash value of $176,000 for parcel number 302-17-354D.

Chairman Martin thanked Mr. Huffer for working so diligently over the weekend to settle so many of these cases.

~~H. 4:10 P.M. or earlier if Petitioner agrees - Information/Discussion/Action regarding a petition for review of Notice of Change for tax year 2012 submitted by Bernerd Doddroe for Assessor's tax parcel number 304-22-002Y.~~

There being no further business to come before the Board of Equalization, Chairman Martin adjourned the meeting at 11:43 a.m.

APPROVED:

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Tommie C. Martin, Chairman

ATTEST:

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Marian Sheppard, Chief Deputy Clerk