MARANA TOWN COUNCIL
REGULAR COUNCIL MEETING
NOTICE AND AGENDA
11555 W. Civic Center Drive, Marana, Arizona 85653
Council Chambers, November 1, 2016, at or after 7:00 PM

Ed Honea, Mayor
Jon Post, Vice Mayor
David Bowen, Council Member
Patti Comerford, Council Member
Herb Kai, Council Member
Carol McGorray, Council Member
Roxanne Ziegler, Council Member

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Marana Town Council and to the general public that the Town Council will hold a meeting open to the public on November 1, 2016, at or after 7:00 PM located in the Council Chambers of the Marana Municipal Complex, 11555 W. Civic Center Drive, Marana, Arizona.

ACTION MAY BE TAKEN BY THE COUNCIL ON ANY ITEM LISTED ON THIS AGENDA. Revisions to the agenda can occur up to 24 hours prior to the meeting. Revised agenda items appear in *italics*.

As a courtesy to others, please turn off or put in silent mode all pagers and cell phones.

Meeting Times
Welcome to this Marana Town Council meeting. Regular Council meetings are usually held the first and third Tuesday of each month at 7:00 PM at the Marana Municipal Complex, although the date or time may change and additional meetings may be called at other times and/or places. Contact the Town Clerk or watch for posted agendas for other meetings. This agenda may be revised up to 24 hours prior to the meeting. In such a case a new agenda will be posted in place of this agenda.

Speaking at Meetings
If you are interested in speaking to the Council during the Call to the Public or Public Hearings, you must fill out a speaker card (located in the lobby outside the Council Chambers) and deliver it to the Town Clerk prior to the convening of the meeting.

All persons attending the Council meeting, whether speaking to the Council or not, are expected to

observe the Council rules, as well as the rules of politeness, propriety, decorum and good conduct. Any person interfering with the meeting in any way, or acting rudely or loudly will be removed from the meeting and will not be allowed to return.

Accessibility
To better serve the citizens of Marana and others attending our meetings, the Council Chambers are wheelchair and handicapped accessible. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Town Clerk at (520) 382-1999. Requests should be made as early as possible to arrange the accommodation.

Agendas
Copies of the agenda are available the day of the meeting in the lobby outside the Council Chambers or online at www.marana.com, by linking to the Town Clerk page under Agendas, Minutes and Recent Actions. For questions about the Council meetings, special services or procedures, please contact the Town Clerk, at 382-1999, Monday through Friday from 8:00 AM to 5:00 PM.

This Notice and Agenda Posted no later than 24 hours prior to the meeting, at the Marana Municipal Complex, 11555 W. Civic Center Drive, the Marana Operations Center, 5100 W. Ina Road, and at www.maranaaz.gov under Agendas and Minutes.

REGULAR COUNCIL MEETING

CALL TO ORDER AND ROLL CALL

PLEDGE OF ALLEGIANCE/INVOCATION/MOMENT OF SILENCE

APPROVAL OF AGENDA

CALL TO THE PUBLIC

At this time any member of the public is allowed to address the Town Council on any issue within the jurisdiction of the Town Council, except for items scheduled for a Public Hearing at this meeting. The speaker may have up to three minutes to speak. Any persons wishing to address the Council must complete a speaker card located outside the Council Chambers and deliver it to the Town Clerk prior to the commencement of the meeting. Individuals addressing a meeting at the Call to the Public will not be provided with electronic technology capabilities beyond the existing voice amplification and recording capabilities in the facilities. Pursuant to the Arizona Open Meeting Law, at the conclusion of Call to the Public, individual members of the Council may respond to criticism made by those who have addressed the Council, and may ask staff to review the matter, or may ask that the matter be placed on a future agenda.

PROCLAMATIONS

MAYOR AND COUNCIL REPORTS: SUMMARY OF CURRENT EVENTS

MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

PRESENTATIONS

CONSENT AGENDA

The Consent Agenda contains items requiring action by the Council which are generally routine items not requiring Council discussion. A single motion and affirmative vote will approve all items on the Consent Agenda, including any resolutions or ordinances. Prior to a motion to approve the Consent Agenda, any Council member may remove any item from the Consent Agenda and that item will be discussed and voted upon separately.

C1 Resolution No. 2016-116: Relating to Elections; approving and authorizing the Mayor to execute an intergovernmental agreement between the Town of Marana and Pima County for election services for the period of January 1, 2017 through December 31, 2021 (Jane Fairall)

C2 Resolution No. 2016-117: Relating to Parks and Recreation; approving and authorizing the Mayor to execute an agreement between the Town of Marana and Desert Bluegrass Association regarding the planning, development and presentation of the 2017 Marana Bluegrass Festival (Cynthia Nemeth-Briehn)

C3 Resolution No. 2016-118: Relating to Police Department; approving and authorizing the Chief of Police to execute the State Plan of Operations Between the State of Arizona and the Marana Police Department for participation in the U.S. Department of Defense LESO Program (Libby Shelton)

C4 Approval of Study Session Meeting Minutes from October 11, 2016 and approval of Regular Council Meeting Minutes from October 18, 2016 (Jocelyn C. Bronson)

LIQUOR LICENSES

L1 Relating to Liquor Licenses; recommendation to the Arizona Department of Liquor Licenses and Control regarding a New License Series #12 Restaurant liquor license application submitted by Rong Yun Zheng on behalf of New Town Buffet located at 8500 N. Cracker Barrel Road, Marana, Arizona 85743 (Jocelyn C. Bronson)

BOARDS, COMMISSIONS AND COMMITTEES

COUNCIL ACTION

A1 PUBLIC HEARING: Ordinance No. 2016.021: Relating to Development; amending the Marana Land Development Code Title 16 (Signs), Section 16-14-37, adding provisions for Road Construction Area Signs, temporary signs for existing land uses located within a commercial or industrial zoning district and within an area subject to long-term or substantial roadway construction activity; and establishing an effective date (Brian D. Varney)

Resolution No. 2016-119: Relating to Development; declaring as a public record filed with the Town Clerk the amendments adopted by Ordinance No. 2016.021, amending the Marana Land Development Code Title 16 (Signs), Section 16-14-37, adding provisions for Road Construction Area Signs, temporary signs for existing land uses located within a commercial or industrial zoning district and within an area subject to long-term or substantial roadway construction activity (Brian D. Varney)

A2 Resolution No. 2016-120: Relating to Public Works; approving and authorizing the Mayor to sign an Acquisition Agreement & Administrative Settlement for the purchase of property rights needed from Pep Boys Manny Moe & Jack of California for the Camino Martin/Jeremy Place Reconstruction Project, Town of Marana Project No. ST033 (Frank Cassidy)

A3 Resolution No. 2016-121: Relating to Administration; approving the transfer of up to $85,000 in budgeted expenditure authority from the General Fund contingency line item in the fiscal year 2016-2017 budget to the Parks and Recreation landscape maintenance account for expenses related to Phase 1 of the Marana Main Street Tree Plan (Cynthia Nemeth-Briehn)

ITEMS FOR DISCUSSION/POSSIBLE ACTION

D1 Relating to Legislation and Government Actions; discussion and possible action regarding all pending state, federal, and local legislation/government actions and on recent and upcoming meetings of the other governmental bodies (Gilbert Davidson)

EXECUTIVE SESSIONS

Pursuant to A.R.S. § 38-431.03, the Town Council may vote to go into executive session, which will not be open to the public, to discuss certain matters.

E1 Executive Session pursuant to A.R.S. §38-431.03 (A)(3), Council may ask for discussion or consultation for legal advice with the Town Attorney concerning any matter listed on this agenda.

E2 Executive session pursuant to A.R.S. § 38-431.03(A)(4) and (7) to discuss with the Town's attorneys and representatives the terms of a proposed purchase of Camino Martin right-of-way from Pep Boys Manny Moe & Jack of California (this item relates to and should occur, if at all, before Council Action A2 on tonight's agenda)

FUTURE AGENDA ITEMS

Notwithstanding the mayor's discretion regarding the items to be placed on the agenda, if three or more Council members request that an item be placed on the agenda, it must be placed on the agenda for the second regular Town Council meeting after the date of the request, pursuant to Marana Town Code Section 2-4-2(B).

ADJOURNMENT

Council-Regular Meeting **C1**

Meeting Date: 11/01/2016

To: Mayor and Council

From: Jane Fairall, Deputy Town Attorney

Date: November 1, 2016

Strategic Plan Focus Area:
Not Applicable

Subject: Resolution No. 2016-116: Relating to Elections; approving and authorizing the Mayor to execute an intergovernmental agreement between the Town of Marana and Pima County for election services for the period of January 1, 2017 through December 31, 2021 (Jane Fairall)

Discussion:

The Town of Marana contracts with Pima County, on behalf of its Elections Department, for election services for the Town's primary, general, and special elections. The proposed IGA will continue that relationship, with a term running from January 1, 2017, through December 31, 2021. As part of the agreement, the Elections Department will provide the Town with use of the Election Department's comprehensive voting system and certified elections officials for the Town's elections. Services include use of polling places, sample ballot printing and postage, translation services, early and provisional ballot processing, and election night processing and tabulation. For these services, the Elections Department charges the Town 75 cents per registered voter.

Financial Impact:

Fiscal Year:	2017
Budgeted Y/N:	Y
Amount:	$138,000

Any future election costs attributable to this IGA would be considered and included in the appropriate future fiscal year budget.

Staff Recommendation:

Staff recommends approval of the elections services IGA.

Suggested Motion:

I move to adopt Resolution No. 2016-116, approving and authorizing the Mayor to execute an intergovernmental agreement between the Town of Marana and Pima County for election services for the period of January 1, 2017 through December 31, 2021.

Attachments

Resolution No. 2016-116

Exhibit A to Resolution - Election Services IGA

MARANA RESOLUTION NO. 2016-116

RELATING TO ELECTIONS; APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF MARANA AND PIMA COUNTY FOR ELECTION SERVICES FOR THE PERIOD OF JANUARY 1, 2017 THROUGH DECEMBER 31, 2021

WHEREAS Pima County has a comprehensive voting system and certified election officials; and

WHEREAS the Town seeks Pima County's assistance in the preparation and conduct of the Town's primary, general, and special elections; and

WHEREAS Pima County, through its Elections Department, is willing to provide election services to the Town based on the terms set forth in the intergovernmental agreement for election services which is the subject of this resolution; and

WHEREAS the Mayor and Council of the Town of Marana find that this resolution is in the best interests of the Town of Marana and its citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, that the Intergovernmental Agreement for Election Services attached to and incorporated by this reference in this resolution as Exhibit A is hereby approved, and the Mayor is hereby authorized to sign it for and on behalf of the Town of Marana.

IT IS FURTHER RESOLVED that the Town Manager and staff are hereby directed and authorized to undertake all other and further tasks required or beneficial to carry out the terms, obligations, conditions and objectives of the agreement.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 1st day of November, 2016.

Mayor Ed Honea

ATTEST:

Jocelyn C. Bronson, Town Clerk

APPROVED AS TO FORM:

Frank Cassidy, Town Attorney

INTERGOVERNMENTAL AGREEMENT

For Election Services

Among the Town of Marana and Pima County

This Intergovernmental Agreement (IGA) is by and among TOWN OF MARANA OF PIMA COUNTY, ARIZONA, a municipal subdivision of the State of Arizona ("the Town") and PIMA COUNTY, a political subdivision of the State of Arizona ("the County"), on behalf of the PIMA COUNTY ELECTIONS DEPARTMENT (the "Elections Department").

WHEREAS, the County of Pima has a comprehensive voting system and certified elections officials; and

WHEREAS, the Town of Marana, an Arizona political subdivision pursuant to A.R.S. § 9-231 (A), seeks Pima County's assistance in the preparation and conduct of the Town's primary elections, general elections and special elections;

NOW, THEREFORE, IT IS AGREED by and between the County, on behalf of its Elections Department, and the Town, pursuant to A.R.S. §§ 16-205(C), 16-172, 16-405 *et seq.*, 16-450, 11-251(3), and 11-951 *et seq.*, as follows:

1. **Purpose.** The purpose of this IGA is to provide election services to the Town for the Town's primary elections, general elections and special elections.

2. **County Obligations.** County shall:

   A. Provide election services at the applicable cost set forth in the **Schedule of Prices, Level 2 – Consolidated Elections** (Exhibit A), as requested by the Town Clerk for placing ballot language on the Pima County ballot.

   B. Provide for all of the following services as indicated under the Level 2 fee schedule:

   - Boardworker recruitment, training and service
   - Polling place acquisition and use
   - Sample ballot printing and postage
   - Translation services
   - Early and provisional ballot processing
   - Supplies
   - Supply delivery and pick-up
   - Law enforcement
   - Technical support
   - Election Night processing and tabulation

   C. Provide final camera-ready ballot formats to the Town, including Spanish language translations, no later than 55 days prior to each election. Upon written notice of a need for a change to the ballot format approved by the Town, the Elections Department shall, if possible, arrange for the corrections to be made by the vendor. The Elections Department will inform the Town of any additional charges incurred.

D. Prepare and deliver an invoice to the Town from the Elections Department for election costs pursuant to this IGA, within forty-five (45) days after the date of each election. The invoice will be based on the voter registration data provided by the Pima County Recorder as of the voter registration cut-off for each election. The invoice shall be calculated based on the schedule of prices, Level 2, Consolidated Elections.

E. Assure that all polling locations comply with the Americans with Disabilities Act by using the ADA Checklist for Polling Places (2004) published by the U.S. Department of Justice.

3. **Town Obligations.** The Town shall:

A. Make arrangements with the County for any necessary language translations as required by Section 203 of the Voting Rights Act.

B. Provide the County Elections Department with the final certified copy of any ballot issue for a Town election at least 120 days prior to the election, unless a different timeframe is otherwise mutually agreed upon. The final certified copy of the ballot issue will be provided in an electronic format (Microsoft Word).

C. Review and approve the camera-ready ballot formats provided by the Elections Department no more than two (2) business days after receipt. The Town must notify the Elections Department, in writing, of any required changes after the ballot format has been approved.

D. Be responsible for the preparation and distribution of publicity pamphlets, including, but not limited to, any requisite translation, printing and mailing.

E. Pay any and all charges for printing of publicity pamphlet by commercial means directly to the commercial vendor providing such services.

F. Arrange for and publish any and all notices of each election as required by law.

G. Prepare and timely submit any reports required under A.R.S. § 16-409(B).

H. Should the election be challenged or questioned for any reason whatsoever, the Town shall be responsible for defense. This duty shall survive the expiration of the IGA, provided that County shall cooperate with Town in making relevant information and witnesses available upon reasonable request.

I. Within thirty (30) days of date of the invoice, Town shall reimburse County, in full, for invoiced costs of election at the rates set forth in Exhibit A.

J. The Town will, within thirty (30) days of the date of the invoice, pay the Elections Department the actual costs for any changes to ballots incurred by the Elections Department.

K. Any amount invoiced by the County that is not paid thirty (30) days from the date of the invoice shall accrue interest at the rate of ten percent (10%) per annum until paid. The Town expressly acknowledges and agrees that the payments required to be made

hereunder constitute valid, binding obligations and authorized debt of the Town.

4. **Manner of Financing and Budgeting.** The Town warrants that it has sufficient funds available and budgeted to discharge the funding obligation imposed by this IGA.

5. **Term.** The term of this IGA shall be from January 1, 2017 through December 31, 2021 provided that the term shall continue through final resolution of any legal challenge to the election. Any modification or time extension of this IGA shall be by formal written amendment and executed by the parties hereto.

6. **Hold Harmless Clause.** 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 or 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. **Compliance with Applicable Laws.** The parties shall comply with all federal, state and local laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this IGA. The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this IGA and any disputes hereunder. Any action relating to this IGA shall be brought in an Arizona court in Pima County. Any changes in the governing laws, rules and regulations during the terms of this IGA shall apply but do not require an amendment.

8. **Non-Discrimination.** Neither party will discriminate against the other party's employee, client or any other individual in any way involved with, the other party, because of that person's age, race, creed, color, religion, sex, disability or national origin in the course of carrying out the Town's duties pursuant to this IGA. Both parties agree to comply with the provisions of A.R.S. §41-1463 and of Executive Order 75-5, as amended by Executive Order 2009-09, which are incorporated into this IGA by reference, as is set forth in full herein.

9. **Americans With Disabilities Act.** This IGA is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. §§ 12101-12213) and all applicable Federal Regulations under the Act, including 28 CFR Parts 35 and 36.

10. **Severability.** If any provision of this IGA or any application thereof to the County, the Town or any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this IGA which can be given effect, without the invalid provision or application and to this end the provisions of this IGA are declared to be severable.

11. **Conflict of Interest.** This IGA is subject to the cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated herein by reference.

12. **Non-Appropriation.** Notwithstanding any other provision in this IGA, this IGA may be terminated if for any reason the County Board of Supervisors or the Town does not appropriate sufficient monies for the purpose of maintaining this IGA. In the event of such cancellation, County or Town shall have no further obligation other than for payment for services rendered prior to cancellation.

13. **Legal Authority.** Neither party warrants to the other its legal authority to enter into this IGA. If a court, at the request of a third person, declares that either party lacks authority to enter into this IGA, or any part of it, then the IGA, or parts of it affected by such order, shall be null and void, and no recovery may be had by either party against the other for lack of performance or otherwise.

14. **Worker's Compensation.** Each party shall comply with the notice of A.R.S. § 23-1022(E). For purposes of A.R.S. § 23-1022, each party shall be considered the primary employer of all personnel currently or hereafter employed by that party, irrespective of the operations of protocol in place, and said party shall have the sole responsibility of the payment of Worker's Compensation benefits or other fringe benefits of said employees.

15. **No Joint Venture.** It is not intended by this IGA to, and nothing contained in this IGA shall be construed to, create any partnership, joint venture or employment relationship between the parties or create any employer-employee relationship between County and any Town employees, or between the Town and any County employees. Neither party shall be liable for any debts, accounts, obligations nor other liabilities whatsoever of the other party, including (without limitation) any other party's obligation to withhold Social Security and income taxes for itself or any of its employees.

16. **No Third Party Beneficiaries.** Nothing in the provisions of this IGA is intended to create duties or obligations to, or rights in, third parties not parties to this IGA, or to affect the legal liability of any party to the IGA by imposing any standard of care different from the standard of care imposed by law.

17. **Resolution of Conflicting Needs.** In the event conflict arises between the County and the Town over the use of voting equipment, vote tallying equipment, or County elections personnel, County shall have priority, but shall make reasonable efforts to reconcile conflicts so that neither party will suffer as a consequence of conflict.

18. **Notice.** Any notice required pursuant to this IGA shall be given to:

County:

Chuck H. Huckelberry
County Administrator
130 W. Congress St., 10th Floor
Tucson, AZ 85701
Phone: (520) 724-8661
Fax: (520) 724-8171

Brad R. Nelson
Elections Director
6550 S. Country Club
Tucson, AZ 85756
Phone: (520) 724-6830
Fax: (520) 724-6870

Robin Brigode
Clerk of the Board of Supervisors
130 W. Congress St., 5th Floor
Tucson, AZ 85701
Phone: (520) 724-8449
Fax: (520) 222-0448

Town:

Jocelyn C. Bronson
Town Clerk, Town of Marana
11555 W. Civic Center Drive
Marana, AZ 85653
Phone: (520) 382-1999
Fax: (520) 382-1998

19. **Termination.** Either party may terminate this IGA at any time by giving written notice of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. In the event of termination, any real or personal property belonging to either party and furnished pursuant to this IGA, shall be returned to the furnishing party. Any funds of Town paid to County in accordance with this IGA and not encumbered at the time of termination shall be refunded to Town and, if Town terminates, Town shall pay any and all costs of County incurred up to the date of termination or as a result of termination.

20. **Legal Arizona Workers Act Compliance.** The parties hereby warrant that they will at all times during the term of this IGA comply with all federal immigration laws applicable to each party's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Each party will further ensure that each subcontractor who performs any work for that party under this IGA likewise complies with the State and Federal Immigration Laws.

Each party has the right at any time to inspect the books and records of the other party and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of either party's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, is a material breach of this IGA subjecting the breaching party to penalties up to and including suspension or termination of this IGA. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, the breaching party will 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 the completion of work under this IGA.

Each party will advise each of its subcontractors of the other party's rights, and the subcontractor's obligations, under this section 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 Pima County or the Town 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 is 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 section will be the responsibility of the breaching party."

21. **Entire IGA.** This document constitutes the entire agreement between the parties pertaining to the subject matter hereof, and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein. This IGA shall not be modified, amended, altered or extended except through a written amendment signed by the parties.

IN WITNESS WHEREOF, the parties hereby have executed this Agreement on this _____ day of _____, 2016.

PIMA COUNTY:

_____
Chair, Board of Supervisors Date

ATTEST:

_____
Clerk of the Board of Supervisors Date

TOWN OF MARANA:

_____
Mayor, Town of Marana Date

ATTEST:

_____
Town Clerk Date

APPROVED AS TO CONTENT:

Brad Nelson 7-28-16
Brad Nelson, Director Date
Pima County Elections Department

The foregoing Intergovernmental Agreement between the Town of Marana and Pima County has been reviewed pursuant to A.R.S. § 11-952 by the undersigned, who have determined that it is in the proper form and is within the powers and authority granted under the laws of the State of Arizona to those parties to the Intergovernmental Agreement represented by the undersigned.

PIMA COUNTY:

6/23/16
Deputy County Attorney Date
DANIEL JURKOWITZ

TOWN OF MARANA:

_____
Attorney for Town of Marana Date

EXHIBIT A
Schedule of Prices

LEVEL 2: CONSOLIDATED ELECTIONS

Any jurisdiction may choose to have its election combined with any county wide election. A fee of 75 cents per registered voter will apply.

The seventy-five cent fee covers the following services:

- Boardworker recruitment, training and service
- Polling Place acquisition and use
- Sample Ballot printing and postage
- Translation services
- Early and Provisional Ballot processing
- All supplies
- Supply delivery and pickup
- Law Enforcement
- Technical Support
- Election night processing and tabulation

Fee schedule approved by Pima County Board of Supervisors June 16, 2009.

Council-Regular Meeting **C2**

Meeting Date: 11/01/2016

To: Mayor and Council

From: Cynthia Nemeth-Briehn, Parks & Recreation Director

Date: November 1, 2016

Strategic Plan Focus Area:
Community

Strategic Plan Focus Area Additional Info:
Under the Community focus area, Strategic Plan III includes an initiative to market Marana as a destination for unique, family-friendly events.

Subject: Resolution No. 2016-117: Relating to Parks and Recreation; approving and authorizing the Mayor to execute an agreement between the Town of Marana and Desert Bluegrass Association regarding the planning, development and presentation of the 2017 Marana Bluegrass Festival (Cynthia Nemeth-Briehn)

Discussion:

For the past four years, S & S Bluegrass Promotions had assisted the Town and Desert Bluegrass Association in presenting the Marana Bluegrass Festival at Ora Mae Harn Park. This year the Desert Bluegrass Association will present the festival with only support from the Town. The Desert Bluegrass Association is an all-volunteer organization whose purpose is to support bluegrass artists through information sharing, workshops, concert series, and an annual festival. If approved, this item will enact an agreement that provides for Desert Bluegrass Association to take the lead in planning, coordinating, promoting and presenting the 2017 Marana Bluegrass Festival, April 28 - 30, 2017, as described in the Scope of Work attached to the agreement.

In 2017 the Town will support the festival through the rental of event equipment and in-kind services. While the Town values the festival for the community and economic impact it brings to Marana, staff and the Association have initiated discussions for a plan to phase out all financial and many of the in-kind support it currently receives from the Town.

Financial Impact:

Fiscal Year:	2017
Budgeted Y/N:	Y
Amount:	$ 2,100

The budgeted amount covers out-of-pocket costs for rental of canopies, tables, chairs and restrooms. The Town will also be contributing in-kind support totaling $12,287.

Staff Recommendation:

Staff recommends approval of the agreement between the Town of Marana and Desert Bluegrass Association for the 2017 Marana Bluegrass Festival.

Suggested Motion:

I move to adopt Resolution No. 2016-117 approving and authorizing the Mayor to execute the agreement between the Town of Marana and Desert Bluegrass Association for the 2017 Marana Bluegrass Festival.

Attachments

Resolution No. 2016-117

Exhibit A to Resolution - Bluegrass Agreement

Exhibit A to Agreement - Scope of Work

Exhibit B to Agreement - Release Form

Exhibit C to Agreement - Cost Spreadsheet

MARANA RESOLUTION NO. 2016-117

RELATING TO PARKS AND RECREATION; APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE TOWN OF MARANA AND DESERT BLUEGRASS ASSOCIATION REGARDING THE PLANNING, DEVELOPMENT AND PRESENTATION OF THE 2017 MARANA BLUEGRASS FESTIVAL

WHEREAS on January 6, 2015, the Town Council adopted the Town of Marana Strategic Plan III which identifies Community as one of its five focus areas and includes the initiative to market Marana as a destination for unique, family-friendly events; and

WHEREAS for the past several years, the Town, in collaboration with several non-profit entities and others in the local bluegrass community, has presented the Marana Bluegrass Festival; and

WHEREAS the Desert Bluegrass Association ("DBA") is a non-profit organization dedicated to developing and promoting bluegrass music for the diverse audience in the Greater Tucson Area; and

WHEREAS the Town Council finds that approval of an agreement with DBA related to the planning, development and presentation of the 2017 Marana Bluegrass Festival as set forth in this resolution is in the best interests of the Town of Marana and its citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, as follows:

SECTION 1. The agreement between the Town of Marana and Desert Bluegrass Association regarding the planning, development and presentation of the 2017 Marana Bluegrass Festival, attached to and incorporated by this reference in this resolution as Exhibit A, is hereby approved and the Mayor is hereby authorized to execute it for and on behalf of the Town of Marana.

SECTION 2. The Town's Manager and staff are hereby directed and authorized to undertake all other and further tasks required or beneficial to carry out the terms, obligations, and objectives of the agreement.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 1st day of November, 2016.

Mayor Ed Honea

ATTEST:

Jocelyn C. Bronson, Town Clerk

APPROVED AS TO FORM:

Frank Cassidy, Town Attorney

AGREEMENT BETWEEN THE TOWN OF MARANA AND DESERT BLUEGRASS ASSOCIATION FOR THE 2017 MARANA BLUEGRASS FESTIVAL

THIS AGREEMENT (the "Agreement") is entered into by and between the TOWN OF MARANA, an Arizona municipal corporation (the "Town") and DESERT BLUEGRASS ASSOCIATION, an Arizona non-profit corporation ("DBA"). The Town and DBA are sometimes collectively referred to in this Agreement as the "Parties," each of which is sometimes individually referred to as a "Party."

RECITALS

A. In January 2015, the Town Council of the Town of Marana adopted the Town of Marana Strategic Plan III (the "Plan"). The Plan identifies Community as one of its five focus areas. Under the Community focus area, the Plan includes an initiative to market Marana as a destination for unique, family-friendly events.

B. For the past several years, the Town, in collaboration with several non-profit entities and others in the local bluegrass community, has presented the Marana Bluegrass Festival.

C. The Desert Bluegrass Association is a non-profit organization dedicated to developing and promoting bluegrass music for the diverse audience in the Greater Tucson Area.

D. The Town and DBA desire enter into an agreement for DBA to plan, develop and present the 2017 Marana Bluegrass Festival (the "Festival") with support and assistance from the Town as described in this Agreement.

E. The Town finds that the benefits to the Town resulting from DBA's production and presentation of the 2017 Marana Bluegrass Festival have a value at least equal to the fair market value of the in-kind support and assistance to be provided to DBA by the Town pursuant to this Agreement.

AGREEMENT

NOW, THEREFORE, based on the foregoing recitals, which are incorporated here as the intent of the Parties in entering into this Agreement, and in consideration of the terms of this Agreement, the Parties hereby agree as follows:

1. *Services to be performed by DBA.* DBA shall plan, develop and present the 2017 Marana Bluegrass Festival at Ora Mae Harn Park, 13250 N. Lon Adams Road, as set forth in this paragraph 1, and in the Scope of Work, attached hereto and incorporated herein

by this reference as Exhibit A. The Festival will be held April 28-30, 2017, during the times mutually agreed upon by the Parties. The Festival will include performances by bluegrass bands and musicians, food and craft vendors, and other related activities.

a. DBA shall recruit, select, approve and contract with musicians and vendors for the Festival. The vendors may include food and crafts exhibitors and other exhibitors consistent with the theme of the Festival and the terms of this Agreement. DBA shall ensure that all Marana Bluegrass Festival vendors possess a current Town of Marana business license as of the date of the Festival. DBA shall also ensure that all food vendors possess a current and appropriate permit from the Pima County Health Department, if required, as of the date of the Festival.

b. DBA shall provide a complete listing of Festival vendors to the Town at least one week prior to the Festival.

c. DBA shall ensure that all Festival vendors enter into a release and indemnification agreement in the form set forth in Exhibit B, attached hereto and fully incorporated herein by this reference. DBA shall provide the completed release and indemnification agreements to the Town with the vendor list required by subparagraph b above.

d. All marketing and promotional materials produced by DBA for the Festival must be approved by the Town prior to their use and distribution.

e. DBA shall provide sufficient staffing to present and run the Festival on all days, including set-up and tear-down.

f. DBA shall provide security for the Festival pursuant to a security plan approved by the Town.

2. *Support and assistance to be provided by the Town.* The Town shall provide in-kind support and cash assistance, at no cost to DBA, as set forth in Exhibit C, attached hereto and incorporated herein by this reference. In addition to the items listed on Exhibit C, the Town shall:

a. Provide promotional assistance through Town social media outlets, website, and distribution of DBA-produced marketing and promotional materials.

b. Provide a chalked area for RV parking

c. Provide signage for festival parking

3. *Expenses; admission and other activity fees.* Except as provided in paragraph 2 above, DBA shall be responsible for all of its operating expenses. DBA may assess, collect and retain admission and other activity fees from parties who wish to attend and participate in the Marana Bluegrass Festival. The Town makes no guarantee or promise regarding the amount of compensation DBA will receive due to admission and other activity fees.

a. DBA shall make available to the Town for inspection any books, ledgers or statements kept by DBA regarding activities conducted pursuant to this Agreement.

b. DBA shall be liable for all taxes applicable to the proceeds received by DBA under this Agreement.

4. *Effective date and duration.* This agreement shall be effective as of the signature date of the last Party to sign this Agreement, and shall remain in effect until May 31, 2017. Notwithstanding the foregoing, the indemnification provisions set forth in paragraph 8 below shall survive termination of this Agreement.

5. *Relationship of the parties.* In the performance of the services contemplated by this Agreement, DBA shall act solely as an independent contractor, and nothing expressed or implied in this Agreement shall be construed to create the relationship of employer and employee, partnership, principal and agent, or to create a joint venture between the Town and DBA.

6. *Use of Town logo and seal.* The Town grants DBA a limited license to use, at no cost, the Town's logo and seal in DBA's performance of the services described in this Agreement. DBA shall not use the Town's logo and seal for any other purpose or use. DBA shall not modify, revise or alter the Town's logo or seal in any way.

7. *Insurance.* DBA and any subcontractor who performs any work for DBA under this Agreement shall maintain insurance throughout the term of this Agreement from carriers acceptable to the Town with the following required minimum coverages and limits:

Worker's Compensation:	Statutory
Employer's Liability:	U.S. $100,000
Commercial General Liability	U.S. $1,000,000 per occurrence
	U.S. $2,000,000 aggregate

a. DBA shall deliver one or more certificates of insurance evidencing coverage as described in this paragraph 7, including coverage required of any subcontractor, to the Town upon execution of this Agreement and prior to commencing any activities pursuant to this Agreement. DBA shall also deliver new certificates of insurance each time the policy(s) is updated. All certificates shall be delivered to the Town's Parks and Recreation Director.

b. The Town shall be named as an additional insured on the commercial general liability insurance policies required by this paragraph 7. As an additional insured, the Town shall be provided coverage for any liability arising out of operations performed in whole or in part by or on behalf of DBA or any subcontractor. DBA shall deliver additional insured endorsement(s) along with the certificate(s) of insurance required by subparagraph (a) above. The additional insured endorsement form identification number shall also be included within the description box on the certif-

icate of insurance and the applicable policy number shall be included on the endorsement.

c. All policies required pursuant to this paragraph 7 shall be endorsed to contain a waiver of transfer of rights of recovery (subrogation) against the Town, its agents, officers, officials, and employees for any claims arising out of DBA's or any subcontractor's work or service. Endorsements evidencing this waiver of subrogation shall be provided to the Town along with all other insurance documentation required by this Article.

d. The certificate(s) shall also stipulate that the insurance afforded DBA and any subcontractor shall be primary insurance and that any insurance carried by the Town, its agents, officials or employees shall be excess and not contributory insurance to that provided by DBA or any subcontractor. Coverage provided by DBA and any subcontractor shall be primary insurance with respect to all other available sources.

e. The insurance requirements specified in this paragraph 7 may not be changed or modified except by written agreement signed by both Parties.

f. DBA shall give the Town at least 30 calendar days' written notice prior to a planned cancellation or reduction of any coverage required by this paragraph 7. DBA shall give the Town immediate notice of any other cancellation or reduction of any coverage required by this paragraph 7. Cancellation or reduction of any coverage required by this paragraph 7 is grounds for termination of this Agreement by the Town.

8. *Indemnification.* DBA agrees to defend, save, hold harmless, and indemnify the Town, its officials, employees, agents, successors, and assigns from and against any and all manner of claims, suits, lawsuits, action or actions, causes or causes of action, liabilities, damages, and other claims and demands of whatsoever nature or kind, in law or in equity, in tort or in contract, or otherwise caused by or resulting from DBA's errors, omissions, or negligent acts in the performance of services pursuant to this Agreement, or the errors, omissions or negligent acts of any party DBA contracts with in the performance of services pursuant to this Agreement, anyone directly or indirectly employed by DBA, or anyone for whose acts DBA may be liable.

9. *Regulatory compliance and approvals.* Each Party shall at its own expense comply with all applicable federal, state and local laws, rules, and regulations in connection with its obligations under this Agreement. As part of this obligation, DBA shall obtain any and all permits required by the Town, the Northwest Fire District or any other appropriate regulatory agency for its activities under this Agreement. In consideration of the services to be performed by DBA under the terms of this Agreement, to the extent legally permissible, the Town agrees to waive all Town of Marana review and permit fees that DBA would normally be required to pay for DBA's activities pursuant to this Agreement.

10. *Notices.* All notices, requests, demands, and other communications under this Agreement shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, to the following addresses:

If to the Town, to:
TOWN OF MARANA
Attn: Parks and Recreation Director
11555 W. Civic Center Drive - Bldg A3
Marana, AZ 85653

If to DBA, to:
DESERT BLUEGRASS ASSOCIATION
Attn: David Lanham
11120 E. Malpomene Circle
Tucson, Arizona 85749

11. *Entire agreement.* This Agreement constitutes the entire agreement and understanding of the Parties pertaining to the subject matter of the Agreement and supersedes all offers, negotiations, and other agreements of any kind. All prior and contemporaneous agreements, representations and understandings of the Parties, oral or written, are superseded and merged in this Agreement.

12. *Authority to execute agreement*. The individuals executing this Agreement hereby represent that they have full right, power, and authority to execute this Agreement on behalf of their respective Parties.

13. *Force majeure.* Notwithstanding any other term, condition or provision of this Agreement to the contrary, if any Party to this Agreement is precluded from satisfying or fulfilling any duty or obligation imposed upon it due to labor strikes, material shortages, war, civil disturbances, weather conditions, natural disasters, acts of God, or other events beyond the control of such Party, the time period provided herein for the performance by such Party of such duty or obligation shall be extended for a period equal to the delay occasioned by such events.

14. *Immigration laws.* DBA warrants that it will at all times comply with all federal immigration laws and regulations that relate to its employees and with Arizona Revised Statutes section (A.R.S. §) 23-214 (A). DBA acknowledges that pursuant to A.R.S. § 41-4401 and effective September 30, 2008, a breach of this warranty is a material breach of this Agreement subject to penalties up to and including termination of this Agreement, and that the Town retains the legal right to inspect the papers of any employee who performs work or services pursuant to this Agreement to ensure compliance with this warranty.

15. *Israel boycott divestments.* DBA certifies that it is not currently engaged in, and agrees for the duration of this Agreement to not engage in, a boycott of Israel as defined by A.R.S. § 35-393.

16. *Conflict of interest.* This Agreement is subject to the provisions of A.R.S. § 38-511, which provides for termination in certain instances involving conflicts of interest.

17. *Attorneys' fees.* The prevailing Party in a civil action to enforce this Agreement shall be entitled to recover from the other Party, in addition to any relief to which such prevailing Party may be entitled, all costs, expenses and reasonable attorneys' fees incurred in connection with that civil action.

18. *Governing law.* This Agreement shall be construed in accordance with the laws of the State of Arizona.

19. *Termination.* Either Party may terminate its participation in this Agreement for any reason upon at least 15 days' prior written notice to the other Party.

20. *Miscellaneous.*

a. This Agreement may not be modified except in a writing signed by both of the Parties.

b. The captions and section numbers appearing in this Agreement are inserted only as a matter of convenience, and do not define, limit, construe or describe the scope or intent of such sections or articles of this Agreement.

c. This Agreement may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original and all of which, taken together, shall constitute one and the same agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have duly executed this instrument below.

The "Town":

TOWN OF MARANA, an Arizona municipal corporation

Ed Honea, Mayor

Date:_____

ATTEST:

Town Clerk Date

APPROVED AS TO FORM:

Town Attorney Date

"DBA":

DESERT BLUEGRASS ASSOCIATION, an Arizona non-profit corporation

John David, President/CEO

Date_____

Federal I.D. # _____

STATE OF _____)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2016 by John David, President/CEO of DESERT BLUEGRASS ASSOCIATION, an Arizona non-profit corporation, on behalf of the corporation.

(Seal)

Notary Public

LIST OF EXHIBITS

Exhibit A: Scope of Work

Exhibit B: Form of Release and Indemnification Agreement

Exhibit C: Spreadsheet listing Town In-Kind Support and Assistance

EXHIBIT A
to
AGREEMENT BETWEEN TOWN OF MARANA AND DESERT BLUEGRASS ASSOCIATION
2017 MARANA BLUEGRASS FESTIVAL

Desert Bluegrass Association – Scope of Work – 2017 Marana Bluegrass Festival

Perform and coordinate pre-Festival planning and Festival management activities to include:

- Direct Marana Bluegrass Festival Committee activities; select, organize and manage Festival Committee, schedule and run meetings
- Festival Stage Management; provide a Master of Ceremonies, prepare, coordinate, and manage performance schedule
- Contract Festival sound system provider with appropriate equipment and experience amplifying acoustic music in an outdoor venue
- Select and contract headline performers, and provide payment for performers
- Design and produce 2017 Marana Bluegrass Festival Program, including performance schedule, band bios, and Festival information
- Provide 2017 Marana Bluegrass Festival promotion; flyer distribution to regional festivals and bluegrass organizations, media brochures and public service announcement in Tucson, Phoenix, and Flagstaff markets
- Design and produce 2017 Marana Bluegrass Festival numbered tickets, posters, flyers, and any other advertising material.
- Perform radio spot for KXCI community radio
- Maintain Marana Bluegrass Festival website www.maranafestival.com
- Coordinate and staff volunteer effort
- Collect Festival gate and vendor receipts; pay outstanding Festival accounts
- Provide vendors for food and crafts. A vendor list will provided to the Town of Marana
- Provide cash payment for Friday flatpick contest
- Provide volunteers to assist in stage sound setup
- Provide volunteers for festival operations for three day festival and to include set up and tear-down
- Provide manpower for RV parking and placement
- Provide manpower for Workshops at Community Center
- Provide accounting of ticket sales, attendance, and post attendance reviews in a format approved by the Town
- Provide signage for entrance to festival

EXHIBIT B
to
AGREEMENT BETWEEN TOWN OF MARANA AND DESERT BLUEGRASS ASSOCIATION
2017 MARANA BLUEGRASS FESTIVAL

Release and Indemnification Agreement. In consideration of the acceptance of my Vendor Application for the Marana Bluegrass Festival to be held April 28-30, 2017, I do hereby, for myself, my child/ren, my heirs, executors and assigns, release the Town of Marana (Town) and Desert Bluegrass Association (DBA), and their respective agents, officials and employees from liability for any harm, injury, or damage, which I, or my minor child/ren, may suffer while participating in the above-described event. This includes all risks that are connected with the event whether foreseen or unforeseen. Additionally, I agree to defend, save, hold harmless, and indemnify the Town and DBA, and their respective officials, employees, agents, successors, and assigns from and against any and all manner of claims, suits, lawsuits, action or actions, causes or causes of action, liabilities, damages, and other claims and demands of whatsoever nature or kind, in law or in equity, in tort or in contract, or otherwise caused by or resulting from my errors, omissions, or negligent or intentional acts in connection with the above-described event. I am of lawful age and legally competent to execute this Agreement. I understand the terms of this Agreement and have agreed to its terms as my own free act.

If I am acting on behalf of an organization, I certify that I am the agent of the organization, I am acting on the organization's behalf, and I am duly authorized to execute this Release and Indemnification Agreement on the organization's behalf.

By signing below, I acknowledge that I have read and agree to abide by all the terms, conditions, rules and regulations outlined in the Vendor Application Form and that I have read and understand the terms of this Release and Indemnification Agreement and agree that I shall be bound by its terms and conditions.

_____ _____ _____

Signature Printed Name Date

EXHIBIT C

Town of Marana In-Kind Support Cash Assistance to 2017 Marana Bluegrass Festival

Resource	Unit	Unit Quantity	Unit Cost	Total
In-Kind Contribution				
Event area	1 ea/day	3	$200.00	$600.00
Ball field	5 ea/day	15	$95.00	$1,425.00
Ramada	3 ea/day	9	$160.00	$1,440.00
Ramada large	1 ea/day	3	$192.00	$576.00
10X10 TOM Canopies	3 ea/day	9	$125.00	$1,125.00
Community Center	hour	12	$50.00	$600.00
Fencing for Festival	Per 100 Foot	9	$29.00	$261.00
Bonfire Wood	1 cord of wood	1	$225.00	$225.00
Mobile stage	event	1	$400.00	$400.00
Labor for stage	hour	36	$30.00	$1,080.00
Event Set-up	hour	48	$21.00	$1,008.00
Event custodial	hour	28	$21.00	$588.00
Event Tear-down	hour	24	$21.00	$504.00
Traffic Control Plan and Devices				$1,615.00
Administrative Support	hour	30	$28.00	$840.00
Total In-Kind Contribution				$12,287.00
Cash Contribution				
10x20 Canopies Rental	event	4	$155.00	$620.00
Tables	event	20	$10.00	$200.00
Chairs	event	100	$1.00	$100.00
Portable Restrooms	event			$1,162.02
Total Cash Contribution				$2,082.02
Grand Total				$14,369.02

Council-Regular Meeting **C3**

Meeting Date: 11/01/2016

To: Mayor and Council

From: Libby Shelton, Senior Assistant Town Attorney

Date: November 1, 2016

Strategic Plan Focus Area:
Not Applicable

Subject: Resolution No. 2016-118: Relating to Police Department; approving and authorizing the Chief of Police to execute the State Plan of Operations Between the State of Arizona and the Marana Police Department for participation in the U.S. Department of Defense LESO Program (Libby Shelton)

Discussion:

The Secretary of Defense is authorized by 10 USC 2576a to transfer excess personal property of the Department of Defense to state law enforcement agencies. The Secretary of Defense determines which property is suitable for use in law enforcement activities, with preferences for counter-drug/counter-terrorism or border security activities, as prescribed by the Secretary of Defense. This program is also known as the "1033 Program" or the "LESO Program."

The Governor of the State of Arizona has appointed an Arizona State Coordinator to implement this program statewide as well as conduct management and oversight of this program. The Arizona LESO program is a division of the Arizona Public Safety Procurement Program (AZPSPP). The Marana Police Department desires to participate in the program so that it can receive excess property from the Department of Defense for use in law enforcement activities.

The proposed State Plan of Operations sets forth the terms and conditions of the MPD's participation in the Arizona LESO Program, including membership fees of $250 per year, annual inventory requirements, program compliance reviews, and annual training, as well as other items.

Staff Recommendation:

Staff recommends approval of the State Plan of Operations Between the State of Arizona and the Marana Police Department.

Suggested Motion:

I move to adopt Resolution No. 2016-118, approving and authorizing the Chief of Police to execute the State Plan of Operations between the State of Arizona and the Marana Police Department for participation in the U.S. Department of Defense LESO Program.

Attachments

Resolution No. 2016-118

Exhibit A

MARANA RESOLUTION NO. 2016-118

RELATING TO POLICE DEPARTMENT; APPROVING AND AUTHORIZING THE CHIEF OF POLICE TO EXECUTE THE STATE PLAN OF OPERATIONS BETWEEN THE STATE OF ARIZONA AND THE MARANA POLICE DEPARTMENT FOR PARTICIPATION IN THE U.S. DEPARTMENT OF DEFENSE LESO PROGRAM.

WHEREAS the Secretary of Defense is authorized to transfer to state law enforcement agencies suitable personal property that is in excess of the needs of the Department of Defense and can be used by state law enforcement agencies, with preferences for counter-drug/counter-terrorism or border security activities;

WHEREAS the Governor of Arizona has implemented this program statewide and the Marana Police Department desires to participate in the program; and

WHEREAS the Mayor and Council of the Town of Marana find it is in the best interests of its citizens to enter into the State Plan of Operations Between the State of Arizona and the Marana Police Department.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, the State Plan of Operations Between the State of Arizona and the Marana Police Department, attached to and incorporated by this reference in this resolution as Exhibit A, is hereby approved and the Chief of Police is hereby authorized to execute it for and on behalf of the Town of Marana.

IT IS FURTHER RESOLVED that the Town Manager and staff are hereby directed and authorized to undertake all other and further tasks required or beneficial to carry out the terms, obligations, conditions and objectives of the State Plan of Operations Between the State of Arizona and the Marana Police Department.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 1st day of November, 2016.

Mayor Ed Honea

ATTEST:

Jocelyn C. Bronson, Town Clerk

APPROVED AS TO FORM:

Frank Cassidy, Town Attorney

STATE PLAN OF OPERATIONS

BETWEEN THE STATE OF

ARIZONA

AND THE

MARANA POLICE DEPARTMENT

I. PURPOSE

This State Plan of Operation (SPO) is entered into between the State of Arizona and the MARANA POLICE DEPT., to set forth the terms and conditions which will be binding on the parties with respect to excess Department of Defense (DOD) personal property transferred pursuant to 10 USC § 2576a in order to promote the efficient and expeditious transfer of property and to ensure accountability of the same.

II. AUTHORITY

The Secretary of Defense is authorized by 10 USC § 2576a to transfer to State Law Enforcement Agencies, personal property that is excess to the needs of the DOD and that the Secretary determines is suitable to be used by such agencies in law enforcement activities, with preferences for counter-drug / counter-terrorism or border security activities, under such terms prescribed by the Secretary. The authorities granted to the Secretary of Defense have been delegated to the Defense Logistics Agency (DLA) in determining whether property is suitable for use by agencies in Law Enforcement Activities (LEAs). DLA defines law enforcement activities as activities performed by governmental agencies whose primary function is the enforcement of applicable Federal, State, and local laws and whose compensated law enforcement officers have powers of arrest and apprehension. This program is also known as the "1033 Program" or the "LESO Program" and is administered by DLA Disposition Services, Law Enforcement Support Office (LESO).

III. GENERAL TERMS AND CONDITIONS

A. OPERATIONAL AUTHORITY

The Governor of the State of Arizona has designated in writing Sergeant Matt Van Camp of the Payson Police Department as the Arizona State Coordinator with an effective date of May 26th 2015 to implement this program statewide as well as conduct management and oversight of this program. Funding / Budgeting to administer this program is provided by the Town of Payson Police Department. The Arizona LESO program is a division of the Arizona Public Safety Procurement Program or the AZPSPP.

- **Membership Fee:** The AZPSPP may institute a membership fee to cover administrative costs associated with managing the LESO Program. The AZPSPP uses the DOD budget year of October 1 thru September 30 as its yearly cycle. Membership fees are due after October 1 of the current year. The AZPSPP currently has a $250.00 per year membership fee for each participating agency. Membership fees can be sent to the Town of Payson LESO program by mail at 303 N Beeline Hwy. Payson, AZ 85541 or paid with a credit card by calling the Town of Payson Finance Department at 928-474-5242.

The provided funding is used to support assistance to the LEAs with customer service to include computer / telephone assistance and physical visits to the LEAs to assist with acquiring access to the LESO Program. The staffing to provide the support to the LEAs within the State of Arizona is as follows:

State Coordinator (SC): Sergeant Matt Van Camp, Payson Police Department

State Point of Contact (SPOC): Ms. Marie Davis, Payson Police Department

State Point of Contact (SPOC): Mr. Thomas Gaupel, Pinal County Sheriff's Office

State Point of Contact (SPOC):_____

The following is the facility / physical location and business hours to provide customer service to those LEAs currently enrolled, as well as interested participants of the LESO Program:

Agency Address / Location: 303 N Beeline Hwy Payson, AZ 85541

EMAIL / Contact Phone Numbers:

Sgt. Matt Van Camp mvancamp@paysonaz.gov 928-472-5060
Ms. Marie Davis az1033-1122@paysonaz.us 928-472-5091
Mr. Thomas Gaupel thomas.gaupel@pinalcountyaz.gov 928-866-5165

Fax Number: 928-474-4558

Hours of Operation: Monday thru Friday 8:00 AM to 5:00 PM

B. The DLA LESO has final authority to determine the type, quantity, and location of excess DOD personal property suitable for law enforcement activities, if any, which will be transferred to the (*LEA name*) MARANA POLICE DEPARTMENT.

C. This agreement creates no entitlement to the LEA to receive excess DOD personal property.

D. The (*LEA name*) MARANA POLICE DEPARTMENT understands that property made available under this agreement is for the use of authorized program participants only. Property may not be obtained for any individual, organization, or agency that has not been approved as a participant in the LESO Program. All requests for property must be based on bona fide law

enforcement requirements. Property will not be obtained by any authorized participant for the purpose of sale, lease, loan, personal use, rent, exchange, barter, transfer, or to secure a loan.

E. Controlled property (equipment) includes any property that has a demilitarization (DEMIL) Code of B, C, D, F, G, and Q; and property, regardless of demilitarization code, that was specifically identified in the Law Enforcement Equipment Working Group Report from May 2015, created pursuant to Executive Order 13688 (EO). The Working Group Report mandates that the following items be treated as controlled property:

1) Manned Aircraft, fixed or rotary wing
2) Unmanned Aerial Vehicles
3) Wheeled Armored Vehicles
4) Wheeled Tactical Vehicles
5) Command and Control Vehicles
6) Specialized Firearms and Ammunition Under .50 Cal (excluded firearms and ammunition for service-issued weapons)
7) Explosives and Pyrotechnics
8) Breaching apparatus
9) Riot Batons
10) Riot Helmets
11) Riot Shields

F. LEAs that request items in Paragraph E above must provide all required information outlined in the Law Enforcement Equipment Working Group Report and all information on the LESO request form. Among other specific requirements identified in these documents, LEAs will be required to certify and submit:

1) A detailed written justification with a clear and persuasive explanation of the need for the property and the law enforcement purposes it will serve;

2) Evidence of approval or concurrence by the LEA's civilian governing body (city council, mayor, etc.);

3) The LEA's policies and protocols on deployment of this type of property;

4) Certifications on required training for use of this type of property; and

5) Information on whether the LEA has applied, or has pending an application, for this type of property from another Federal agency.

G. The (*LEA name*) MARANA POLICE DEPT. must maintain and enforce regulations designed to impose adequate security measures for controlled property to mitigate the risk of loss or theft.

H. Under no circumstances will controlled property be sold or otherwise transferred to non-U.S. persons, or exported. All transfers must be approved by the State and DLA Disposition Services LESO.

I. Cannibalization requests for controlled property must be submitted in writing to the State,

with final approval by the LESO. The LESO will consider cannibalization requests on a case-by-case basis.

J. The LESO conditionally transfers all excess DOD property to States / LEAs enrolled in the LESO Program. Title or ownership of controlled property will remain with the LESO in perpetuity and will not be relinquished to the LEAs. When the LEA no longer has legitimate law enforcement uses for controlled property, the LEA must notify the State, who will then notify the LESO, and the controlled property must either be transferred to another enrolled LEA (via standard transfer process) or returned to DLA Disposition Services for disposal. The LESO reserves the right to recall controlled and non-controlled property issued through the LESO Program at any time.

K. Property with a DEMIL Code of "A" is also conditionally transferred to the LEA. However, after one year from the Ship Date, the LESO will relinquish ownership and title to the LEA. Prior to this date, the State and LEA remains responsible for the accountability and physical control of the item(s) and the LESO retains the right to recall the property. Title will not be relinquished to any property with DEMIL Code of "A" that is controlled property identified in Paragraph III E.

1) Property with DEMIL Code of "A" will automatically be placed in an archived status on the LEAs property book upon meeting the one year mark.

2) Once archived, the property is no longer subject to annual inventory requirements and will not be inventoried during a LESO Program Compliance Review (PCR).

3) Ownership and title of DEMIL "A" items that have been archived will pass automatically from the LESO to the LEA when they are archived at the one year mark (from Ship Date) without issuance of any further documentation.

4) LEAs receive title and ownership of DEMIL "A" items as governmental entities. Title and ownership of DEMIL "A" property does not pass from DOD to any private individual or LEA official in their private capacity. Accordingly, such property should be maintained and ultimately disposed of in accordance with provisions in State and local law that govern public property. Sales or gifting of DEMIL "A" property after the one year mark in a manner inconsistent with State or local law may constitute grounds to deny future participation in the LESO Program. If the LEA's policy allows for disposal of DEMIL "A" property by sale or auction, all funds generated by the sale of DOD acquired property will be restricted for the LEA's use only and cannot be transferred to the general fund of that agencies parent budget.. DOD acquired property will be fully utilized by the LEA prior to disposal and no DOD property will be acquired to supplement the LEA's budget.

L. The LEAs are not authorized to transfer controlled property or DEMIL Code "A" property carried on their inventory without LESO notification and approval. Property will not physically move until the State and LESO approval process is complete.

IV. ENROLLMENT

A. An LEA must have at least one full-time law enforcement officer in order to enroll and/or receive property via the LESO Program. Only full-time and part-time law enforcement officers are authorized to receive property. Reserve officers are not authorized to receive property.

B. The State shall:

1) Implement LESO Program eligibility criteria in accordance with 10 USC § 2576a, DLA Instructions and Manuals, and the DLA MOA the State signs.

2) Receive and process applications for participation from LEAs currently enrolled and those LEAs that wish to participate in the LESO Program.

3) Receive and recommend approval or disapprove LEA applications for participation in the LESO Program. The State Coordinators have sole discretion to disapprove LEA applications on behalf of the Governor of their State. The

   LESO should be notified of any applications disapproved at the State Coordinator level. The State Coordinator will only forward and recommend certified LEAs to the LESO that are government agencies whose primary function is the enforcement of applicable Federal, State, and local laws and whose compensated officers have the powers of arrest and apprehension. The LESO retains final approval / disapproval authority for all LEA applications forwarded by State Coordinators.

4) Ensure LEAs enrolled in the LESO Program update the LEAs account information annually (accomplished during the FY Annual Inventory in the Federal Excess Property Management Information System [FEPMIS]).

5) Provide a comprehensive overview of the LESO Program to all LEAs once they are approved for enrollment. This comprehensive overview must be done within thirty (30) days and include, verbatim, the information contained in Paragraph III E of this SPO.

6) Ensure that screeners of property are employees of the LEA. Contractors may not conduct screening on behalf of the LEA.

7) Ensure that at least one person per LEA maintains access to the FEPMIS. Account holders must be employees of the LEA.

V. ANNUAL INVENTORY REQUIREMENTS

A. Per the DLA Instructions and Manuals and the DLA MOA, each State and participating LEA within is required to conduct an annual inventory certification of controlled property, which includes DEMIL "A" for one (1) year from Ship Date. Annual inventories start on October 1 of each year and end January 31 of each year.

B. The State shall:

1) Receive, validate, and reconcile incoming certified inventories from the LEAs.

2) Ensure LEAs provide serial numbers and photos identified during the annual inventory process for inclusion in the LESO property accounting system for all controlled property identified in Paragraph III E, small arms and other unique items as required. For equipment that does not contain a serial number, such as riot control or breaching equipment, a photograph will suffice.

3) Suspend the LEA as a result of the LEAs failure to properly conduct and/or certify and submit certified inventories, according to the aforementioned requirements.

C. The LEA shall:

1) Complete the annual physical inventory as required.

2) Provide serial numbers and photos identified in the annual inventory process for inclusion in the LESO property accounting system for all controlled property identified in Paragraph III E, small arms and other unique items, as required. For equipment that does not contain serial number, such as riot control or breaching equipment, a photograph will suffice.

3) Certify the accountability of all controlled property received through the LESO Program annually by conducting and certifying the physical inventory. The LEA must adhere to additional annual certification requirements as identified by the LESO.

a. The State and the LESO requires each LEA to submit certified inventories for their Agency by January 31 of each year. The Fiscal Year (FY) is defined as October 1 through September 30 of each year. This gives the LEA four (4) months to physically inventory LESO Program property in their possession and submit their certified inventories to the State Coordinators.

(1) The LESO requires a front or side and data plate photo for Aircraft and Tactical Vehicles that are serial number controlled, received through the LESO Program.

(2) The LESO requires serial number photos for each small arm received through the LESO Program.

b. The LEAs failure to submit the certified annual inventory by January 31 may result in the agency being suspended from operations within the LESO Program. Further failure to submit the certified annual inventory may result in a LEA termination.

4) Be aware that High Profile Commodities (Aircraft, Tactical Vehicles and Small Arms) and High Awareness (controlled) property are subject to additional controls.

VI. PROGRAM COMPLIANCE REVIEWS

A. The LESO conducts a Program Compliance Review (PCR) for each State that is enrolled in the LESO Program every two (2) years. The LESO reserves the right to require an annual PCR, or similar inspection on a more frequent basis for any State. The LESO PCRs are performed in order to ensure that State Coordinators, SPOCs and all LEAs within a State are compliant with the terms and conditions of the LESO Program as required by 10 USC § 2576a, DLA Instructions and Manuals, and the DLA MOA signed by the State.

1) If a State and/or LEA fails a PCR, the LESO will immediately suspend their operations and will subsequently issue corrective actions (with suspense dates) to the State Coordinator, which will identify what is needed to rectify the identified deficiencies within the State and/or LEA.

2) If a State and/or LEA fails to correct identified deficiencies by the given suspense dates, the LESO will move to terminate the LESO Program operations within the State and/or LEA.

B. The State shall:

1) Support the LESO PCR process by:

   a. Contacting LEAs selected for the PCR review via phone and/or email to ensure they are aware of the PCR schedule and prepared for review.

   b. Receiving inventory selection from the LESO. The LEA POCs shall gather the selected items in a centralized location to ensure that the LESO can efficiently inventory the items.

   c. Providing additional assistance to the LESO as required, prior to and during the course of the PCR.

2) Conduct internal Program Compliance Reviews of LEAs participating in the LESO Program in order to ensure accountability, program compliance and validate annual inventory submissions are accurate. The State Coordinator must ensure an internal PCR of at least 5% of LEAs that have a property book from the LESO Program within his / her State is completed annually. This may result in a random review of all or selected property at the LEA.

   a. The internal PCR will include, at minimum:

      (1) A review of each selected LEAs LESO Program files.

      (2) A review of the signed State Plan of Operation (SPO).

      (3) A review of the LEA application and screener's letter.

      (4) A physical inventory of the LESO Program property at each

selected LEA.

(5) A specific review of each selected LEAs files for the following: DD Form 1348-1A for each item currently on inventory, small arms documentation, transfer documents, turn-in documents, inventory adjustment documents, exception to policy letters (if any), approved cannibalization requests (if any), and other pertinent documentation as required.

b. The State and/or LEA will bear all expenses related to the repossession and/or turn-in of LESO Program property to the nearest DLA Disposition Services site.

VII. STATE PLAN OF OPERATION (SPO)

A. The State shall:

1) Identify, establish, and issue minimum criteria to be included in the SPO for the State and each participating LEA.

2) Establish a State Plan of Operation, developed in accordance with Federal and State law, and conforming (at minimum) to the provisions of the DLA Instruction and Manuals and the DLA MOA.

a. The SPO will include detailed organizational and operational authority including: staffing, budget, facilities, and equipment that the State believes is sufficient to manage the LESO Program within their State.

b. The SPO must address procedures for making determinations of LEA eligibility, allocation, and equitable distribution of material, accountability and responsibility concerning excess DOD personal property, inventory requirements, training and education, State-level internal Program Compliance Reviews (PCR), and procedures for turn-in, transfer, and disposal.

2) Enter into written agreement with each LEA, via the LESO approved State Plan of Operation, to ensure the LEA fully acknowledges the terms, conditions, and limitations applicable to property transferred pursuant to this agreement. The State Plan of Operation must be signed by the Chief Law Enforcement Official (CLEO), or assigned designee of the respective LEA, and the current State Coordinator.

3) Request that the LESO Suspend or Terminate an LEA(s) from the LESO Program when an LEA fails to comply with any term of DLA MOA, the DLA Instruction

and Manuals, any Federal statute or regulation, or the State Plan of Operation.

VIII. REPORTING REQUIREMENTS FOR LOST, MISSING, STOLEN, DAMAGED OR DESTROYED LESO PROGRAM PROPERTY

A. All property Lost, Missing, Stolen, (LMS) damaged, or destroyed carried on a LEA's current inventory must be reported to the LESO.

1) Controlled property must be reported to the State and the LESO within twenty-four (24) hours. The aforementioned property may require a police and National Crime Information Center (NCIC) report submitted to the LESO, to include DEMIL "A" items that are considered controlled items in Paragraph III E.

2) Property with a DEMIL Code of "A" must be reported to the State and the LESO within seven (7) days.

3) All reports are subject to review by the DLA Office of the Inspector General (OIG).

B. LESO may grant extensions to the reporting requirements listed above on a case-by-case basis.

IX. AIRCRAFT AND SMALL ARMS

A. All aircraft are considered controlled property, regardless of DEMIL Code. Aircraft may not be sold and must be returned to the LESO at the end of their useful life. This State Plan of Operation ensures that all LEAs and all subsequent users are aware of and agree to provide all required controls and documentation in accordance with applicable laws and regulations for these items.

B. LEAs no longer requiring small arms issued through the LESO Program must request authorization to transfer or turn-in small arms. Transfers and turn-ins must be forwarded and endorsed by the State Coordinator's office first, and then approved by the LESO. Small Arms will not physically transfer until the approval process is complete.

C. Small Arms that are issued must have a documented chain of custody, with the chain of custody including a signature of the receiving officer indicating that he / she has received the appropriate small arm(s) with the correct, specific serial number(s). Small Arms that are issued to an officer will be issued utilizing an Equipment Custody Receipt (ECR); this Custody Receipt obtains the signature of the officer responsible for the small arm.

X. RECORDS MANAGEMENT

The LESO, State Coordinator, and LEAs enrolled in the LESO Program must maintain all records in accordance with the DLA Records Schedule. Records for property acquired through the LESO Program have retention controls based on the property's DEMIL Code. All documents concerning a property record must be retained.

1) Property records for items with DEMIL Code of "A" must be retained for two (2)

calendar years from ship date, and then may be destroyed.

2) Property records for controlled property must be retained for five (5) calendar years or for the life span of the property, whichever is longer.

3) Environmental Property records must be retained for fifty (50) years, regardless of DEMIL Code (Chemicals, Batteries, Hazardous Material / Hazardous Waste).

4) LESO Program files must be segregated from all other records.

5) All property records must be filed, retained, and destroyed in accordance with DLA Records Schedule. These records include, but are not limited to, the following: DD Form 1348-1A, requests for transfer, turn-in, or disposal, approved Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE) Forms 10 and 5, Certificate of Aircraft Registration (AC Form 8050-3), Aircraft Registration Application (AC 8050-1) and any other pertinent documentation and/or records associated with the LESO Program.

XI. LESO PROGRAM ANNUAL TRAINING

A. 10 USC § 380 provides that the Secretary of Defense, in cooperation with the U.S. Attorney General, shall conduct an annual briefing of law enforcement personnel of each state. The briefing will include information on training, technical support, equipment, and facilities that are available to civilian law enforcement personnel from the Department of Defense.

B. The State shall organize and conduct training pertaining to information, equipment, technical support and training available to LEAs via the LESO Program.

C. The State shall ensure at least one representative (i.e. the State Coordinator or SPOC) attend the annual training that the LESO conducts.

XII. PROPERTY ALLOCATION

A. The State Shall:

1) Provide the LESO website that will afford timely and accurate guidance, information, and links for all LEAs who work, or have an interest in, the LESO Program.

2) Upon receipt of a valid State / LEA request for property through the DLA Disposition Services RTD website, a preference will be given to those applications indicating that the transferred property will be used in the counter-drug, counter-terrorism, or border security activities of the recipient agency. Additionally, to the greatest extent possible, the State will ensure fair and equitable distribution of property based on current LEAs inventory and justification for property.

3) The State and the LESO reserve the right to determine and/or adjust allocation limits. Generally, no more than one of any item per officer will be allocated to an LEA.

Quantity exceptions may be granted on a case-by-case basis by the LESO. Currently, the following quantity limits apply:

a. Small Arms: one (1) type for each qualified officer, full-time / part-time;
b. HMMWVs: one (1) vehicle for every three (3) officers;
c. MRAPs: one (1) vehicle per LEA.

4) The State and the LESO reserve final authority on determining the approval and/or disapproval for requests of specific types and quantities of excess DOD property.

B. The LEA shall:

1) Ensure an appropriate justification is submitted when requesting excess DOD property via the LESO Program and will ensure LESO Program property will be used for the law enforcement activity and for law enforcement purposes only within his / her State and agency.

2) When requesting property, provide a justification to the State and the LESO on how the requests for property will be used in counter-drug, counter-terrorism, or border security activities of the recipient agency. Additionally, the LEA should be fair and equitable when making requisitions based on current LEA inventory and the justification for property. Generally, no more than one of any item per officer will be allocated.

3) Ensure screeners of property are employees of the LEA. Contractors may not conduct screening on behalf of the LEA.

4) Obtain access to FEPMIS to ensure the property book is properly maintained, to include but not limited to transfers, turn-ins, and disposal requests and to generate these requests at the LEA level and forward all approvals to the State for action.

5) Ensure at least one person per LEA maintains access to FEPMIS. FEPMIS account holders must be employees of the LEA.

XIII. PROGRAM SUSPENSION & TERMINATION

A. The State and LEA are required to abide by the terms and conditions of the DLA MOA in order to maintain active status.

B. The State shall:

1) Suspend LEAs for a minimum of sixty (60) days in all situations relating to the suspected or actual abuse of LESO Program property or requirements and/or repeated failure to meet the terms and conditions of the DLA MOA. Suspension may lead to TERMINATION.

2) The State and/or the LESO have final discretion on reinstatement requests. Reinstatement to full participation from a suspension and/or termination is not

automatic.

3) In coordination with the LESO, issue corrective action guidance to the LEA with suspense dates to rectify issues and/or discrepancies that caused suspension and/or termination.

4) Require the LEA to submit results regarding all completed police investigations and/or reports regarding lost, missing, stolen and/or damaged LESO Program property, to include the LEAs Corrective Action Plan (CAP).

5) Suspend or terminate an LEA from the LESO Program if an LEA fails to comply with any term of the DLA MOA, the DLA Instruction and Manuals, any Federal statute or regulation, or the State Plan of Operation.

   a. In the event of an LEA termination, the State Coordinator will make every attempt to transfer the LESO Program property of the terminated LEA to an authorized State or LEA, as applicable, prior to requesting a turn-in of the property to the nearest DLA Disposition Services location.

   b. In cases relating to an LEA termination, the LEA will have ninety (90) days to complete the transfer or turn-in of all LESO Program property in their possession.

C. The LEA shall:

1) Notify the State Coordinator's office and initiate an investigation into any questionable activity or actions involving LESO property issued to the LEA that comes to the attention of the CLEO, and is otherwise within the authority of the Governor / State to investigate. LEAs must understand that the State Coordinators, acting on behalf of their Governor, may revoke or terminate their concurrence for LEA participation in the LESO Program at any time, and for any reason.

2) Understand that the State may suspend LEA(s) and/or LEA POC(s) from within their State, based upon their findings during internal Program Compliance Reviews and/or spot checks at the State level.

3) Initiate corrective action to rectify suspensions and/or terminations placed upon the LEA for failure to meet the terms and conditions of the LESO Program.

4) Be required to complete and submit results regarding all completed police investigations and/or reports regarding lost, missing, stolen and/or damaged LESO Program property. The LEA must submit all documentation to the State and the LESO upon receipt.

5) Provide documentation to the State and the LESO when actionable items are rectified for the State and/or LEA(s).

6) The LEAs Chief Law Enforcement Official must request reinstatement as required,

via the State Coordinator or SPOC(s), to full participation status at the conclusion of a suspension period.

XIV. COSTS & FEES

All costs associated with the transportation, turn-in, transfer, repair, maintenance, insurance, disposal, repossession or other expenses related to property obtained through the LESO Program is the sole responsibility of the State and/or LEA.

XV. NOTICES

Any notices, communications, or correspondence related to this agreement shall be provided by E-mail, the United States Postal Service, express service, or facsimile to the State Coordinators office or cognizant DLA office. The LESO may, from time to time, make unilateral modifications or amendments to the provisions of this SPO. Notice of these changes will be provided to State Coordinators in writing. Unless State Coordinators take immediate action to terminate this SPO in accordance with Section XVIII, such modifications or amendments will become binding. In such cases, reasonable opportunity will, insofar as practicable, be afforded the State Coordinator to conform changes affecting their operations.

XVI. ANTI-DISCRIMINATION

A. By signing this SPO, or accepting excess DOD personal property under this SPO, the State pledges that it and each LEA agrees to comply with applicable provisions of the following national policies prohibiting discrimination:

1) On the basis of race, color, or national origin, in Title VI of the Civil Rights Act of 1964 (42 USC 2000d et seq.) as implemented by DOD regulations 32 CR Part 195.

2) On the basis of age, in the Age Discrimination Act of 1975 (42 USC 6101, et seq) as implemented by Department of Health and Human Services regulations in 45 CFR Part 90.

3) On the basis of handicap, in Section 504 of the Rehabilitation Act of 1973, P.L. 93-112, as amended by the Rehabilitation Act Amendments of 1974, P.L. 93-516 (29 USC 794), as implemented by Department of Justice regulations in 28 CFR Part 41 and DOD regulations at 32 CFR Part 56.

B. These elements are considered the minimum essential ingredients for establishment of a satisfactory business agreement between the State and the DOD.

XVII. INDEMNIFICATION CLAUSE

The State / LEA is required to maintain adequate insurance to cover damages or injuries to persons or property relating to the use of property issued under the LESO program. Self-insurance by the State / LEA is considered acceptable. The U.S. Government assumes no liability for damages or injuries to any person(s) or property arising from the use of property issued under the LESO program. It is recognized that State and local law generally limit or preclude State

Coordinators / LEAs from agreeing to open-ended indemnity provisions. However, to the extent permitted by State and local laws, the State / LEA shall indemnify and hold the U.S. Government harmless from any and all actions, claims, debts, demands, judgments, liabilities, cost, and attorney's fees arising out of, claimed on account of, or in any manner predicated upon loss of, or damage to property and injuries, illness or disabilities to, or death of any and all persons whatsoever, including members of the general public, or to the property of any legal or political entity including states, local and interstate bodies, in any manner caused by or contributed to by the State / LEA, its agents, servants, employees, or any person subject to its control while the property is in the possession of, used by, or subject to the control of the State / LEA, its agents, servants, or employees after the property has been removed from U.S. Government control.

XVIII. TERMINATION

A. This SPO may be terminated by either party, provided the other party receives thirty (30) days' notice, in writing, or as otherwise stipulated by Public Law.

B. The undersigned State Coordinator and CLEO hereby agree to comply with all provisions set forth herein and acknowledge that any violation of the terms and conditions of this SPO may be grounds for immediate termination and possible legal consequences, to include pursuit of criminal prosecution if so warranted.

XIX. IN WITNESS THEREOF, the parties hereto have executed this agreement as of the last date written below.

TERRY ROZEMA CHIEF OF POLICE
Type / Print Chief Law Enforcement Official Name

_____ _____
Chief Law Enforcement Official Signature Date (MM/DD/YYYY)

Matt Van Camp
Type / Print State Coordinator Name

_____ _____
State Coordinator Signature Date (MM/DD/YYYY)

Council-Regular Meeting **C4**

Meeting Date: 11/01/2016

To: Mayor and Council

Submitted For: Jocelyn C. Bronson, Town Clerk

From: Suzanne Sutherland, Assistant to the Town Clerk

Date: November 1, 2016

Subject: Approval of Study Session Meeting Minutes from October 11, 2016 and approval of Regular Council Meeting Minutes from October 18, 2016 (Jocelyn C. Bronson)

Attachments

Draft Study Session Minutes 10/11/2016

Draft Regular Council Meeting Minutes 10/18/2016

STUDY SESSION
MINUTES
11555 W. Civic Center Drive, Marana, Arizona 85653
Council Chambers October 11, 2016, at or after 6:00 PM

Ed Honea, Mayor
Jon Post, Vice Mayor
David Bowen, Council Member
Patti Comerford, Council Member
Herb Kai, Council Member
Carol McGorray, Council Member
Roxanne Ziegler, Council Member

STUDY SESSION

CALL TO ORDER AND ROLL CALL. **Mayor Honea** called the meeting to order at 7:00 p.m. **Town Clerk Bronson** called roll. Vice Mayor Post and Council Member Kai were excused. There was a quorum present.

PLEDGE OF ALLEGIANCE/INVOCATION/MOMENT OF SILENCE. Led by **Mayor Honea.**

APPROVAL OF AGENDA. ***Motion by Council Member Bowen, second by Council Member Ziegler to approve the agenda after moving item D3 before item D2. Passed unanimously 5-0.***

CALL TO THE PUBLIC. There were no speaker cards presented.

DISCUSSION/DIRECTION/POSSIBLE ACTION

D1 Presentation: Relating to Transportation; update regarding the Regional Transportation Authority plan (Jocelyn C. Bronson). **Ms. Bronson** introduced **Mindy Blake**, outreach coordinator for the Pima Association of Governments, who presented an overview of the Regional Transportation Authority (RTA) board, citizen group and the funded projects over the past ten years. Included in her presentation was a video of the various projects completed to show how the RTA has kept its promise to provide transportation projects through the voter-approved ½ cent sales tax in 2006.

There are 35 special road projects in every community in Pima County, and she described the public process for input into these projects. After the RTA board approved the plan, 200 presentations were taken to the community prior to the vote in May of 2006. She indicated that road maintenance is not included in the current RTA plan. The ½ cent sales tax collected comes to about $18 per month per household and does not include tax on prescription drugs or groceries. During the first ten years of the plan, 755 projects were completed, including road expansion, new roads, expanded transit service, intersection improvements, drainage improvements, public art, enhanced safety features, new miles for bike lanes, sidewalks, bus pull-outs and signalized pedestrian crossings.

Ms. Blake concluded her presentation with next steps. The effects of the 2008 recession are still being felt. Sales tax collections are below projects. But in some cases, project costs have been below estimates, and that has been good for the RTA cash flow. An example of that is the Sunset Road project which came in at $8.3M, 30 percent below the estimate. To date the RTA has invested more than $1B across the region. The streetcar alone has generated $1B in private and public sector investment. She indicated that public trust has increased for the RTA due to good management practices, transparency and oversight, and she urged citizens to attend any and all public meetings and open houses to stay informed on projects. The RTA is aware of a $15B funding gap over the next 30 years. Moving forward, a task force of community leaders and private citizens is looking at funding options.

D2 Relating to Strategic Planning; discussion and direction regarding the fourth iteration of the Marana Strategic Plan, including options for different approaches to the development process. **Gilbert Davidson** presented this item and noted that the first Strategic Plan was crafted in 2008 and adopted in 2009. A major overhaul of the plan is anticipated to be every two to two and a half years. He outlined the major discussion points which are the Council Working Group Process, Community Outreach and a new software platform.

The Working Group will discuss each focus area, review past initiatives, discuss future goals, needs and strategies and then recommend new initiatives and modifications to ongoing initiatives. The Council Members would comprise the two working groups and their work will follow a timeline so that final Council review and approval would occur between February and March 2017. The current plan is to roll this out during the 2017 State of the Town event highlighting our plan for the future.

Working Group Support Teams would be comprised of staff assigned to each of the focus areas. Community outreach would consist of gathering input from the Chamber of Commerce, the Marana Citizens' Forum, the Planning Commission and through an online survey generated through social media.

The third major discussion point is the software component called Envisio. Envisio is a cloud-based strategy execution software with performance management and reporting features to align strategy and operations, unite teams, monitor progress and save time with automated reporting. Once we have a dashboard, this software program will be able to show progress on initiatives which we can publish online and in our monthly executive reports. Mr. Davidson believes this takes our Plan to the next level of evolution. The Envisio software is available on a tiered basis

depending on the number of users. The base price is about $5,000 for 20 users, which is sufficient access for this project. ***Council Member Ziegler made a motion to accept the presentation by the Town Manager as set forth for Strategic Plan IV. Seconded by Council Member Bowen. Passed unanimously 5-0.***

D3 Relating to Real Estate; discussion and direction to staff regarding requests for use of public right-of-way for telecommunications and radio frequency transport purposes, including pending requests by Mobilitie, LLC for a license to use public right-of-way for these purposes and for conditional use permits to install new utility poles and equipment associated with a small cell distributed antenna system.

Frank Cassidy began by noting that currently there is no policy that addresses the application of Mobilitie. The question is to what extent we want to allow new antennae for telecommunication equipment in our public rights of way. Adam Brixius, Permitting Manager for Mobilitie Company, has a presentation to show you what these facilities look like and what they do. Currently, Mobilitie is installing equipment for Sprint across the country. Cynthia Ross is also here to answer questions about next steps. The two next steps mentioned in the item title are what would come back to you, which is a license, and assuming there is a willingness to allow this type of thing, conditional use permits for the individual antennas.

Adam Brixius began with an overview of the Mobilitie organization and what they hope to accomplish. Mobilitie operates several wireless applications – small cells, mega event centers, traditional wireless communication facilities which could be palm trees, steel poles, Wi-Fi systems, and underground fiber. Their customers are wireless providers and public safety venues. His presentation will focus on the utility application in Marana and Pima County. Mobilitie is a public utility in Arizona with access in 50 states and three territories. The biggest reason for this project is to minimize gaps in the coverage for communication ports, data, networks, fiber, wireless or a combination of both. He then gave descriptions of the poles and the six active site locations in Marana. **Council Member Bowen** asked how Mobilitie operates in conjunction with wireless service carriers. **Mr. Brixius** noted that Mobilitie doesn't own any license issued by the FCC. Their customers operate under FCC licenses. Mobilitie would provide the backbone infrastructure from their larger structures whether that be fiber networks or wireless transport. These facilities are ready to be built as soon as they are permitted. They are being permitted successfully on air nationwide.

Mr. Cassidy again noted that there is no policy for having the small cells. The desire, which has never been allowed up until now, is to go into the rights-of-way. This year the legislature added a statute that strongly recommends that municipalities at least allow the kind of unit, which are generally about 42 inches on top of an existing pole. In his opinion, the legislation does not require Council to allow a new pole, but where you have existing poles, and a pole owner willing to allow an attachment, it does seem to permit that sort of use of the right-of-way. Municipalities are required to allow a telecom such as cable through the right-of-way. We have that in several places, so that is not the policy question in front of Council tonight. We have never had a cable go to the antenna that is in the right-of-way, and that is the new direction that is being presented by this. So the questions for Council are, in a desire for greater coverage throughout Marana, would you be okay with a standalone pole that Mobilitie puts in the right-of-way. He further

noted that the Town Engineer has informed Mobilitie that he wants only steel poles in the right-of-way, and would Council be okay with steel standalone poles in the existing right-of-way or would you not want any poles in the right-of-way and rather, have attachments to existing poles, or to not have any poles in the right-of-way. Once you make the policy , you will have to treat all telecoms equally. Mobilitie is just the first one to ask. With the co-location requirements of federal law, once there is a pole there, if somebody else wants to co-locate on it, what starts out as a 75-foot pole could end up being more than that under the co-location requirements; and there is not much the town can do about that. Short of a policy, these requests will be coming individually to Council. **Council Member Bowen** asked if Council could impose restrictions on the number of poles in a given area as long as it applies to everyone equally. **Mr. Cassidy** responded that that could be done, ideally by ordinance. According to the consultant he spoke to, the other thing that can be done is that Council could allow new utility poles only in areas where there isn't a strong undergrounding situation. **Council Member McGorray** noted that it is very hard to work with poles and we should keep in mind, especially in residential areas, that poles often don't stay the way they start. **Council Member Comerford** expressed some concerns and thought it would be helpful to look further at municipalities who have gone through this and get their feedback. She also asked about liability for the pole owner. **Mr. Cassidy** noted that in Los Angeles, the approach has been to attach to the existing poles for better cell coverage.

If Council feels strongly tonight that they do not want any new poles, he would pull this item from next week's agenda because that license is for two locations where there currently aren't poles. **Council Member Comerford** indicated her support for technology, but with this legislation being so new, any place where you can add to an existing pole makes sense. **Council Member Ziegler** agreed with Council Member Comerford that using existing poles makes sense and should also be optically pleasing. Without a policy is sounds like a conditional use permit (CUP) will be required for every potential new cell pole. **Mr. Cassidy** agreed and elaborated on the conditional use process. If Council goes in the direction of just attaching to existing poles, that will not require a CUP because that's more of a minor condition to existing verticality. Going back to the discussion of the ugly poles, one of the presentations that Mobilitie has made to staff is that moving to the use of more smaller poles is to get away from the gigantic carrier poles. **Council Member Ziegler** asked about the cost to the Town. **Mr. Cassidy** responded that the carrier has to pay for the costs associated with the poles. There is a provision in state law that allows us to charge for linear footage use of right-of-way for telecom, although historically, we have not done that. If we were to adopt something like that, we would have to apply it everywhere. One of the things Mobilitie is talking about doing is not actually put the lines in the ground but rather having the connection fed back to the central hub of the communication through microwave. The trouble with that is as a general rule, the microwave is line of sight, so you need to stay away from trees and be a little higher than underground wiring.

Mayor Honea noted that he didn't think this was allowed anywhere in Pima County right now. **Mr. Cassidy** noted that Mobilitie is already talking to the other communities, but they have not yet been approved. Pima County does have a few wireless facilities in the right-of-way. **Mayor Honea** expressed some concerns regarding what could be a proliferation of poles in the right-of-way. He would be less opposed to attaching to existing utility poles. He is also concerned about making a decision too quickly without further study. He suggested sending the item back to the town staff for additional research on the concerns raised tonight before establishing a policy.

Council Member Bowen asked Mr. Brixius if the extensions on the single poles with radios are dedicated to only one carrier or can they accommodate multiple carriers. **Mr. Brixius** stated that the poles can be structurally sound to accommodate two and adjusted to possibly three. Some of the poles are only 30 feet in height, so there would have to be an extension or a replacement pole if there was not to be an extension next to it. **Council Member Ziegler** asked under what circumstances the issue of poles could come back to Council. **Mr. Brixius** indicated that the CUP can dictate height, but a typical extension of the pole would be an administrative approval in most cases, done by the Planning Director. **Mr. Cassidy** also interjected that under federal law, municipalities would have difficulty turning down a co-location pole. Discussion continued among Council and staff until ***Council Member Bowen made a motion to direct staff to take the input raised by Council tonight and come back with some recommendations for further discussion before approving a formal policy***. **Council Member Ziegler** raised the question of whether staff provided input for tonight's presentation and whether they should have. **Mr. Cassidy** indicated that he did not. Although at the time of the license, he would need to make a proposed motion, and at that point he would have to. **Mayor Honea** asked for a second to Council Member Bowen's motion, so that discussion can continue. ***Council Member Comerford seconded the motion.*** Part of the reason for **Mr. Cassidy** not making a recommendation was that there could be construed a fine line between a recommendation and making policy, which is the point **Council Member Ziegler** indicated she was trying to make. Discussion continued. **Mr. Cassidy** said that he would not bring any further licenses forward until a policy was established by Council. In fact, bringing this item back next week would be too soon. **Mayor Honea** asked for a vote on the motion. ***Motion passed 4-0 with Council Member Ziegler voting nay.*** **Council Member Ziegler** explained her position.

D4 Relating to Commerce; discussion, direction and possible action regarding the proposed Ina Corridor Business Support Program, which is intended to aid businesses in several ways as the Ina/I-10 interchange is reconstructed. **Tony Hunter** presented a program that staff has been working on for the past few months in preparation of the I-10/Ina Road construction. It is called the **Ina Corridor Business Support Program**. The program consists of outreach to the businesses using promotional signs, a mobile application, and a sign code revision. The town will collaborate with the Chamber of Commerce to visit businesses and provide information regarding the program. Also anticipated is a direct mail campaign with contact and project information. Mr. Hunter also introduced the promotion signage called "Ina Businesses Are Open." Signage would be strategically placed along Ina/Thornydale and Ina/Oldfather. Corridor signs will be 8-9 feet high, one of which will project a cross-section of the completed Ina intersection. The other sign says "Eat, Shop, Play, Stay." The smaller signs are in the 5-6 foot range and placed in a cascading fashion to culminate at the larger monument signs. He also showed a rendering of the mobile app which will list the Ina Corridor businesses, twitter-feed of Ina Road deals, sales and other specials, a map of the Ina Corridor area, links to important resources and push notifications for important alerts. **Council Member Comerford** asked if print media for weekly maps could also be used to help those without access to mobile technology. **Mr. Hunter** indicated that he would definitely confer with the communications and marketing team on that.

Ryan Mahoney discussed the sign code revision. Since this is probably not the only construction project we will have on this scale, it seemed like a good time to make revisions to the sign code

which staff will be bringing back to Council in November; it is scheduled for Planning Commission at the end of this month. The revision will add a new component to the sign code to allow temporary banner signs to stay up on private property for the duration of the construction program. A business would get a sign permit just so we know that they are out there. Staff is working with ADOT to delineate just where their rights-of-way are, and we expect some cooperation with them on signs that we can place in their rights-of-way. Allowed would be one sign per 40 square feet of street frontage to maintain some reasonable visibility.

Council Member Bowen brought up the fact that in regard to Eat, Shop, Play and Stay, there are a lot of vehicle service businesses along Ina. How will they be represented? **Mr. Mahoney** indicated that he and Mr. Hunter have had that conversation, and staff is in the process of brainstorming another word to incorporate or conjure up a vehicle – something simple. He will default to the staff in communications on that. ***Council Member Comerford made a motion to approve the Ina Road Corridor Business Support Program concept and direct staff to bring back to Council action plans to create a construction zone temporary banner signage program. Motion seconded by Council Member McGorray. Passed unanimously 5-0.***

EXECUTIVE SESSIONS

Pursuant to A.R.S. § 38-431.03, the Town Council may vote to go into executive session, which will not be open to the public, to discuss certain matters.

E1 Executive Session pursuant to A.R.S. §38-431.03 (A)(3), Council may ask for discussion or consultation for legal advice with the Town Attorney concerning any matter listed on this agenda.

FUTURE AGENDA ITEMS

Notwithstanding the mayor's discretion regarding the items to be placed on the agenda, if three or more Council members request that an item be placed on the agenda, it must be placed on the agenda for the second regular Town Council meeting after the date of the request, pursuant to Marana Town Code Section 2-4-2(B).

ADJOURNMENT. ***Motion to adjourn at 7:58 p.m. by Council Member Bowen, second by Council Member McGorray. Passed unanimously 5-0.***

CERTIFICATION

I hereby certify that the foregoing are the true and correct minutes of the study session/presentation of the Marana Town Council meeting held on October 11, 2016. I further certify that a quorum was present.

_____

Jocelyn C. Bronson, Town Clerk

MARANA TOWN COUNCIL
REGULAR COUNCIL MEETING MINUTES
11555 W. Civic Center Drive, Marana, Arizona 85653
Council Chambers, October 18, 2016, at or after 7:00 PM

Ed Honea, Mayor
Jon Post, Vice Mayor
David Bowen, Council Member
Patti Comerford, Council Member
Herb Kai, Council Member
Carol McGorray, Council Member
Roxanne Ziegler, Council Member

REGULAR COUNCIL MEETING

CALL TO ORDER AND ROLL CALL. Mayor Honea called the meeting to order at 7:02 p.m**. Town Clerk Bronson** called roll. Vice Mayor Post and Council Members Bowen and Kai were excused. There was a quorum present.

PLEDGE OF ALLEGIANCE/INVOCATION/MOMENT OF SILENCE. Led by **Mayor Honea**

APPROVAL OF AGENDA. ***Motion to approve by Council Member Carol McGorray, second by Council Member Ziegler. Passed 4-0.***

CALL TO THE PUBLIC

At this time any member of the public is allowed to address the Town Council on any issue within the jurisdiction of the Town Council, except for items scheduled for a Public Hearing at this meeting. The speaker may have up to three minutes to speak. Any persons wishing to address the Council must complete a speaker card located outside the Council Chambers and deliver it to the Town Clerk prior to the commencement of the meeting. Individuals addressing a meeting at the Call to the Public will not be provided with electronic technology capabilities beyond the existing voice amplification and recording capabilities in the facilities. Pursuant to the Arizona Open Meeting Law, at the conclusion of Call to the Public, individual members of

the Council may respond to criticism made by those who have addressed the Council, and may ask staff to review the matter, or may ask that the matter be placed on a future agenda.

David Morales spoke on behalf of VFW Post 5992, housed on El Tiro Road. He requested Council to consider placing directional signs from the Interstate to their building. He will also be asking Supervisor Sharon Bronson for two additional signs for the county right of way.

PROCLAMATIONS

MAYOR AND COUNCIL REPORTS: SUMMARY OF CURRENT EVENTS. Council Member Ziegler reported on the Missing in American project held last Saturday at the Veterans' Cemetery, the Cotton Festival where she was a guest of DAV Chapter 4; and the Silverbell Military Heliport event. **Mayor Honea** also reported on the Cotton Festival and commended staff for putting on a great family event.

MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS. Gilbert Davidson thanked the many teams who worked to put on the great Cotton Festival event. He heard very positive feedback. The next event will be the El Tour start-up for the Marana segment, starting at the Heritage Park; then the Holiday Tree Lighting will cap off the year.

PRESENTATIONS

CONSENT AGENDA. ***Motion to approve by Council Member Ziegler, second by Council Member McGorray. Passed 4-0.***

C1 Resolution No. 2016-106: Relating to Police Department; approving and authorizing the Chief of Police and the Town Manager to execute Governor's Officer of Highway Safety (GOHS) Contract Numbers 2017-405d-017, 2017-PT-028, and DUIAC-E-077 between the State of Arizona by and through GOHS and the Town of Marana for grant funding for Driving Under the Influence (DUI) and Speed enforcement and DUI Warrant enforcement (Lisa Shafer)

C2 Resolution No. 2016-107: Relating to Development; approving a preliminary plat for Saguaro Bloom Block 3 Lots 1-141 and Common Area A (Open Space, Recreation, Public Utilities, Road Maintenance & Signage) and Common Area B (Open Space, Drainage, Recreation, Public Utilities, Road Maintenance & Signage) located at the northeast corner of Twin Peaks Road and Saguaro Highlands Drive (Steven Vasquez)

C3 Resolution No. 2016-108: Relating to Utilities; approving and authorizing the Mayor to execute a one-year extension of the intergovernmental agreement between the Town of Marana and Pima County for provision of water consumption data and sewer user account billing services (John Kmiec)

C4 Resolution No. 2016-109: Relating to Utilities; approving and authorizing the Mayor to sign a Water Service and Settlement Agreement with Jay E. Reyher & Janice D. Reyher (Frank Cassidy)

C5 Resolution No. 2016-110: Relating to Development; approving a preliminary plat for Camino de Oeste Lots 1-144 and Common Areas 'A' & 'B', located a quarter mile north of Cortaro Farms Road, bordered by Hartman Lane and Camino de Oeste (Steve Cheslak)

C6 Resolution No. 2016-111: Relating to Purchasing; waiving bid procedures for the purchase of a used semi-tractor trailer or similar vehicle and authorizing the Finance and Purchasing Director to proceed with a modified competitive procurement process (Erik Montague)

C7 Approval of Regular Council Meeting Minutes from October 4, 2016 (Jocelyn C. Bronson)

LIQUOR LICENSES

L1 Relating to Liquor Licenses; recommendation to the Arizona Department of Liquor Licenses and Control regarding an Acquisition of Control, Series #10 Beer and Wine Store liquor license application submitted by Troy Charles Devos on behalf of QuikTrip #1456, located at 5565 W. Cortaro Farms Road, Tucson, Arizona 85742. (Jocelyn C. Bronson). **Ms. Bronson** noted that the application had been properly reviewed by staff and that no protests had been received. Staff recommended approval. ***Motion to approve by Council Member Ziegler, second by Council Member McGorray. Passed 4-0.***

L2 Relating to Liquor Licenses; recommendation to the Arizona Department of Liquor Licenses and Control regarding a special event liquor license application submitted by Ed Stolmaker on behalf of the Marana Chamber of Commerce for Town of Marana Big Green Event to be held on November 5, 2016. (Jocelyn C. Bronson). **Ms. Bronson** noted that the application had been properly reviewed by staff and that staff recommended approval. ***Motion to approve by Council Member McGorray, second by Council Member Ziegler. Passed 4-0.***

BOARDS, COMMISSIONS AND COMMITTEES

COUNCIL ACTION

A1 Resolution No. 2016-112: Relating to Development; approving and authorizing the Mayor to sign a First Amendment to Sanders Grove Development Agreement for approximately 845 acres of land located north of Marana Road between Sanders Road and Wentz Road (Frank Cassidy). **Mr. Cassidy** noted that in 2005 we had the original Sanders Grove with the original Sanders Grove Specific Plan for approval. In 2015, the Sanders Grove Specific Plan was amended, and it called for amending the development agreement. Between 2005 and 2015, Council adopted a resolution changing the alignment of Marana Road, and that road alignment carried into some of these development agreements along Marana Road including Sanders Grove. That, along with a couple of other conditions to update development in Sanders Grove really made it necessary to update the development agreement. ***Motion to approve by Council Member McGorray, second by Council Member Ziegler. Passed 4-0.***

A2 Resolution No. 2016-113: Relating to Development; approving and authorizing the Mayor to execute a First Amendment to Marana Cemetery Development Agreement between the

Town of Marana and Marana Mortuary & Cemetery Properties, L.L.C. (Jane Fairall). **Ms. Fairall** noted that in 2009 the town entered into a development agreement with the Marana Mortuary & Cemetery. As part of that development agreement, there was an agreement regarding the future construction of Tangerine Farms Road. There were two main components to that. One was that the cemetery would donate a certain amount of property to the town for the future road, and the other was a financial contribution of approximately $360K. The developer did dedicate the property that was needed and required under the agreement. However, the financial contribution didn't take place. The town didn't build Tangerine Farms Road and currently has no plans to do so. What is proposed tonight is an amendment to the 2009 development agreement that would relieve the developer of that monetary obligation at this point. There are provisions in the development agreement amendment that the developer agrees if the town decides to do an improvement district for the area that they will not object and will pay their fair share pursuant to the improvement district. ***Motion to approve by Council Member Ziegler, second by Council Member McGorray. Passed 4-0.***

A3 Resolution No. 2016-114: Relating to Public Works; approving and authorizing the Mayor to sign an Acquisition Agreement & Administrative Settlement and the Town Engineer to execute all other documentation necessary for the purchase of property rights needed from La Cholla Tangerine, LLC for Tangerine Corridor/Tangerine Road, Twin Peaks to La Cañada Drive, Town of Marana Project No. ST021 (Frank Cassidy). **Mr. Cassidy** noted that is a settlement agreement for the Tangerine corridor which is on the regular agenda and also a related executive session item on this one so that he can explain why staff reached the numbers they did, but the entire agreement is provided in the backup materials. This is for the property that is at the southeast corner of La Cholla Boulevard and Tangerine – a vacant parcel of property. ***Motion to approve by Council Member Ziegler, second by Council Member Comerford. Passed 4-0.***

A4 Resolution No. 2016-115: Relating to Administration; approving the transfer of up to $35,000 in budgeted expenditure authority from the General Fund contingency line item in the fiscal year 2016-2017 budget to the Technology Services capital equipment and software maintenance accounts for expenses related to video streaming of Town Council meetings (Erik Montague). **Mr. Davidson** noted that this item was related to a previous study session whereby Council directed the authorization to purchase web service cameras, and this is part of that request. This item is moving money out of contingency which was not budgeted as a line item for this year into the capital services budget so that they are able to go forward with the acquisition. We are still anticipating January for this equipment to be installed and operational in 2017. ***Motion to approve by Council Member Ziegler, second by Council Member McGorray. Passed 4-0.***

ITEMS FOR DISCUSSION/POSSIBLE ACTION

Relating to Legislation and Government Actions; discussion and possible action regarding all pending state, federal, and local legislation/government actions and on recent and upcoming meetings of the other governmental bodies (Gilbert Davidson)

EXECUTIVE SESSIONS

Mr. Cassidy noted that there is an executive session for item E3, but that can be discussed in public session, and Council can authorize acceptance without going into executive session. **Town Clerk Bronson** read the item E3 into the record. **Mr. Cassidy** continued that basically, the town filed a condemnation case, like all the condemnation cases where we are not able to negotiate. We have received an offer of judgment in one of those cases, which means that the property owner said that "if you'll settle for this, we're done." That settlement is at the same price per square foot that we settled for the property next door. So Mr. Cassidy is asking Council to authorize staff to accept the offer of settlement. Mr. Cassidy would be happy to offer the particulars of the offer in executive session. ***Motion to authorize staff to accept the offer of settlement as stated by Mr. Cassidy, second by Council Member Ziegler. Passed unanimously.***

Pursuant to A.R.S. § 38-431.03, the Town Council may vote to go into executive session, which will not be open to the public, to discuss certain matters.

E1 Executive Session pursuant to A.R.S. §38-431.03 (A)(3), Council may ask for discussion or consultation for legal advice with the Town Attorney concerning any matter listed on this agenda.

E2 Executive session pursuant to A.R.S. § 38-431.03(A)(4) and (7) to discuss with the Town's attorneys and representatives the terms of a proposed purchase of Tangerine Road right-of-way from La Cholla Tangerine LLC (this item relates to and should occur, if at all, before Council Action A3 on tonight's agenda)

E3 Executive session pursuant to A.R.S. § 38-431.03(A)(4) to discuss with and instruct the Town's attorneys regarding an offer of judgment in the pending Tangerine Road right-of-way condemnation lawsuit entitled Town of Oro Valley v Hinsdale and Roof, Pima County Superior Court case number C20164058.

FUTURE AGENDA ITEMS

Notwithstanding the mayor's discretion regarding the items to be placed on the agenda, if three or more Council members request that an item be placed on the agenda, it must be placed on the agenda for the second regular Town Council meeting after the date of the request, pursuant to Marana Town Code Section 2-4-2(B).

ADJOURNMENT. ***Motion to adjourn at 7:24 p.m. by Council Member Ziegler, second by Council Member McGorray. Passed unanimously 4-0.***

CERTIFICATION

I hereby certify that the foregoing are the true and correct minutes of the Marana Town Council meeting held on October 18, 2016. I further certify that a quorum was present.

_____

Jocelyn C. Bronson, Town Clerk

Council-Regular Meeting **L1**

Meeting Date: 11/01/2016

To: Mayor and Council

Submitted For: Jocelyn C. Bronson, Town Clerk

From: Suzanne Sutherland, Assistant to the Town Clerk

Date: November 1, 2016

Subject: Relating to Liquor Licenses; recommendation to the Arizona Department of Liquor Licenses and Control regarding a New License Series #12 Restaurant liquor license application submitted by Rong Yun Zheng on behalf of New Town Buffet located at 8500 N. Cracker Barrel Road, Marana, Arizona 85743 (Jocelyn C. Bronson)

Discussion:

This application is for a Series #12 Restaurant liquor license at New Town Buffet located at 8500 N. Cracker Barrel Road, Marana, Arizona 85743.

Pursuant to state law, the application was posted at the premises where the business is to be conducted. The posted notice provided that residents within a one mile radius from the premises may file written arguments in favor of or opposed to the issuance of the license with the Town Clerk's Office within 20 days of the posting. Any written arguments received by the Clerk's Office for or against the proposed liquor license are attached to this item and will be submitted to the Department of Liquor Licenses and Control (DLLC).

Town staff has reviewed this application to determine whether the applicant is in compliance with zoning, building and other legal requirements for the business. Additionally, the Marana Police Department has conducted a local background check.

The Town Council must enter an order recommending approval or disapproval of the application within 60 days after filing of the application. Pursuant to state statute, a license will only be issued after a satisfactory showing of the capability, qualifications and reliability of the applicant and "in all proceedings before the town council, the applicant bears the burden of showing that the public convenience requires and that the best interests of the community will be substantially served by the issuance of a license."

If the Council's recommendation is for disapproval, the order must include an attachment stating the specific reasons for the recommendation of disapproval and including a summary of the testimony or other evidence supporting the recommendation.

If the Council enters an order recommending approval of the application, or makes no recommendation, then no hearing before the Arizona state liquor board will take place, unless the director of the DLLC, the liquor board or a resident within a one mile radius from the premises requests a hearing. If the Council enters an order recommending disapproval of the application, or if the director, board or a resident within a one mile radius from the premises requests a hearing, then the state board will hold a hearing regarding the application.

At the hearing, the state board will consider all evidence and testimony in favor of or opposed to the granting of the license. The decision of the board to either grant or deny an application will normally take place within 105 days after the application has been filed, unless the director of the DLLC deems it necessary to extend the time period.

Staff Recommendation:

Staff recommends that an order recommending approval be submitted to the DLLC for this liquor license application.

Suggested Motion:

OPTION 1: I move to adopt and submit to the DLLC an order recommending approval of a New License Series #12 Restaurant liquor license application submitted by Rong Yun Zheng on behalf of New Town Buffet located at 8500 N. Cracker Barrel Road, Marana, Arizona 85743.

OPTION 2: I move to adopt and submit to the DLLC an order recommending disapproval of a New License Series #12 Restaurant liquor license application submitted by Rong Yun Zheng on behalf of New Town Buffet located at 8500 N. Cracker Barrel Road, Marana, Arizona 85743.

Attachments

Application

Affidavit of Posting

Local Governing Body Recommendation

DLLC Descriptions of Common Types of Liquor Licenses

COPY
LL2016-12

RECEIVED
OCT 04 2016
Town of Marana
Clerk's Office

Arizona Department of Liquor Licenses and Control
800 W Washington 5th Floor
Phoenix, AZ 85007-2934
www.azliquor.gov
(602) 542-5141

Application for Liquor License
Type or Print with Black Ink

APPLICATION FEE AND INTERIM PERMIT FEES (IF APPLICABLE) ARE NOT REFUNDABLE
A service fee of $25 will be charged for all dishonored checks (A.R.S. § 44-6852)

SECTION 1 This application is for a:
- [X] Interim Permit (Complete Section 5)
- [X] New License (Complete Sections 2, 3, 4, 13, 14, 15, 16)
- [ ] Person Transfer (Complete Section 2, 3, 4, 12, 13, 14, 16)
- [ ] Location Transfer (Bars and Liquor Stores Only) (Complete Section 2, 3, 4, 11, 13, 14, 16)
- [ ] Probate/ Will Assignment/ Divorce Decree (Complete Sections 2, 3, 4, 9, 13, 14, 16) (Fee not required)
- [ ] Government (Complete Sections 2, 3, 4, 10, 13, 16)
- [ ] Seasonal

SECTION 2 Type of Ownership:
- [ ] J.T.W.R.O.S. (Complete Section 6)
- [ ] Individual (Complete Section 6)
- [ ] Partnership (Complete Section 6)
- [X] Corporation (Complete Section 7)
- [ ] Limited Liability Co (Complete Section 7)
- [ ] Club (Complete Section 8)
- [ ] Government (Complete Section 10)
- [ ] Trust (Complete Section 6)
- [ ] Tribe (Complete Section 6)
- [ ] Other (Explain) _____

SECTION 3 Type of license

1. Type of License: # 12 - RESTAURANT LICENSE #: 12044466

SECTION 4 Applicants

1. Individual Owner/Agent's Name: ZHENG (Last) RONG (First) YUN P1076972 (Middle)
2. Owner Name: RONA MANAGEMENT, INC. B1057462
   (Ownership name for type of ownership checked on section 2)
3. Business Name: NEW TOWN BUFFET B1042673
   (Exactly as it appears on the exterior of premises)
4. Business Location Address: 8500 N. CRACKER BARREL RD. (Street) MARANA (City) AZ (State) 85743 (Zip Code) PIMA (County)
   (Do not use PO Box)
5. Mailing Address: 8500 N. CRACKER BARREL RD. (Street) MARANA (City) AZ (State) 85743 (Zip Code)
   (All correspondence will be mailed to this address)
6. Business Phone: (520) 572-7888 Daytime Contact Phone: (520) 334-9072
7. Email Address: YUNLU8948@MSN.COM
8. Is the Business located within the incorporated limits of the above city or town? [X] Yes [ ] No
9. Does the Business location address have a street address for a City or Town but is actually in the boundaries of another City, Town or Tribal Reservation? [ ] Yes [X] No
   If yes, what City, Town or Tribal Reservation is this Business located in: N/A
10. Total Price paid for Series 6 Bar, Series 7 Beer & Wine Bar or Series 9 Liquor Store (license only) $ N/A

Department Use Only

Fees: 100 (Application) 100 (Interim Permit) 50 (Site Inspection) 22 (Finger Prints) $ 272.00 (Total of All Fees)

Is Arizona Statement of Citizenship & Alien Status for State Benefits complete? [X] Yes [ ] No

Accepted by: AP Date: 9-28-16 License #: 12044466

SECTION 5 Interim Permit

- If you intend to operate business when your application is pending you will need an interim permit pursuant to ARS § 4-203.01
- There **MUST** be a valid license of the same type you are applying for currently issued to the location or for the replacement of a Hotel/Motel license with a Restaurant license pursuant to A.R.S. § 4-203.01.

1. Enter license number currently at the location: 12103987

2. Is the license currently in use? ☒ Yes ☐ No If no, how long has it been out of use? N/A

Attach a copy of the license currently issued at this location to this application.

I, Daniel Yunxu Lu declare that I am the CURRENT OWNER, AGENT, OR CONTROLLING PERSON on the stated license and location.
(Print Full Name)

X _____
(Signature of CURRENT Individual Owner/Agent)

State of Arizona County of Pima
The foregoing instrument was acknowledged before me this

My commission expires on: June 5, 2017
Date

24th day of September, 2016
Day Month Year

_____
Signature of NOTARY PUBLIC

OFFICIAL SEAL
KEVIN A. KRAMBER
Notary Public - State of Arizona
PIMA COUNTY
My Comm. Expires June 5, 2017

SECTION 6 Individual, Partnership, J.T.W.R.O.S, Trust, Tribe Ownerships

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE, AN "APPLICANT" TYPE FINGERPRINT CARD AND $22 PROCESSING FEE FOR EACH CARD.

Individual

Last	First	Middle	%Owned	Mailing Address	City	State	Zip Code

Is any person other than above, going to share in profit/losses of the business? ☐ Yes ☐ No
If Yes, give name, current address, and telephone number of person(s). Use additional sheets if necessary.

Last	First	Middle	Mailing Address	City	State	Zip Code	Phone #

Partnership

Name of Partnership: _____

General-Limited	Last	First	Middle	%Owned	Mailing Address	City	State	Zip Code
☐ ☐								
☐ ☐								
☐ ☐								
☐ ☐								

J.T.W.R.O.S (Joint Tenant with Rights of Survivorship)

Name of J.T.W.R.O.S: _____

Last	First	Middle	Mailing Address	City	State	Zip Code

SECTION 6 - continued

TRUST
Name of Trust: _____

Last	First	Middle	Mailing Address	City	State	Zip Code

TRIBE
Name of Tribal Ownership: _____

Last	First	Middle	Mailing Address	City	State	Zip Code

SECTION 7 Corporations/ Limited Liability Co

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE, AN "APPLICANT" TYPE FINGERPRINT CARD AND $22 PROCESSING FEE FOR EACH CARD.

☒ Corporation Complete Questions 1, 2, 3, 4, 5, 6, and 7

☐ L.L.C. Complete Questions 1, 2, 3, 4, 5, 6, and 7

1. Name of Corporation/ L.L.C: RONA MANAGEMENT, INC.
2. Date Incorporated/Organized: 09/08/2016 State where Incorporated/Organized: ARIZONA
3. AZ Corporation or AZ L.L.C File No: 2124115 Date authorized to do Business in AZ: 09/19/2016
4. Is Corp/L.L.C. Non Profit? ☐ Yes ☒ No
5. List Directors, Officers, Members in Corporation/L.L.C:

Last	First	Middle	Title	Mailing Address	City	State	Zip Code
ZHENG	RONA	YUN	DIRECTOR	8500 N. CRACKER BARREL RD.	MARANA	AZ	85743

(Attach additional sheet if necessary)

6. List all Stockholders / percentage owners who own 10% or more:

Last	First	Middle	%Owned	Mailing Address	City	State	Zip Code
ZHENA	RONA	YUN	100%	8500 N. CRACKER BARREL RD.	MARANA	AZ	85743

(Attach additional sheet if necessary)

7. If the corporation/ L.L.C are owned by another entity, attach an Organizational **FLOWCHART** showing the structure of the ownership. Attach additional sheets as needed in order to disclose the Officers, Directors, Members, Managers, Partners, Stockholders and percentage owners of those entities.

SECTION 8 Club Applicants

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE, AN "APPLICANT" TYPE FINGERPRINT CARD AND $22 PROCESSING FEE FOR EACH CARD

1. Name of Club: _____
2. Is Club non-profit? ☐ Yes ☐ No
3. List all controlling members (minimum of four (4) requested)

Last	First	Middle	Mailing Address	City	State	Zip Code

(Attach additional sheet if necessary)

SECTION 9 Probate, Will Assignment or Divorce Decree of an existing Liquor License

1. Current Licensee's Name: _____
(Exactly as it appear on the license) Last First Middle

2. Assignee's Name: _____
Last First Middle

3. License Type: _____ License Number: _____

ATTACH TO THIS APPLICATION A CERTIFIED COPY OF THE WILL, PROBATE DISTRIBUTION INSTRUMENT, OR DIVORCE DECREE THAT SPECIFICALLY DISTRIBUTES THE LIQUOR LICENSE TO THE ASSIGNEE.

SECTION 10 Government (for cities, towns, or counties only)

1. Government Entity: _____

2. Person/Designee: _____
First Last Middle Day time Contact Phone #

A SEPARATE LICENSE MUST BE OBTAINED FOR EACH PREMISE FROM WHICH SPIRITUOUS LIQUOR IS SERVED.

SECTION 11 Location to Location Transfer: Series 6 Bar, Series 7 Beer & Wine Series 9 Liquor Stores only)

1. Current Business: Name: _____
Address: _____
(Exactly as it appears on license)

2. New Business: Name: _____
Address: _____

1. License Type: _____ License Number: _____

SECTION 12 **Person to Person Transfer**
Questions to be completed by Current Licensee (Bar and Liquor Stores Only- Series, 06, 07, and 09)

1. Individual Owner / Agent Name: _____ Entity: _____
Last First Middle (Individual, Agent, Etc.)

2. Ownership Name: _____
(Exactly as it appears on license)

3. Business Name: _____
(Exactly as it appears on license)

4. Business Location Address: _____
Street City State Zip

5. License Type: _____ License Number: _____

6. Current Mailing Address: _____
Street City State Zip

7. Have all creditors, lien holders, interest holders, etc. been notified? ☐ Yes ☐ No

8. Does the applicant intend to operate the business while this application is pending? ☐ Yes ☐ No

If yes, complete Section 5 (**Interim Permit**) of this application; attach fee, and current license to this application.

9. I, (Print Full Name) _____ hereby authorize the department to process this Application to transfer the privilege of the license to the applicant provided that all terms and conditions of sale are met. Based on the fulfillment of these conditions, I certify that the applicant now owns or will own the property rights of the license by the date of issue.

I, (Print Full Name) _____, declare that I am the **CURRENT OWNER, MEMBER, PARTNER STOCKHOLDER or LICENSEE** of the stated license. I have read the above Section 12 and confirm that all statements are true, correct, and complete.

NOTARY

X _____
(Signature of CURRENT Individual Owner/Agent)

State of _____ County of _____
The foregoing instrument was acknowledged before me this

My commission expires on: _____
Date

_____ of _____, _____
Day Month Year

_____
Signature of NOTARY PUBLIC

SECTION 13 Proximity to Church or School

Questions to be completed by all in-state applicants.

A.R.S. § 4-207. (A) and (B) state that no retailer's license shall be issued for any premises which are at the time the license application is received by the director, within three hundred (300) horizontal feet of a church, ~~within three~~ hundred (300) horizontal feet of a public or private school building with kindergarten programs or grades one (1) through (12) or within three hundred (300) horizontal feet of a fenced recreational area adjacent to such school building.

The above paragraph DOES NOT apply to:

a) **Restaurant license (§ 4-205.02) Series 12**
b) **Hotel/motel license (§ 4-205.01)Series 11**
c) **Microbrewery Series 3**
d) **Craft Distillery Series 18**
e) **Government license (§ 4-205.03) Series 5**
f) **Fenced playing area of a golf course (§ 4-207(B)(5))**
g) **Wholesaler Series 4**
h) **Farm Winery Series 13**

1. Distance to nearest School: _____ Name of School: _____
(If less than one (1) mile note footage)
Address: _____

2. Distance to nearest Church: _____ Name of Church: _____
(If less than one (1) mile note footage)
Address: _____

SECTION 14 Business Financials

1. I am the: ☒ Lessee ☐ Sub-lessee ☐ Owner ☐ Purchaser ☐ Management Company

2. If the premise is leased give lessors: Name: LU'S PROPERTY MARANA, LLC

Address: 14054 STARS RD. FRISCO, TX 75035
Street City State Zip

3. Monthly Rent/ Lease Rate: $ 15,000 —

4. What is the remaining length of the lease? Yrs. 5 Months Ø

5. What is the penalty if the lease is not fulfilled? $ 15,000 — or Other: LANDLORD REPOSSION
(SEC. DEPOSIT) **(Give details-attach additional sheet if necessary)**

6. Total money borrowed for the Business not including lease? $ Ø (CAPITAL CONTRIBUTION)
Please List Lenders/People you owe money to for business.

Last	First	Middle	Amount Owed	Mailing Address	City	State	Zip
	N/A		N/A	N/A			

(Attach additional sheet if necessary)

7. What type of business will this license be used for (be specific)?
ASIAN BUFFET & RESTAURANT

8. Has a license or a transfer license for the premises on this application been denied by the state with in the past (1) year? ☐ Yes ☒ No If yes, attach explanation.

9. Does any spirituous liquor manufacture, wholesaler, or employee have an interest in your business? ☐ Yes ☒ No

10. Is the premises currently license with a liquor license? ☒ Yes ☐ No

If yes, give license number and licensee's name:

License #: 12103987 Individual Owner /Agent Name: DANIEL YUNFU LU
(Exactly as it appears on license)

SECTION 15 Restaurant or hotel/motel license applicants

1. Is there an existing Restaurant or Hotel/Motel Liquor License at the proposed location? ☒ Yes ☐ No

2. If the answer to Question 1 is YES, you may qualify for an Interim Permit to operate while your application is pending; consult A.R.S. § 4-203.01; and complete SECTION 5 of this application.

3. All Restaurant and Hotel/Motel applicants must complete a Restaurant Operation Plan form provided by the Department of Liquor Licenses and Control.

4. As stated in A.R.S. § 4-205.02. (H)(2), a Restaurant is an establishment which derives at least forty (40) percent of its gross revenue from the sale of food. Gross revenue is the revenue derived from sales of food and spirituous liquor on the licensed premises. By applying for this ☒ Restaurant ☐ Hotel/Motel, I certify that I understand that I must maintain a minimum of forty (40) percent food sales based on these definitions and have included the Restaurant Hotel/Motel Records Required for Audit form with this application.

Ronald Zheng

(Applicant's Signature)

5. I understand it is my responsibility to contact the Department of Liquor Licenses and Control to schedule an inspection when all tables and chairs are on site, kitchen equipment, and, if applicable, patio barriers are in place on the licensed premises. With the exception of the patio barriers, these items are not required to be properly installed for this inspection. Failure to schedule an inspection will delay issuance of the license. If you are not ready for your inspection 90 days after filing your application, please request an extension in writing; specify why the extension is necessary; and the new inspection date you are requesting.

RZ

(Applicant's Initials)

SECTION 16 Diagram of Premises

Check ALL boxes that apply to your business:

☒	Entrances/Exits	☒	Liquor storage areas	**Patio:** ☐	Contiguous
☐	Walk-up windows	☐	Drive-through windows	☐	Non Contiguous

1. Is your licensed premises currently closed due to construction, renovation or redesign? ☐ Yes ☒ No
   If yes, what is your estimated completion date? N/A
   Month/Day/Year
2. **Restaurants and Hotel/Motel** applicants are required to draw a detailed floor plan of the kitchen and dining areas including the locations of all kitchen equipment and dining furniture. Place for diagram is on section 16 number 6.
3. The diagram (a detailed floor plan) you provide is required to disclose only the area(s) where spirituous liquor is to be sold, served, consumed, dispensed, possessed or stored on the premises unless it is a restaurant (see # 3 above).
4. Provide the square footage or outside dimensions of the licensed premises. Please do not include non-licensed premises such as parking lots, living quarters, etc.
5. **As stated in A.R.S. § 4-207.01 (B), I understand it is my responsibility to notify the Department of Liquor Licenses and Control when there are changes to the boundaries, entrances, exits, added or deleted doors, windows, service windows or increase or decrease to the square footage after submitting this initial diagram.**

RZ

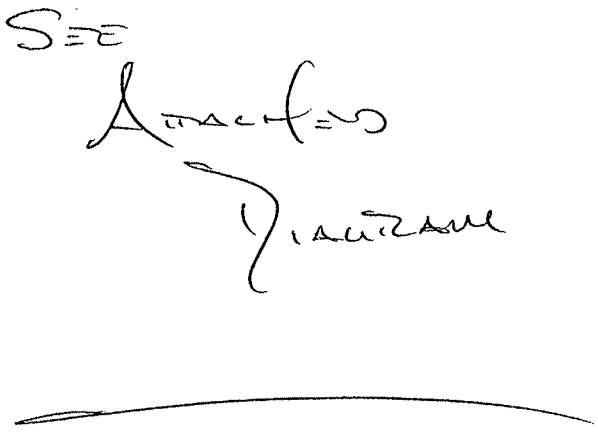
(Applicant's Initials)

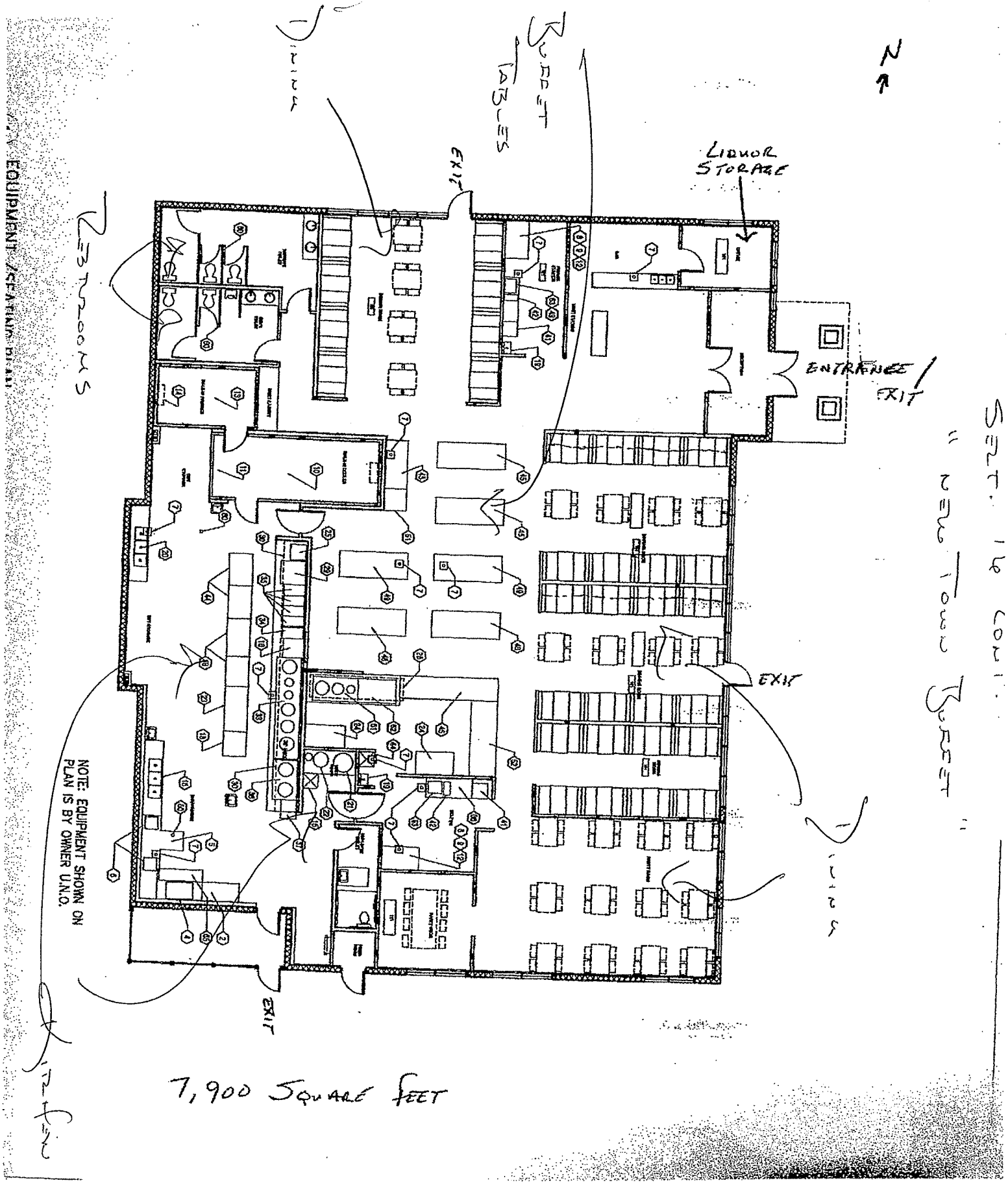
SECTION 16 Diagram of Premises – continued

6. On the diagram please show only the areas where spirituous liquor is to be sold, served, consumed, dispensed, possessed or stored. It must show all entrances, exits, interior walls, bars, hi-top tables, dining tables, dining chairs, dance floor, stage, game room, and the kitchen. DO NOT include parking lots, living quarters, etc. When completing diagram, North is up ↑.

If a legible copy of a rendering or drawing of your diagram of the premises is attached to this application, please write the words "DIAGRAM ATTACHED" in the box provided for the diagram on the application.

DIAGRAM OF PREMISES




EXIT
BUFFET TABLES
LIQUOR STORAGE
N
RESTROOMS
ENTRANCE / EXIT
EXIT
EXIT
NOTE: EQUIPMENT SHOWN ON PLAN IS BY OWNER U.N.O.
7,900 SQUARE FEET

SECTION 17 SIGNATURE BLOCK

NOTARY

I, (Print Full Name) Ronald Yan Zheng, hereby declare that I am the Owner/Agent filing this application as stated in Section 4 # 1. I have read this application and verify all statements to be true, correct and complete.

X Ronald Yan Zheng
(Signature of CURRENT Individual Owner/Agent)

State of Arizona County of Pima
The foregoing instrument was acknowledged before me this

My commission expires on: June 5, 2017
Date

24TH Day of September Month, 2016 Year

Signature of NOTARY PUBLIC

OFFICIAL SEAL
KEVIN A. KRAMBER
Notary Public - State of Arizona
PIMA COUNTY
My Comm. Expires June 5, 2017

A.R.S. § 41-1030. Invalidity of rules not made according to this chapter; prohibited agency action; prohibited acts by state employees; enforcement; notice

B. An agency shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule or state tribal gaming compact. A general grant of authority in statute does not constitute a basis for imposing a licensing requirement or condition unless a rule is made pursuant to that general grant of authority that specifically authorizes the requirement or condition.

D. THIS SECTION MAY BE ENFORCED IN A PRIVATE CIVIL ACTION AND RELIEF MAY BE AWARDED AGAINST THE STATE. THE COURT MAY AWARD REASONABLE ATTORNEY FEES, DAMAGES AND ALL FEES ASSOCIATED WITH THE LICENSE APPLICATION TO A PARTY THAT PREVAILS IN AN ACTION AGAINST THE STATE FOR A VIOLATION OF THIS SECTION.

E. A STATE EMPLOYEE MAY NOT INTENTIONALLY OR KNOWINGLY VIOLATE THIS SECTION. A VIOLATION OF THIS SECTION IS CAUSE FOR DISCIPLINARY ACTION OR DISMISSAL PURSUANT TO THE AGENCY'S ADOPTED PERSONNEL POLICY.

F. THIS SECTION DOES NOT ABROGATE THE IMMUNITY PROVIDED BY SECTION 12-820.01 OR 12-820.02.

Arizona Department of Liquor Licenses and Control
800 W Washington 5th Floor
Phoenix, AZ 85007-2934
www.azliquor.gov
(602) 542-5141

POSTED 10/6/2016 7:22 am
REMOVED 10/26/2016 8:30 am JR

AFFIDAVIT OF POSTING

Date of Posting: October 6, 2016 Date of Posting Removal: 10/26/2016

Applicant's Name: Zheng (Last) Rong (First) Yun (Middle)

Business Address: 8500 N. Cracker Barrel Road (Street) Marana (City) 85743 (Zip)

License #: 12104466

I hereby certify that pursuant to A.R.S. 4-201, I posted notice in a conspicuous place on the premises proposed to be licensed by the above applicant and said notice was posted for at least twenty (20) days.

Elton Burns, Jr.	Housing Specialist	520-990-2496
Print Name of City/County Official	Title	Phone Number

Elton E Burns Jr. — Signature

10/6/2016 — Date Signed

Return this affidavit with your recommendations (i.e., Minutes of Meeting, Verbatim, etc.) or any other related documents. If you have any questions please call (602) 542-5141 and ask for the Licensing Division.

Arizona Department of Liquor Licenses and Control
800 W Washington 5th Floor
Phoenix, AZ 85007-2934
www.azliquor.gov
(602) 542-5141

Local Governing Body Recommendation
A.R.S. § 4-201(C)

1. City or (Town) of: Marana Liquor License Application #: 12104466
(Circle one) (Arizona application #)

2. County of: Pima City/(Town)/County #: LL2016-12

3. If licensed establishment will operate within an "entertainment district" as described in A.R.S. §4-207(D)(2),

_____ _____
(Name of entertainment district) (Date of resolution to create the entertainment district)

A boundary map of entertainment district must be attached.

4. The Marana Town Council (Governing body) at a Regular (Regular or special) meeting held on the 1st (Day) of November (Month), 2016 (Year) considered the application of Rong Yun Zheng (Name of applicant)

for a license to sell spirituous liquor at the premises described in application 12104466 (Arizona liquor license application #),

for the license series #: type Series #12 Restaurant (i.e.: series #10: beer & wine store) as provided by A.R.S §4-201.

ORDER OF APPROVAL/DISAPPROVAL

IT IS THEREFORE ORDERED that the license APPLICATION OF Rong Yun Zheng (Name of applicant)

to sell spirituous liquor of the class and in the manner designated in the application, is hereby recommended

for _____. (Approval, disapproval, or no recommendation)

TRANSMISSION OF ORDER TO STATE

IT IS FURTHER ORDERED that a certified copy of this order be immediately transmitted to the State Department of Liquor, License Division, 800 W Washington, 5th Floor, Phoenix, Arizona.

Dated at _____ (Location) on _____ (Day), _____ (Month), _____ (Year).

_____ _____
(Printed name of city, town or county clerk) (Signature of city, town or county clerk)

Individuals requiring ADA accommodations please call (602)542-9027

Series 6 Bar

The bar (series 6) liquor license is a "quota" license available only through the Liquor License Lottery or for purchase on the open market. Once issued, this liquor license is transferable from person to person and/or location to location within the same county and allows the holder both on- & off-sale retail privileges. This license allows a bar retailer to sell and serve all types of spirituous liquors, primarily by individual portions, to be consumed on the premises and in the original container for consumption on or off the premises. A retailer with off-sale ("To Go") privileges may deliver spirituous liquor off of the licensed premises in connection with a retail sale. A.R.S. § 4-206.01.F. states that after January 1, 2011, the off-sale privileges associated with a bar license shall be limited to no more than 30% of the total annual sales receipts of liquor by the licensee at that location. Payment must be made no later than the time of delivery. Off-sale ("To Go") package sales of spirituous liquor can be made on the bar premises as long as the area of off-sale operation does not utilize a separate entrance and exit from the ones provided for the bar. A hotel or motel with a Series 6 license may sell spirituous liquor in sealed containers in individual portions to its registered guests at any time by means of a minibar located in the guest rooms of registered guests. The registered guest must be at least twenty-one (21) years of age. Access to the minibar is by a key or magnetic card device and not furnished to a guest between the hours of 2:00 a.m. and 6:00 a.m.

Series 7 Beer and Wine Bar

The beer and wine bar (series 7) liquor license is a "quota" license available only through the Liquor License Lottery or for purchase on the open market. Once issued, this liquor license is transferable from person to person and/or location to location within the same county and allows the holder both on- & off-sale retail privileges. This license allows a beer and wine bar retailer to sell and serve beer and wine (no other spirituous liquors), primarily by individual portions, to be consumed on the premises and in the original container for consumption on or off the premises. A retailer with off-sale ("To Go") privileges may deliver spirituous liquor off of the licensed premises in connection with a retail sale. A.R.S. § 4-206.01.F. states that after January 1, 2011, the off-sale privileges associated with a bar license shall be limited to no more than 30% of the total annual sales receipts of liquor by the licensee at that location. Off-sale ("To Go") package sales can be made on the bar premises as long as the area of off-sale operation does not utilize a separate entrance and exit from the one provided for the bar. Payment must be made no later than the time of delivery.

Series 9 Liquor Store

The liquor store (series 9) license is a "quota" license available only through the Liquor License Lottery or for purchase on the open market. Once issued, this liquor license is transferable from person to person and/or location to location within the same county and allows a spirituous liquor store retailer to sell all types of spirituous liquors, only in the original unbroken package, to be taken away from the premises of the retailer and consumed off the premises. A retailer with off-sale privileges may deliver spirituous liquor off of the licensed premises in connection with a retail sale. Payment must be made no later than the time of delivery. Series 9 (liquor store) licensees and applicants may apply for unlimited sampling privileges by completing the Sampling Privileges form.

Series 10 Beer and Wine Store

This non-transferable, off-sale retail privileges liquor license allows a retail store to sell beer and wine (no other spirituous liquors), only in the original unbroken package, to be taken away from the premises of the retailer and consumed off the premises. A retailer with off-sale privileges may deliver spirituous liquor off of the licensed premises in connection with a retail sale. Payment must be made no later than the time of delivery. Series 10 (beer and wine store) licensees and applicants may apply for unlimited sampling privileges by completing the Sampling Privileges form.

Series 11 Hotel/Motel

This non-transferable, on-sale retail privileges liquor license allows the holder of a hotel/motel license to sell and serve all types of spirituous liquor solely for consumption on the premises of a hotel or motel that has a restaurant where food is served on the premises. The restaurant on the licensed premises must derive at least forty percent (40%) of its gross revenue from the sale of food. The holder of this license may sell spirituous liquor in sealed containers in individual portions to its registered guests at any time by means of a minibar located in the guest rooms of registered guests. The registered guest must be at least twenty-one (21) years of age. Access to the minibar is provided by a key or magnetic card device and may not be furnished to a guest between the hours of 2:00 a.m. and 6:00 a.m.

Series 12 Restaurant

This non-transferable, on-sale retail privileges liquor license allows the holder of a restaurant license to sell and serve all types of spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food. Failure to meet the 40% food requirement may result in revocation of the license.

Council-Regular Meeting **A1**

Meeting Date: 11/01/2016

To: Mayor and Council

From: Brian Varney, Senior Planner

Date: November 1, 2016

Strategic Plan Focus Area:
Commerce

Strategic Plan Focus Area Additional Info:
Principle Statement 1 / We will support commerce and business by being creative and flexible in order to produce innovative solutions that exceed customer expectations.
Initiative 1: Update the Land Development Code to enhance simplicity, understanding, and ease of use.

Subject: PUBLIC HEARING: Ordinance No. 2016.021: Relating to Development; amending the Marana Land Development Code Title 16 (Signs), Section 16-14-37, adding provisions for Road Construction Area Signs, temporary signs for existing land uses located within a commercial or industrial zoning district and within an area subject to long-term or substantial roadway construction activity; and establishing an effective date (Brian D. Varney)

Resolution No. 2016-119: Relating to Development; declaring as a public record filed with the Town Clerk the amendments adopted by Ordinance No. 2016.021, amending the Marana Land Development Code Title 16 (Signs), Section 16-14-37, adding provisions for Road Construction Area Signs, temporary signs for existing land uses located within a commercial or industrial zoning district and within an area subject to long-term or substantial roadway construction activity (Brian D. Varney)

Discussion:

As we continue to grow and develop in the process of improving our community some of the activities associated with these efforts can present challenges to our local businesses. An example of this is the impact of major road construction projects. Town staff from various departments have taken the initiative to anticipate and discuss the potential challenges that the upcoming major construction activity on Ina Road will present to businesses within the Ina Road

corridor. Through this collaborative effort, it was agreed that one of most significant challenges will be vehicular access into the construction area and visibility of individual businesses by potential customers once they enter the area. While efforts are being made by the Town and ADOT to ensure that convenient access will be provided to the greatest extent possible, visibility and identification of individual businesses will be somewhat impaired. In an effort to address this challenge, as well as similar challenges that will inevitably impact other areas of our community in the future, the Planning Department is proposing a new section of provisions to Title 16 (Signs) of our Land Development Code.

Section 16-14-37 Road Construction Area Signs proposes regulations intended to provide flexibility for land uses located within a commercial or industrial zoning district and within an area that is currently subject to long-term or substantial road construction activity. The proposed regulations, if approved, would allow one temporary sign of up to 40 square feet to remain displayed on the premises along each adjacent street frontage for qualifying properties for the duration of the road construction activity, or as determined by the Planning Department.

With the exception of the duration for which the signs may be displayed, the proposed regulations are generally consistent with the existing standards for other temporary signs allowed under Title 16. One notable exception is that the proposed regulations allow for the display of A-frame signs, which have historically been prohibited in the Town. The proposed regulations would allow one A-frame sign per entity to be displayed in addition to a standard banner or other approved temporary sign allowed under these provisions. Planning staff anticipates that the regulations proposed will result in safe and effective use of these signs.

It should be noted that the proposed sign regulations are content neutral, and do not favor commercial or non-commercial speech. Any sign allowed under this section may contain, in lieu of any other copy, any otherwise lawful noncommercial message that complies with applicable size, lighting, dimension, design, spacing, and permitting requirements of Title 16 (Signs).

Staff Recommendation:

Staff recommends adoption of Ordinance No. 2016.021 amending the Marana Land Development Code Title 16 (Signs), Section 16-14-37, adding provisions for Road Construction Area Signs, declaring the amendment as a public record filed with the Town Clerk.

Suggested Motion:

I move to adopt Ordinance No. 2016.021 and Resolution No. 2016-119, amending the Marana Land Development Code Title 16 (Signs), Section 16-14-37 and declaring the amendment a public record filed with the Town Clerk.

Attachments

Ordinance No. 2016.021

Resolution No. 2016-119

Exhibit A to Resolution No. 2016-119

MARANA ORDINANCE NO. 2016.021

RELATING TO DEVELOPMENT; AMENDING THE MARANA LAND DEVELOPMENT CODE TITLE 16 (SIGNS), SECTION 16-14-37, ADDING PROVISIONS FOR ROAD CONSTRUCTION AREA SIGNS, TEMPORARY SIGNS FOR EXISTING LAND USES LOCATED WITHIN A COMMERCIAL OR INDUSTRIAL ZONING DISTRICT AND WITHIN AN AREA SUBJECT TO LONG-TERM OR SUBSTANTIAL ROADWAY CONSTRUCTION ACTIVITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS the Mayor and Council of the Town of Marana find that the revisions adopted by this ordinance are in the best interest of the Town of Marana and the general public.

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

Section 1. The amendments to the Marana Land Development Code Title 16 (Signs), Section 16-14-37, adding provisions for Road Construction Area Signs, temporary signs for existing land uses located within a commercial or industrial zoning district and within an area subject to long-term or substantial roadway construction activity, one electronic and one paper copy of which are on file in the office of the Town Clerk of the Town of Marana, Arizona, and which were made a public record by and are attached as Exhibit A to Resolution No. 2016-119 of the Town of Marana, Arizona, are hereby referred to, adopted and made part of this ordinance as if fully set out here.

Section 2. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are repealed as of the effective date of this ordinance; provided, however, that this repeal shall not affect the rights and duties that matured or penalties that were incurred and proceedings that were begun before the effective date of the repeal.

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

Section 4. This ordinance is effective on December 2, 2016.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 1st day of November, 2016.

Mayor Ed Honea

ATTEST:

Jocelyn C. Bronson, Town Clerk

APPROVED AS TO FORM:

Frank Cassidy, Town Attorney

MARANA RESOLUTION NO. 2016-119

RELATING TO DEVELOPMENT; DECLARING AS A PUBLIC RECORD FILED WITH THE TOWN CLERK THE AMENDMENTS ADOPTED BY ORDINANCE NO. 2016.021, AMENDING THE MARANA LAND DEVELOPMENT CODE TITLE 16 (SIGNS), SECTION 16-14-37, ADDING PROVISIONS FOR ROAD CONSTRUCTION AREA SIGNS, TEMPORARY SIGNS FOR EXISTING LAND USES LOCATED WITHIN A COMMERCIAL OR INDUSTRIAL ZONING DISTRICT AND WITHIN AN AREA SUBJECT TO LONG-TERM OR SUBSTANTIAL ROADWAY CONSTRUCTION ACTIVITY

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, that the amendments to the Marana Land Development Code Title 16 (Signs), Section 16-14-37 adopted by Ordinance No. 2016.021, attached to and incorporated in this resolution as Exhibit A, and one electronic and one paper copy of which are on file in the office of the Town Clerk, are hereby declared to be a public record and ordered to remain on file with the Town Clerk.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 1st day of November, 2016.

Mayor Ed Honea

ATTEST:

Jocelyn C. Bronson, Town Clerk

APPROVED AS TO FORM:

Frank Cassidy, Town Attorney

Exhibit A

16-14-37 Road Construction Area Sign

A. An existing use located within a commercial or industrial zoning district and within an area subject to long-term or substantial roadway construction activity performed by the Town or other public entity or utility company may display on its premises one temporary road construction area sign along each adjacent street frontage.

B. A temporary road construction area sign shall require a sign permit issued by the town.

C. A temporary road construction area sign may be displayed for the duration of the construction activity, or as determined by the planning department.

D. Each sign shall have a maximum sign area of 40 square feet.

E. All signs shall be constructed of durable weather-resistant materials such as fabric, plastic, wood, metal, or similar materials as approved by the planning department, and shall be maintained in a manner so as to remain free of chipped paint, cracks, loss of text or graphics or other defects.

F. A temporary road construction area sign shall not be placed upon any other sign assembly, utility pole, authorized traffic control device, utility box, fence, wall, boulder, tree, planter, vehicle, or similar structure.

G. A temporary road construction area sign shall not be placed within public right of way.

H. A temporary road construction area sign shall not be located above the roofline of any building on the premises.

I. A-frames and similarly designed temporary signs shall be allowed subject to the following:

    1. Signs must be located within 20 feet of the entrance to the building which is owned, leased, or rented by the owner of the sign.

    2. Signs may only be displayed during daylight hours and must be removed and replaced each day.

    3. Signs in the open position must not exceed a height of 40 inches and shall not exceed 30 inches in width.

    4. Shall be placed at grade level, and in a manner that does not obstruct a sidewalk, pedestrian access way, parking area access lane, or a designated parking space.

    5. Shall be placed so that a minimum of four feet of clearance is maintained for pedestrian access on all sidewalks and walkways.

Council-Regular Meeting **A2**

Meeting Date: 11/01/2016

To: Mayor and Council

From: Frank Cassidy, Town Attorney

Date: November 1, 2016

Strategic Plan Focus Area:
Not Applicable

Subject: Resolution No. 2016-120: Relating to Public Works; approving and authorizing the Mayor to sign an Acquisition Agreement & Administrative Settlement for the purchase of property rights needed from Pep Boys Manny Moe & Jack of California for the Camino Martin/Jeremy Place Reconstruction Project, Town of Marana Project No. ST033 (Frank Cassidy)

Discussion:

This is an acquisition for the now-completed Camino Martin/Jeremy Place Reconstruction project. The particulars of this deal are set forth in the acquisition agreement found in the backup materials. Town staff is available to justify and explain the proposed acquisition price and negotiations in an executive session, also scheduled for tonight's agenda in the event the Council requests it.

Financial Impact:

Fiscal Year:	2017
Budgeted Y/N:	Y
Amount:	$4,000

Staff Recommendation:

Staff recommends adoption of Resolution No. 2016-120, approving and authorizing the Mayor to sign an Acquisition Agreement & Administrative Settlement for the purchase of property rights needed from Pep Boys Manny Moe & Jack of California for the Camino Martin/Jeremy Place Reconstruction Project.

Suggested Motion:

I move to adopt Resolution No. 2016-120, approving and authorizing the Mayor to sign an Acquisition Agreement & Administrative Settlement for the purchase of property rights needed from Pep Boys Manny Moe & Jack of California for the Camino Martin/Jeremy Place Reconstruction Project.

Attachments

Resolution No. 2016-120

Exhibit A to Resolution PepBoys Settlement

MARANA RESOLUTION NO. 2016-120

RELATING TO PUBLIC WORKS; APPROVING AND AUTHORIZING THE MAYOR TO SIGN AN ACQUISITION AGREEMENT & ADMINISTRATIVE SETTLEMENT FOR THE PURCHASE OF PROPERTY RIGHTS NEEDED FROM PEP BOYS MANNY MOE & JACK OF CALIFORNIA FOR THE CAMINO MARTIN/JEREMY PLACE RECONSTRUCTION PROJECT, TOWN OF MARANA PROJECT NO. ST033

WHEREAS the Town of Marana has substantially completed construction of the Camino Martin/Jeremy Place Reconstruction Project, Town of Marana Project No. ST033, (the "Camino Martin Project"); and

WHEREAS the Town of Marana needed to acquire a temporary construction easement from Pep Boys Manny Moe & Jack of California to construct the improvements needed for the Camino Martin Project (the "Needed Property"); and

WHEREAS Town staff has negotiated an Acquisition Agreement & Administrative Settlement with Pep Boys Manny Moe & Jack of California for acquisition of the Needed Property, the terms of which exceed Town staff's general authority for acquisition of property rights needed for the Camino Martin Project as set forth in Marana Resolution No. 2016-054; and

WHEREAS the Mayor and Council of the Town of Marana find that this resolution is in the best interests of the Town of Marana and its citizens.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Marana, Arizona, authorizing the Mayor to execute the Acquisition Agreement & Administrative Settlement with Pep Boys Manny Moe & Jack of California in substantially the form attached to and incorporated in this resolution as Exhibit A, and authorizing Town staff to do all things necessary to carry out the terms of the agreement.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, this 1st day of November, 2016.

Mayor Ed Honea

ATTEST:

Jocelyn C. Bronson, Town Clerk

APPROVED AS TO FORM:

Frank Cassidy, Town Attorney

MARANA

ENGINEERING DEPARTMENT

ACQUISITION & SETTLEMENT AGREEMENT

This Agreement is made by and between **THE PEP BOYS MANNY MOE & JACK OF CALIFORNIA** (the "Owner"), a California corporation, and the **TOWN OF MARANA** ("Marana"), an Arizona municipal corporation. The Owner and Marana are sometimes collectively referred to as the "Parties," either of which is sometimes individually referred to as a "Party."

1. **The Property.** The Owner owns the property currently identified as Pima County Assessor's Parcel Number 101-05-004G, consisting of approximately 2.91 acres near the southeast corner of the intersection of Ina Road and Camino Martin, and referred to in this Agreement as the "Property."

2. **The Project.** Marana (by its contractor) has substantially completed construction of the Camino Martin/Jeremy Place Roadway Reconstruction Project, Marana Project Number ST033 (the "Project"). The Project consisted of the reconstruction of Camino Martin from Ina Road southward approximately 2,223 linear feet, and the reconstruction of Jeremy Place from its intersection with Camino Martin eastward approximately 700 feet to its cul-de-sac terminus.

3. **The Acquisition.** Marana needed to acquire a temporary construction easement (the "Take") from the Property for the Project, to tie in the Camino Martin driveways and curb returns serving the Property. The Take is depicted in "Exhibit A" to this Agreement. In lieu of court proceedings to acquire the Take by eminent domain, the Owner agrees to sell and Marana agrees to acquire the Take for the total sum of **$4,000.00** (the "Acquisition Amount"), subject to the terms and conditions set forth in this Agreement.

4. **Possession.** The Parties acknowledge that possession of the Take has already occurred, and Marana has no further need or right to possess the Take. This Agreement is the Parties' settlement and payment for the rights previously taken.

5. **Payment.** No later than 30 days after the date this Agreement is approved by the Marana Mayor and Council, Marana shall pay the Acquisition Amount to the Owner by check mailed at Marana's cost via United States Postal Service using Certified Mail, Return Receipt Requested, to The Pep Boys, 3111 W. Allegheny Avenue, Philadelphia PA 19132, Attention: Donald L. Novajosky, Corporate Counsel.

6. **Broker's Commission.** No broker or finder has been used and Marana shall owe no brokerage or finders' fee related to this transaction. The Owner is responsible to pay all brokerage or finders' fees to any agent it has employed.

7. **Conflict of Interest.** This Agreement is subject to A.R.S. § 38-511 which provides for cancellation of contracts by government entities for certain conflicts of interest.

8. **Entire Agreement.** This signed document shall constitute the entire Agreement among the Parties. No modification or amendment to this Agreement shall be binding unless in writing

and signed by the Parties. The performance of this Agreement constitutes the entire consideration by Marana, including just compensation for the Take and severance damages to any remainder property and shall relieve Marana of all further obligation or claims relating to the Property for the Take.

9. **Compromise and Settlement.** The Parties acknowledge that the Acquisition Amount was agreed upon through compromise and settlement to avoid litigation.

10. **Council Approval**. This Agreement is subject to approval by the Town Council of the Town of Marana.

IN WITNESS WHEREOF, the Parties have executed this instrument as of the last Party's signature date below.

"MARANA":
TOWN OF MARANA, an Arizona municipal corporation

By:_____
Ed Honea, Mayor

Date:_____

ATTEST:

_____
Jocelyn Bronson, Town Clerk

APPROVED AS TO FORM:

_____
Marana Town Attorney

The "OWNER":
THE PEP BOYS MANNY MOE & JACK OF CALIFORNIA, a California corporation

By: Michael Englert
Michael Englert

Its: Chief Financial Officer & Secretary

STATE OF Georgia)
ss
County of Cobb)

The foregoing instrument was acknowledged before me on October 20, 2016 by Michael Englert, the Chief Financial Officer & Secretary of THE PEP BOYS MANNY MOE & JACK OF CALIFORNIA, a California corporation, on behalf of the corporation.

(Seal)

PATTI R. DEEMER NOTARY PUBLIC CHEROKEE COUNTY, GEORGIA My Commission Expires Feb. 27, 2017

Patti R Deemer
Notary Public

Council-Regular Meeting **A3**

Meeting Date: 11/01/2016

To: Mayor and Council

From: Cynthia Nemeth-Briehn, Parks & Recreation Director

Date: November 1, 2016

Strategic Plan Focus Area:
Community

Strategic Plan Focus Area Additional Info:
Principle Statement 1
Initiative 6. a.
Explore and research innovative community planning ideas for incorporation into process, procedures, and codes.
*Seek to build a clear sense of place.

Subject: Resolution No. 2016-121: Relating to Administration; approving the transfer of up to $85,000 in budgeted expenditure authority from the General Fund contingency line item in the fiscal year 2016-2017 budget to the Parks and Recreation landscape maintenance account for expenses related to Phase 1 of the Marana Main Street Tree Plan (Cynthia Nemeth-Briehn)

Discussion:

Trees are an asset to be valued and maintained. Trees provide shade, add aesthetic beauty, and enhance community spaces. Since the Marana Town Hall complex and the adjoining Marana Main Street and Civic Center Drive were completed over 11 years ago, the landscaping (trees, shrubs, and turf) have provided immeasurable value to those who work, live, and visit the area. Some of the original trees have not exhibited much growth since their planting. This stunted growth may have been caused by poor soil conditions, compaction, bound roots, and disease. Staff recommends removing those trees that are failing and replacing them with new, fast-to-moderate growing varieties. Trees that are healthy will not be removed.

With any infrastructure system, replacements and upgrades have to be periodically performed. Staff has found that the irrigation system is beginning to fail. A replacement system is being proposed to better serve the trees and shrubs along Marana Main Street and Civic Center Drive.

Staff has conducted an internal study of the estimated cost for improving Marana Main Street's vegetation and irrigation system, which would allow for suitable and sustaining growth of newly planted trees and shrubs.

This proposal also includes establishing infrastructure for future electrical enhancements that would serve special events and other activities aimed to highlight Marana's town-center.

This proposed project is to create a visually appealing town-center for the Town of Marana by:

- Establishing the foundation for an appealing, pedestrian-friendly downtown area.
- Selecting trees that will grow to become stately and provide ample shade.
- Selecting a variety of trees and shrubs that are suitable for the area's climate.
- Selecting trees that are moderate-to-fast growers.
- Installing a new, commercial grade irrigation system.
- Installing conduit for future electrical and lighting enhancements at the same time as the irrigation upgrade. Staff is recommending that the initial phase of this project consist of installing new irrigation along Town owned portions of the roundabout, Marana Main Street, Civic Center Drive and Bill Gaudette Drive. This first phase would also involve the removal and replacement of approximately 40 of the most stressed trees. A second phase would address the remaining trees needing to be replaced.

Financial Impact:

Fiscal Year:	2017
Budgeted Y/N:	N
Amount:	$83,500

It is estimated that Phase 1 of the Marana Main Street Tree Plan will cost approximately $83,500 to complete. Staff is asking for approval to transfer up to $85,000 to include additional funds for possible unexpected costs.

Phase 2 (additional trees, electrical) will be included as part of future budget discussions.

Staff Recommendation:

Staff recommends approving the expenditure of contingency funds for the purpose of completing Phase 1 of the Marana Main Street Tree Plan.

Suggested Motion:

I move to adopt Resolution No. 2016-121, approving the transfer of up to $85,000 in budgeted expenditure authority from the General Fund contingency line item in the fiscal year 2016-2017 budget to the Parks and Recreation landscape maintenance account for expenses related to Phase 1 of the Marana Main Street Tree Plan.

Attachments

Resolution No. 2016-121

MARANA RESOLUTION NO. 2016-121

RELATING TO ADMINISTRATION; APPROVING THE TRANSFER OF UP TO $85,000 IN BUDGETED EXPENDITURE AUTHORITY FROM THE GENERAL FUND CONTINGENCY LINE ITEM IN THE FISCAL YEAR 2016-2017 BUDGET TO THE PARKS AND RECREATION LANDSCAPE MAINTENANCE ACCOUNT FOR EXPENSES RELATED TO PHASE 1 OF THE MARANA MAIN STREET TREE PLAN

WHEREAS on June 21, 2016, the Town Council adopted the fiscal year 2016-2017 budgetary document and overall financial plan which set the legal level of budgetary control at the department level for the General Fund and at the fund level for all other funds; and

WHEREAS the Town Council desires to transfer budgeted expenditure authority in the fiscal year 2016-2017 budget of up to $85,000 from the General Fund contingency line item to the Parks and Recreation landscape maintenance account for expenses related to completion of Phase 1 of the Marana Main Street Tree Plan, including the replacement of trees, an upgrade to the irrigation system, and installation of infrastructure for future electrical enhancements on Marana Main Street; and

WHEREAS transferring budgeted expenditure authority from the contingency fund of up to $85,000 within fiscal year 2016-2017 will not significantly impact the General Fund; and

WHEREAS reallocations of budgeted expenditure authority between the contingency line item in the General Fund to other line items are necessary from time to time; and

WHEREAS the Council finds that the reallocations addressed by this resolution are in the best interest of the Town of Marana and its citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, AS FOLLOWS:

SECTION 1. The transfer of up to $85,000 in budgeted expenditure authority from the General Fund's budgeted contingency line item to the Parks and Recreation landscape maintenance account in the fiscal year 2016-2017 budget for expenses related to completion of Phase 1 of the Marana Main Street Tree Plan is hereby approved.

SECTION 2. The Town's Manager and staff are hereby directed and authorized to undertake all other and further tasks required or beneficial to carry out the terms, obligations, and objectives of this resolution.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, this 1st day of November, 2016.

Mayor Ed Honea

ATTEST:

Jocelyn C. Bronson, Town Clerk

APPROVED AS TO FORM:

Frank Cassidy, Town Attorney