AMENDED APRIL 30, 2020 @ 1:20 PM

MARANA TOWN COUNCIL
REGULAR COUNCIL MEETING
NOTICE AND AGENDA

May 5, 2020, 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
John Officer, Council Member
Roxanne Ziegler, Council Member

==========

Due to the impacts of the COVID-19 pandemic, which has prompted declarations of a public health emergency at both the state and federal levels, this meeting will be conducted using measures to protect public health. This meeting will be held remotely through technological means, as permitted under Arizona law. One or more of the members of the Mayor and Council may attend this meeting remotely, through technological means.

Members of the public MAY NOT ATTEND THE MEETING IN PERSON because the Mayor has temporarily closed all Town buildings to use and occupancy by the public by emergency proclamation.

Members of the public will have two options to view and participate in this meeting.

1. Members of the public may listen or view the Council Meeting in session by following the link http://maranaaz.swagit.com/live. With this option, members of the public may NOT participate in the virtual meeting, but can only see and hear the meeting. Members of the public may provide public comments to the Council by emailing the Town Clerk's Office at clawson@maranaAZ.gov or the Town Manager's Office at TownManager@MaranaAZ.gov. Any submitted comments from the public will be provided to the Council, included within the Council packet file, and reflected in the official Council meeting minutes of that meeting. All emailed comments must be received by the Town by 12:00 p.m. (noon) on the day of the meeting to be included.

2. Members of the public may join and participate as attendees in a Virtual Town Council

Meeting by following this link:
https://us02web.zoom.us/j/82698954480?pwd=eHhmMEJLK2tCcUp6Y3MzNjlTUDhLUT09
With this option, members of the public will be able to see and hear the meeting participants, and will be able to speak during times set aside for public comment. For instructions on joining and participating in the Virtual Town Council Meeting click here: https://www.maranaaz.gov/virtual-meetings
You are invited to a Zoom webinar.
When: May 5, 2020 06:00 PM Arizona
Topic: Town of Marana Regular Council Meeting - 5/5/2020

Please click the link below to join the webinar:
https://us02web.zoom.us/j/82698954480?pwd=eHhmMEJLK2tCcUp6Y3MzNjlTUDhLUT09
Password: 536715

Or iPhone one-tap :
US: +12532158782,,82698954480#,,1#,536715# or
+13462487799,,82698954480#,,1#,536715#
Or Telephone:
Dial(for higher quality, dial a number based on your current location):
US: +1 253 215 8782 or +1 346 248 7799 or +1 669 900 9128 or +1 301 715 8592 or
+1 312 626 6799 or +1 646 558 8656
Webinar ID: 826 9895 4480
Password: 536715
International numbers available: https://us02web.zoom.us/u/kcraTEELdj

PLEASE BE AWARE THAT THESE MEASURES ARE IN PLACE TO LIMIT THE NEED FOR MEMBERS OF THE PUBLIC TO PARTICIPATE IN A LARGE PUBLIC GATHERING, WHILE ENSURING THAT THE DISCUSSIONS, DELIBERATIONS AND ACTIONS OF THE MAYOR AND COUNCIL ARE TRANSPARENT AND CONDUCTED OPENLY.

Pursuant to A.R.S. § 38-431.01, 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 on May 5, 2020, at or after 6:00 PM, open to the public via http://maranaaz.swagit.com/live or https://us02web.zoom.us/j/82698954480?pwd=eHhmMEJLK2tCcUp6Y3MzNjlTUDhLUT09

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 electronic devices.

Meeting Times
Welcome to this Marana Town Council meeting. Regular Council meetings are usually held the first and third Tuesday of each month at 6:00 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.maranaaz.gov under Agendas and Minutes. For questions about the Council meetings, special services or procedures, please contact the Town Clerk, at (520) 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

P1 Proclamation declaring May 3rd through May 9th, 2020 as Drinking Water Week (Scott Schladweiler)

P2 Proclamation declaring May 2020 as Building Safety Month (Cherry L. Lawson)

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. 2020-033: Relating to development; approving a release of assurances for Saguaro Bloom Block 2 and accepting public improvements for maintenance (Keith Brann)

C2 Resolution No. 2020-034: Relating to the Police Department; approving and authorizing the Town Manager to execute a High Intensity Drug Trafficking Area (HIDTA) grant agreement between the City of Tucson (COT) and the Town of Marana to receive funding under COT Grant Number HT-20-2930 (Kristin Taft)

C3 Resolution No. 2020-035: Relating to Administration; authorizing the Town Manager and the Economic Development Director to sign non-disclosure agreements on behalf of the Town of Marana related to economic development activities (Jane Fairall)

C4 Resolution No. 2020-036: Relating to Real Estate; approving and authorizing the Mayor to execute a Temporary Work Space Agreement granting El Paso Natural Gas Company, LLC a temporary construction easement on Town-owned property in Block A of Gladden Farms Block 26 (Jane Fairall)

C5 Approval of the Council Meeting Regular Summary Minutes of April 21, 2020 (Cherry L. Lawson)

LIQUOR LICENSES

L1 Relating to Liquor Licenses; recommendation to the Arizona Department of Liquor Licenses and Control regarding a new application for a series #012 Restaurant liquor license submitted by Jared Michael Repinski on behalf of Native Grill & Wings, located at 8225 N. Courtney Page Way Marana, Arizona 85743.

BOARDS, COMMISSIONS AND COMMITTEES

COUNCIL ACTION

A1 Resolution No. 2020-037: Relating to Utilities; approving and authorizing the Mayor to sign the Second Amendment to Amended and Restated Agreement for Construction of Water Facilities and Provision of Water Utility Service for the Saguaro Bloom Development Project (Frank Cassidy)

A2 Resolution No. 2020-038: Relating to Utilities; approving and authorizing the Mayor to sign the First Amendment to Agreement for Construction of Water Facilities and Provision of Water Utility Service for the Rancho Marana 154 Subdivision; designating as protected facilities the 16" potable water main and the offsite non-potable water facilities constructed by Meritage Homes of Arizona; and adopting the Rancho Marana Water Main protected facility charge and the Rancho Marana Non-Potable Water Facilities protected facility charge (Frank Cassidy)

A3 Resolution No. 2020-039: A resolution of the Mayor and Common Council of the Town of Marana, Arizona, approving the form and authorizing the execution and delivery of a loan agreement with the Water Infrastructure Finance Authority of Arizona (WIFA) from its Clean Water Revolving Fund Program; delegating the determination of certain matters relating thereto to the Town Manager and the Finance Director of the Town; providing for the transfer of certain moneys and making certain covenants and agreements with respect thereto; authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by such loan agreement and this resolution; and declaring an emergency (Kristin Taft)

A4 Resolution No. 2020-040: A resolution of the Mayor and Common Council of the Town of Marana, Arizona, approving the form and authorizing the execution and delivery of a loan agreement with the Water Infrastructure Finance Authority of Arizona from its Drinking Water Revolving Fund program; delegating the determination of certain matters relating thereto to the Town Manager and the Finance Director of the town; providing for the transfer

of certain moneys and making certain covenants and agreements with respect thereto; authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by such loan agreement and this resolution and declaring an emergency (Kristin Taft)

A5 *Resolution No. 2020-041: Relating to Budget; approving the transfer of up to $377,800 in budgeted expenditure authority from the General Fund contingency line item in the fiscal year 2019-2020 budget to the Pines II, Road Stabilization Project to pay for anticipated costs associated with the project (Keith Brann)*

ITEMS FOR DISCUSSION / POSSIBLE ACTION

D1 Relating to Budget; presentation, discussion and direction regarding an update to fiscal year 2019-2020 revenues and how the COVID-19 pandemic will impact the framework for development of the fiscal year 2020-2021 budget and its role in the implementation of the Strategic Plan (Jamsheed Mehta and Yiannis Kalaitzidis)

D2 Relating to Development; Discussion and possible action regarding the status of Adonis Road construction and the request by TMR Investors, LLC for a 120-day postponement of the May 16 start date of the Adonis Road construction under the Villages of Tortolita Development Agreement as amended (Frank Cassidy)

D3 Relating to Development and Public Works; update, discussion, and possible direction regarding public and private projects and development applications on the Town's Marana Current and Proposed Projects internet site (Jason Angell)

D4 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 (Jamsheed Mehta)

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 **P1**

Meeting Date: 05/05/2020

From: Scott Schladweiler, Water Director

Date: May 5, 2020

Subject: Proclamation declaring May 3rd through May 9th, 2020 as Drinking Water Week (Scott Schladweiler)

Attachments

Drinking Water Week Proclamation

PROCLAMATION

DRINKING WATER WEEK

WHEREAS, water is our most valuable natural resource; and

WHEREAS, only tap water delivers public health protection, fire protection, support for our economy, and the quality of life we enjoy; and

WHEREAS, any measure of a successful society – low mortality rates, economic growth and diversity, productivity, and public safety – are in some way related to access to safe water; and

WHEREAS, we are all stewards of the water infrastructure upon which future generations depend; and

WHEREAS, Marana Water provides public drinking water to a range of places, including schools, parks, local businesses, places of worship, healthcare facilities, and customer's homes; and

WHEREAS, each citizen of the Town is called upon to help protect our source waters from pollution, to practice water conservation, and to get involved in local water issues by getting to know their water;

NOW, THEREFORE, be it resolved, the Mayor and Council of the Town of Marana hereby proclaim May 3rd through May 9th, 2020 as

DRINKING WATER WEEK

and call upon all citizens and civic organizations to familiarize themselves with the facets involved surrounding this precious resource including providing safe, reliable drinking water, and to recognize the contributions that all water professionals make to maintain the water systems required to sustain the comfort, health, and well-being of our community.

Dated this 5th day of May, 2020.

ATTEST:

_____ _____

Cherry L. Lawson, Town Clerk Ed Honea, Mayor

Council-Regular Meeting **P2**

Meeting Date: 05/05/2020

From: Cherry L. Lawson, Town Clerk

Date: May 5, 2020

Subject: Proclamation declaring May 2020 as Building Safety Month (Cherry L. Lawson)

Attachments

2020 Building Safety Month Proclamation

PROCLAMATION

BUILDING SAFETY MONTH — MAY, 2020

WHEREAS, the Town of Marana is committed to recognizing that our growth and strength depend on the safety and economic value of the homes, buildings, and infrastructure that serve our citizens both in everyday life and in times of natural disaster; and

WHEREAS, "Safer Buildings, Safer Communities, Safer World," the theme for Building Safety Month 2020, encourages all Americans to raise awareness about the importance of safe and resilient construction, fire prevention, disaster mitigation, and new technologies in the construction industry. Building Safety Month 2020 encourages appropriate steps everyone can take to ensure the safety of our built environment, and recognizes that the implementation of safety codes by local and state agencies has saved lives and protected homes and businesses; and

WHEREAS, our confidence in the structural integrity of these buildings that make up our community is achieved through the devotion of vigilant guardians — building safety and fire prevention officials, architects, engineers, builders, tradespeople, design professionals, laborers, plumbers, and others in the construction industry — who work year-round to ensure the safe construction of buildings; and

WHEREAS, these guardians are dedicated members of the International Code Council, a nonprofit that brings together local, state, and federal officials that are experts in the built environment to create and implement the highest-quality codes to protect us in the buildings where we live, learn, work, and play; and

WHEREAS, Building Safety Month is sponsored by the International Code Council to remind the public about the critical role of our communities' largely unknown protectors of public safety — our local code officials — who assure us of safe, efficient, and livable buildings that are essential to America's prosperity;

NOW, THEREFORE, be it resolved, the Mayor and Council of the Town of Marana, Pima County, Arizona, do hereby proclaim

May 2020 as Building Safety Month

and encourage our citizens to join with their community to participate in Building Safety month activities.

Dated this 5th day of May, 2020.

ATTEST: _____ _____

Cherry L. Lawson, Town Clerk Ed Honea, Mayor

Council-Regular Meeting **C1**

Meeting Date: 05/05/2020

To: Mayor and Council

Submitted For: Keith Brann, Town Engineer

From: Gus Myers, Development Engineering Manager

Date: May 5, 2020

Strategic Plan Focus Area:
Not Applicable

Subject: Resolution No. 2020-033: Relating to development; approving a release of assurances for Saguaro Bloom Block 2 and accepting public improvements for maintenance (Keith Brann)

Discussion:

Saguaro Bloom Block 2 is a 54 acre subdivision located north of Twin Peaks Road and west of Saguaro Highlands Drive, containing lots 1-170, and common areas "A" and "B", and is recorded at the Pima County Recorder's Office at Sequence Number 20181100149.

The Town has an assurance agreement assuring the completion of the public improvement. The subdivider has completed the public improvements including paved streets, a sanitary sewer conveyance, and a potable water system, acceptable to Town standards in accordance with the assurance agreement.

The subdivider has completed construction of the improvements to the satisfaction of the Town.

Staff Recommendation:

Staff recommends the adoption of the resolution.

Suggested Motion:

I move to adopt Resolution No. 2020-033, approving a release of assurances for Saguaro Bloom Block 2 and accepting public improvements for maintenance.

Attachments

Resolution No. 2020-033
Exhibit A

MARANA RESOLUTION NO. 2020-033

RELATING TO DEVELOPMENT; APPROVING A RELEASE OF ASSURANCES FOR SAGUARO BLOOM BLOCK 2 AND ACCEPTING PUBLIC IMPROVEMENTS FOR MAINTENANCE

WHEREAS the final plat for 'Saguaro Bloom Block 2 Lots 1—170, Amenity Building Site, Common Area "A" (Open Space, Recreation, Public Utilities, Road Maintenance & Signage) & Common Area "B" (Open Space, Drainage, Recreation, Public Utilities, Road Maintenance & Signage)' ("Saguaro Bloom Block 2") was recorded in the Pima County Recorder's office on 20 April 2018 at Sequence 20181100149; and

WHEREAS the Town has a third party trust assurance agreement (the "Assurance Agreement") with D.R. Horton, Inc. (the "Subdivider") and Title Security Agency, LLC, under Trust No. 201434-T, recorded in the Pima County Recorder's office on 20 April 2018 at Sequence 20181100151, assuring the completion of public improvements for Saguaro Bloom Block 2; and

WHEREAS the Subdivider has completed the public improvements for Saguaro Bloom Block 2 acceptable to Town standards in accordance with the Assurance Agreement.

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

Section 1. The Assurance Agreement is hereby released.

Section 2. The Town accepts for maintenance, including maintenance of regulatory traffic control and street signs, approximately 1.80 miles of the following paved streets as shown on the plat of Saguaro Bloom Block 2:

- Gambel Oak Lane
- Lone Cougar Way
- Sonoran Mallow Court
- Buckley Yucca Drive
- Desert Bighorn Trail
- Spider Agave Road
- Wild Spring Drive
- Ruschia Avenue
- Texas Ebony Lane

- Spanish Dagger Drive
- Mojave Sage Avenue
- Swift Fox Place

Section 3. The Town accepts for maintenance the potable water system serving Saguaro Bloom Block 2, consisting of approximately 9,354 linear feet of potable water line, water meters, valves, fire hydrants and appurtenances with an estimated value of $666,021.

Section 4. The Town accepts for maintenance the sanitary sewer system serving Saguaro Bloom Block 2, consisting of approximately 9,456 linear feet of conveyance system and appurtenances with an estimated value of $675,484.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 5th day of May, 2020.

_____
Mayor Ed Honea

ATTEST:

_____
Cherry L. Lawson, Town Clerk

APPROVED AS TO FORM:

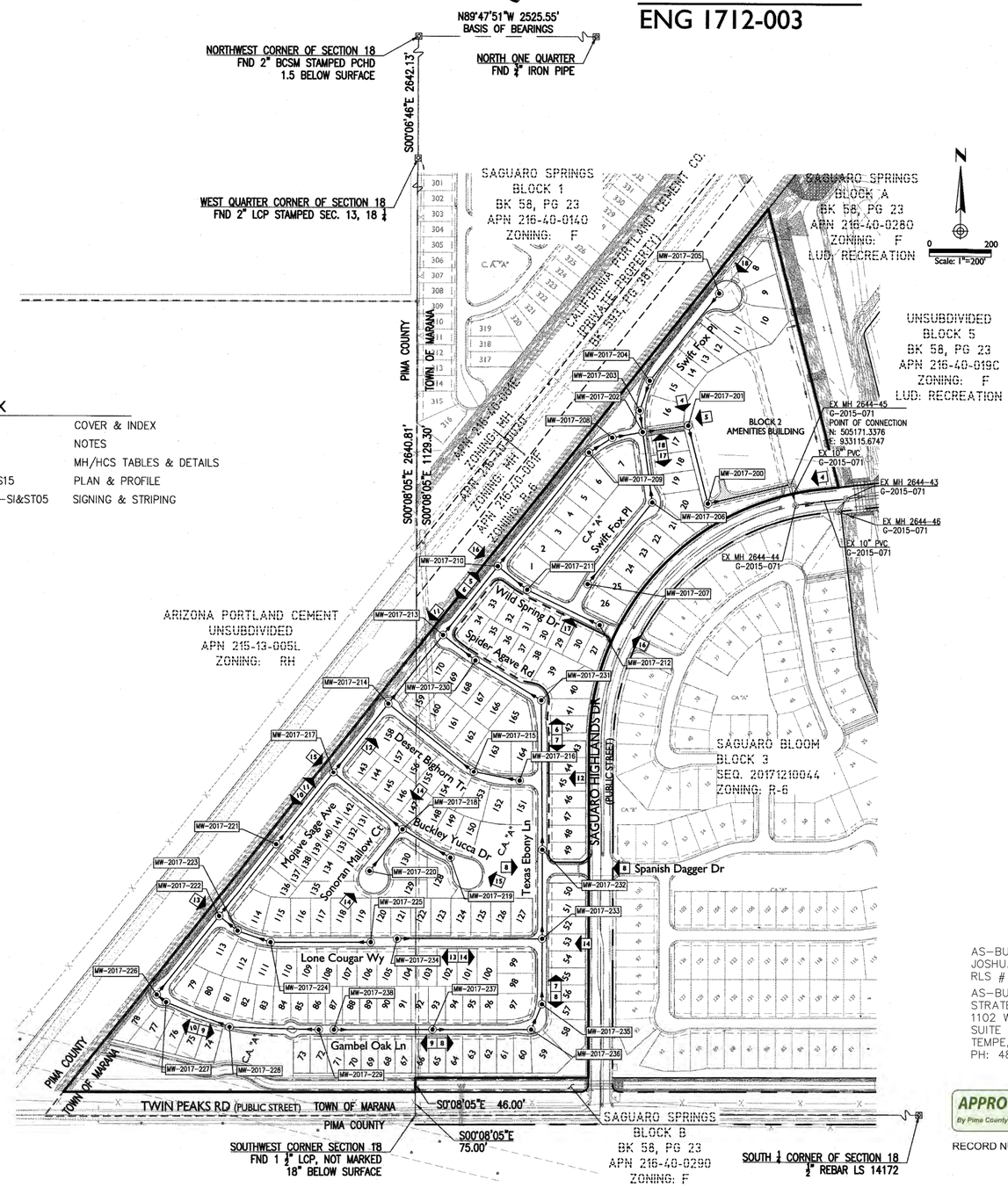
_____
Frank Cassidy, Town Attorney

Public Paving and Public Sewer Improvement Plan for Saguaro Bloom Block 2

Lots 1-170, Amenity Building Site, Common Area "A" (Open Space, Recreation, Public Utilities, Road Maintenance & Signage), Common Area "B" (Open Space, Drainage, Recreation, Public Utilities, Road Maintenance & Signage)

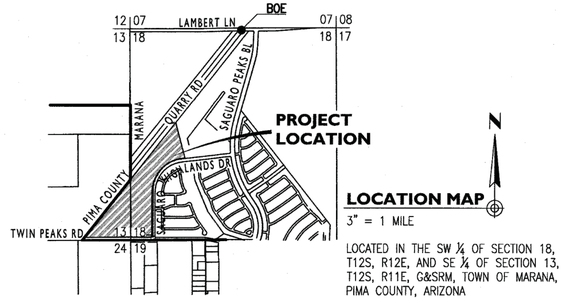
SEQUENCE # ENG 1712-003

16-042.4



SHEET INDEX

1	CS01	COVER & INDEX
2	GN01	NOTES
3	GN02	MH/HCS TABLES & DETAILS
4 – 18	SS01–SS15	PLAN & PROFILE
19 – 23	SI&ST01–SI&ST05	SIGNING & STRIPING



LOCATED IN THE SW ¼ OF SECTION 18, T12S, R12E, AND SE ¼ OF SECTION 13, T12S, R11E, G&SRM, TOWN OF MARANA, PIMA COUNTY, ARIZONA

LEGEND

EXISTING		PROPOSED
	POLITICAL BOUNDARY	
	PROJECT BOUNDARY	
	RIGHT-OF-WAY CENTERLINE	
	RIGHT-OF-WAY	
	PROPERTY	
	EASEMENT	
	VEHICULAR ACCESS ESMT	
	100 YR FLOODPLAIN	
	EDGE OF PAVEMENT / CURB	
8"W	WATER	8"W
	AIR RELEASE VALVE	Ⓐ
	IRRIGATION SLEEVE	
10"S	SEWER	
	CONCRETE COLLAR	
SD	STORM DRAIN	SD
OHE	ELECTRIC	
	SURVEY MONUMENT	
2265	MAJOR CONTOUR	
	MINOR CONTOUR	
ENG	EROSION HAZARD SETBACK	
HCS C.O.	HOUSE CONNECTION SEWER CLEAN OUT	HCS C.O.
	MATCH-LINE	
	BENCH MARK	
	STABILIZED SURFACE	

LOTS REQUIRING BACKWATER VALVES

PRIVATE BACKWATER VALVES ARE REQUIRED WHEN THE FINISHED FLOOR ELEVATION IS 1' OR LESS ABOVE THE RIM ELEVATION OF THE FIRST UPSTREAM MANHOLE OR CLEANOUT. THE FOLLOWING LOTS WILL REQUIRE BACKWATER VALVES:

2–6, 17–18, 29–31, 36, 41–46, 49–50, 54, 60–63, 66–68, 72–73, 75–77, 79–80, 82–84, 90–92, 95–96, 100–102, 108–110, 115–118, 124–127, 131, 136–137, 141–145, 148, 156–161, 168.

BASIS OF BEARING

NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 18, TOWNSHIP 12 SOUTH, RANGE 12 EAST, AS SHOWN ON THE FINAL PLAT OF SAGUARO SPRINGS, BLOCK 1 THRU 10 AND A THRU D AND LOTS 1 THRU 9 AND A AND B, AS RECORDED IN BOOK 58 OF MAPS AND PLATS, PAGE 23, SAID BEARING BEING N89°47'51"E.

BASIS OF ELEVATION

PIMA COUNTY/CITY OF TUCSON DOT GEODETIC CONTROL POINT "J03", A PK NAIL IN ASPHALT IN LAMBERT LANE, EAST OF PORTLAND AVENUE, SAID ELEVATION BEING 2084.52 (NAVD88).

ADMINISTRATIVE ADDRESS:

9324 W. TWIN PEAKS RD.

OWNER/DEVELOPER:

D.R. HORTON, ARIZONA
3580 WEST INA ROAD, STE 100
TUCSON, AZ 85741
ATTN: BRENT DAVIS
PH: (520) 790-6005
E: BTDAVIS@DRHORTON.COM

ENGINEER:

EPS GROUP
8710 NORTH THORNYDALE ROAD, STE 140
TUCSON, AZ 85742
ATTN: FRANCIS HEMMAH
PH: (520) 408-1400
E: FRANCIS.HEMMAH@EPSGROUPINC.COM

APPROVED:

TOWN OF MARANA WATER DEPARTMENT — DATE 2-16-18

TOWN OF MARANA PLANNING DEPARTMENT — DATE 2-20-18

TOWN OF MARANA TOWN ENGINEER/DEVELOPMENT ENGINEER — DATE 2-20-18

AS-BUILT WERE DONE BY
JOSHUA S. MOYSES
RLS # 47373

AS-BUILTS PREPARED BY
STRATEGIC SURVEYING, LLC
1102 WEST SOUTHERN AVE.
SUITE 4
TEMPE, AZ 85282
PH: 480-272-7634

REGISTERED LAND SURVEYOR — CERTIFICATE NO. 47373 — JOSHUA S. MOYSES — 06-20-18 — ARIZONA, U.S.A. — EXPIRES 03/31/20

APPROVED
By Pima County Development Services at 11:20 am, Mar 08, 2018

RECORD NUMBER: P18SD00023

AS-BUILT CERTIFICATION:
I HEREBY CERTIFY THAT THE "AS-BUILT" ANNOTATIONS PROVIDED ON THIS DRAWING WERE BASED ON AN AS-BUILT SURVEY CONDUCTED UNDER MY SUPERVISION AND ACCURATELY DEPICTS EXISTING FIELD CONDITIONS TO THE BEST OF MY KNOWLEDGE AND BELIEF.

JOSHUA S. MOYSES — REGISTERED LAND SURVEYOR — 6-20-18 DATE

47373 — REGISTRATION NUMBER — 3-31-20 EXPIRES

S-2017-010
PRV1708-001
ENG1712-003

AS-BUILT COPY

EPS GROUP
8710 N. Thornydale Rd. Suite 140
Tucson, AZ 85742
T:520.408.1400 | F:520.408.1403
www.epsgroupinc.com

Public Improvement Plans
Saguaro Bloom Block 2, Lots 1-170 Common Areas "A", & "B"
Marana, Arizona

Public Paving and Public Sewer Plan

Revisions:

Call at least two full working days before you begin excavation.
ARIZONA 811
Arizona Blue Stake, Inc.
Dial 8-1-1 or 1-800-STAKE-IT (782-5348)
In Maricopa County: (602)263-1100

Designer: FAH 02/18
Drawn by: TAA 02/18

Registered Professional Engineer (Civil)
CERTIFICATE NO.
52508
FRANCIS ALLEN HEMMAH
Date Signed 02/16/18
ARIZONA, U.S.A.
Expires 09/30/20

Job No.
16-042.4

CS01

Sheet No.
1
of 23

Council-Regular Meeting **C2**

Meeting Date: 05/05/2020

To: Mayor and Council

From: Kristin Taft, Grants Manager

Date: May 5, 2020

Strategic Plan Focus Area:
Community

Subject: Resolution No. 2020-034: Relating to the Police Department; approving and authorizing the Town Manager to execute a High Intensity Drug Trafficking Area (HIDTA) grant agreement between the City of Tucson (COT) and the Town of Marana to receive funding under COT Grant Number HT-20-2930 (Kristin Taft)

Discussion:

For the 14th consecutive year, the Town of Marana has been awarded grant funding to participate with the Pima County/Tucson Metro Counter Narcotics Alliance (CNA). Funding for this program comes from the federal Anti-Drug Abuse Act of 1998 and the Office of National Drug Control Policy (ONDCP) Reauthorization Act of 1998.

These legislative acts authorized the Director of ONDCP to designate areas within the United States which exhibit serious drug trafficking problems and harmfully impact other areas of the country as High Intensity Drug Trafficking Areas (HIDTA). The HIDTA Program provides federal resources to those areas to help eliminate or reduce drug trafficking and its harmful consequences. Law enforcement organizations within HIDTAs assess drug trafficking problems including transportation, distribution, and chronic use of illegal drugs and money laundering.

In Southern Arizona, the HIDTA Program helps improve the effectiveness and efficiency of drug control efforts by facilitating cooperation between law enforcement agencies, supplying resources, coordinating information sharing, and implementing joint initiatives. The City of Tucson (COT) administers grant funding for these activities.

A Marana Police Officer will be tasked to a grant-funded position under the HIDTA Program. The attached grant agreement provides the terms and conditions for the Marana Police Department in the HIDTA Program. Under the grant agreement, the

Town of Marana will be reimbursed salary, other employee-related expenses, and overtime up to $135,256 for services provided in coordination with CNA and funded under the HIDTA Program. The term of the grant agreement is 24 months, from January 1, 2020 to December 31, 2021.

The grant funded position will be included in the 2020-2021 budget. The Town is not required to provide match funding under this award. This award funds salary expense, employee related expenses and overtime at $135,256.

Financial Impact:

Fiscal Year:	2021
Budgeted Y/N:	Y
Amount:	$135,256

Staff Recommendation:

Staff recommends approval of the Grant Agreement with the City of Tucson to receive funds under the High Intensity Drug Trafficking Areas Program.

Suggested Motion:

I move to adopt Resolution No. 2020-034; approving and authorizing the Town Manager to execute a High Intensity Drug Trafficking Area (HIDTA) grant agreement between the City of Tucson and the Town of Marana to receive funding under COT Grant Number HT-20-2930.

Attachments

Resolution No. 2020-034

Grant Agreement

MARANA RESOLUTION NO. 2020-034

RELATING TO THE POLICE DEPARTMENT; APPROVING AND AUTHORIZING THE TOWN MANAGER TO EXECUTE A HIGH INTENSITY DRUG TRAFFICKING AREA (HIDTA) GRANT AGREEMENT BETWEEN THE CITY OF TUCSON (COT) AND THE TOWN OF MARANA TO RECEIVE FUNDING UNDER COT GRANT NUMBER HT-20-2930

WHEREAS the Anti-Drug Abuse Act of 1988 and the National Drug Control Policy Reauthorization Act of 1998 authorized the Director of the Office of National Drug Control Policy to designate areas within the United States which exhibit serious drug trafficking problems as High Intensity Drug Trafficking Areas (HIDTA); and

WHEREAS the Southern Arizona Counties of Cochise, La Paz, Maricopa, Mohave, Pima, Pinal, Santa Cruz, and Yuma are designated target areas under the HIDTA Program; and

WHEREAS the HIDTA Program provides federal funding to designated HIDTA areas to help eliminate or reduce drug trafficking and its harmful consequences; and

WHEREAS the City of Tucson has been awarded funding to coordinate efforts and administer grants in the Southern Arizona Region on behalf of the Office of National Drug Control Policy under the HIDTA Program; and

WHEREAS upon execution of a grant agreement, the City of Tucson will award grant funding to the Town of Marana to reimburse salary and employee-related expenses for a Marana Police Department officer for services provided in coordination with the Pima County/Tucson Metro Counter Narcotics Alliance (CNA) funded under the HIDTA Program between January 1, 2020 and December 31, 2021; and

WHEREAS the Mayor and Council of the Town of Marana find it is in the best interests of its citizens to enter into this grant agreement.

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

SECTION 1. The grant agreement between the Town of Marana and the City of Tucson attached to and incorporated by this reference in this resolution as Exhibit A is hereby approved, and the Town Manager is hereby authorized and directed 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 grant agreement.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 5th day of May, 2020.

Mayor Ed Honea

ATTEST:

Cherry L. Lawson, Town Clerk

APPROVED AS TO FORM:

Frank Cassidy, Town Attorney

CITY OF TUCSON
HIGH INTENSITY DRUG TRAFFICKING AREA (HIDTA) PROGRAM
GRANT AGREEMENT CFDA NUMBER: 95.001

AWARD NUMBER (FAIN): **G20SA0007A** COT Grant Number **HT-20-2930**

This Grant Agreement is made this **1ST day of January 2020** by and between the CITY OF TUCSON hereinafter called "CITY" and **GOVERNING BODY**, through **Marana Police Department** hereinafter called "GRANTEE". The CITY enters into this Agreement pursuant to its authority under the provisions of A.R.S. § 11-951, et seq., and the City of Tucson's Resolution number 21460, having satisfied itself as to the qualification of GRANTEE.

NOW, THEREFORE, it is agreed between the parties as follows:

1. This Agreement will commence on **January 1, 2020** and terminate on **December 31, 2021**. This Agreement expires at the end of the award period unless prior written approval for an extension has been obtained from the CITY. A request for extension must be received by the CITY sixty (60) days prior to the end of the award period. The CITY may approve an extension that further the goals and objectives of the program and shall determine the length of any extension within Office of National Drug Control Policy (ONDCP) guidelines.

2. The GRANTEE agrees that grant funds will be used for the **Counter Narcotics Alliance (CNA).**

3. The CITY will monitor the performance of the GRANTEE against goals and performance standards outlined in the grant application. Sub-standard performance as determined by the CITY will constitute non-compliance with this Agreement. The GRANTEE shall operate in a manner consistent with and in compliance with the provisions and stipulations of the approved grant application and this Agreement. If the CITY finds non-compliance, the GRANTEE will receive a written notice that identifies the area of non-compliance, and the appropriate corrective action to be taken. If the GRANTEE does not respond within thirty calendar days to this notice, and does not provide sufficient information concerning the steps that are being taken to correct the problem, the CITY may suspend funding; permanently terminate this Agreement and/or revoke the grant; Any deviation or failure to comply with the purpose and/or conditions of this Agreement without prior written CITY approval may constitute sufficient reason for the CITY to terminate this Agreement; revoke the grant; require the return of all unspent funds, perform an audit of expended funds; and require the return of any previously spent funds which are deemed to have been spent in violation of the purpose or conditions of this grant.

4. This Agreement may be modified only by a written amendment signed by the parties. Any notice given pursuant to this Agreement shall be in writing and shall be considered to have been given when actually received by the following addressee or their agents or employees:

   A. If to the City of Tucson:

City of Tucson
ATTN: Business Services
Police Satellite Office (Finance)
Tucson Police Department
270 S. Stone Ave.
Tucson, Arizona 85701-1917

B. If to the GRANTEE:

Marana Police Department
Town of Marana
11555 W. Civic Center Drive
Marana, AZ 85653
Attention: Jamsheed Mehta, Town Manager

5. The GRANTEE may make budget adjustments only after written notification with signature approval from Arizona HIDTA Director is provided to the CITY. A grant adjustment notice (GAN) will be issued to the GRANTEE notifying the GRANTEE of the approval. Adjustments or reprogramming of the grantee's budget in an initiative or any reprogramming between initiative and/or agencies; in any amount, require the approval of the Board, the AZ HIDTA Director, and/or the ONDCP in accordance with HIDTA Program Policy and Budget Guidance.

APPROVED LINE ITEM PROGRAM BUDGET	
Personnel:	
Salaries	**$55,005.00**
Fringe Benefits	**$8,251.00**
Overtime	**$72,000.00**
Travel	**$0.00**
Facilities	**$0.00**
Services	**$0.00**
Operating Expenses:	
Supplies	**$0.00**
Other	**$0.00**
Equipment	**$0.00**
TOTAL	**$135,256.00**
See Attached Budget Detail Sheet	

6. The GRANTEE understands that financial reports are required for reimbursement of expenditures.

7. Every payment obligation of the CITY under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the CITY. No liability shall accrue to the CITY in the event this provision is exercised, and the CITY shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

8. The GRANTEE understands that prior to the expenditure of confidential funds; an authorized official of the GRANTEE shall sign a certification indicating that he or she has read, understands, and agrees to abide by all of the conditions pertaining to confidential fund expenditures as set forth in HIDTA Program Policy and Budget Guidance Para. 6.16.2

9. The GRANTEE certifies that it will comply with Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards 2 CFR 200 as codified in 2 CFR Part 3603 and HIDTA Program Policy & Budget Guidance - January 6, 2020.
   Link: Electronic Code of Federal Regulations*:* http://www.ecfr.gov

10. The GRANTEE agrees to account for interest earned on Federal grant funds and shall remit interest earned in excess of the allowable amount as detailed in 2 CFR, Part 200, §200.305 Payment, and all unexpended grant funds to the CITY within 30 days after receipt of a written request from the CITY. The GRANTEE agrees to expend all encumbered funds within 90 days of expiration of this award.

11. The GRANTEE agrees to retain all books, account reports, files and other records, (paper and/or electronic) relating to this Agreement and the performance of this Agreement for no less than five (5) years from the last financial report submitted to the CITY. All such documents shall be subject to inspection and audit at reasonable times.

12. For the purpose of this grant, a capital expenditure is $5,000 or above. If the GRANTEE'S policy defines a capital expenditure as less than $5,000, the GRANTEE will use its own policy.

    The GRANTEE shall maintain a tracking system, in accordance with HIDTA Program Policy & Budget Guidance – January 6, 2020, Section 8, to account for all HIDTA purchased equipment, vehicles, and other items valued at $5000 or more per unit at the time of purchase. GRANTEE is encouraged to include lower cost, high-risk items, electronic devices and software, such as but not limited to digital cameras, palm pilots, and GPS devices in the tracking system.

    The GRANTEE agrees to abide by Section 8, that those using HIDTA funds to purchase equipment must maintain a current inventory of HIDTA-purchased equipment and must provide that inventory to the HIDTA Director or an ONDCP employee, and/or the CITY upon request. A 100-percent physical inventory of HIDTA-purchased equipment must be conducted at least every two years.

13. The GRANTEE agrees to follow equipment disposition policies outlined in Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards 2 CFR 200 Subpart D- Post Federal Award Requirements, §§ 310-316- Property Standards when the equipment is no longer needed for the grant program. When no longer needed for the original program, the equipment may be used in other activities supported by the Office of National Drug Control Policy.

    Link: *Electronic Code of Federal Regulations* http://www.ecfr.gov

    The GRANTEE agrees that the purchasing agency shall comply with ONDCP HIDTA Program Policy & Budget Guidance – January 6, 2020 Section 8 in determining the end of the useful life and disposition of HIDTA purchased equipment. Purchasing agencies must retain documentation of the disposition and provide to the HIDTA Director and the CITY.

14. The GRANTEE agrees to keep time and attendance sheets signed by the employee and supervisory official having first hand knowledge of the work performed by the grant funded employees. The GRANTEE agrees to track overtime expenses in accordance with ONDCP HIDTA Program Policy & Budget Guidance – January 6, 2020.

15. The GRANTEE will comply with the audit requirements of Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR 200 Subpart F- Audit Requirements and provide the CITY with the audit report and any findings within 90 days of receipt of such finding. If the report contains no findings, the GRANTEE must provide notification that the audit was completed.

    Link: *Electronic Code of Federal Regulations* http://www.ecfr.gov

16. The GRANTEE agrees that it will submit financial reports and supporting documentation to the CITY through the AZ HIDTA Finance Manager on forms/format provided by the CITY, documenting the activities supported by these grant funds. In the event reports are not received on or before the indicated date(s), funding will be suspended until such time as delinquent report(s) are received. These reports are submitted according to the following schedule:

Report Period Month of:	**Due Date:**	**Report Period Month of:**	**Due Date:**
January 1 - 31	February 25	July 1 – 31	August 25
February 1 - 29	March 25	August 1 - 31	September 25
March 1 – 30	April 25	September 1 – 30	October 25
April 1 - 30	May 25	October 1 - 31	November 25
May 1 - 31	June 25	November 1 - 30	December 25
June 1 - 30	July 25	December 1 - 31	January 25

More frequent reports may be required for GRANTEES who are considered high risk.

17. All goods and services purchased with grant funds must be received by the GRANTEE within 60 days of the expiration of this award.

18. The GRANTEE agrees to check the U.S. General Service Administration (GSA) Excluded Parties Listing Service as required by Executive Order 12549, as defined in 2 CFR 180 et. seq. for individuals, agencies, companies and corporations debarred or suspended from doing business with recipients receiving Federal funds. The GRANTEE agrees not to do business with any individual, agency, company or corporation listed in the Excluded Parties Listing Service.
    Link: *Excluded Parties Listing System* http://sam.gov

19. No funds shall be used to supplant federal, state, county or local funds that would otherwise be made available for such purposes. Supplanting means the deliberate reduction of State or local funds because of the existence of Federal funds.

20. The GRANTEE assigns to the CITY any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services applied by third parties to the GRANTEE in exchange for grant funds provided under this Agreement.

21. The parties agree to use arbitration in the event of disputes in accordance with the provisions of A.R.S. § 12-1501 et seq.

22. The laws of the State of Arizona apply to questions arising under this Agreement and any litigation regarding this Agreement must be maintained in Arizona courts, except as provided in paragraph 25 of this Agreement pertaining to disputes, which are subject to arbitration.

23. The GRANTEE understands that grant funds will not be released until all required reports and reversion of funds from the prior year grant are submitted to the CITY.

24. The GRANTEE (as "Indemnitor") agrees to indemnify, defend and hold harmless the CITY (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses, (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers. If the GRANTEE is a State agency or entity, this paragraph does not apply.

25. Unless GRANTEE's contractor or subcontractor is a State agency or entity, GRANTEE shall cause its contractor(s) and subcontractors, if any to indemnify defend, save and hold harmless the City of Tucson, any jurisdictions or agency issuing any permits for any work arising out of this Agreement, and their respective directors, officers, officials, agents, and employees from and against any and all claims, actions, liabilities, damages, losses or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of GRANTEE'S contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Worker's Compensation Law or arising out of the failure of such contractor to conform to any federal, state, or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligence or willful acts or omissions of the Indemnitee, be indemnified by such contractor from and against any and all claims. It is agreed that such contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. Insurance requirements for any contractor used by GRANTEE are incorporated herein by this reference and attached to this Agreement as Exhibit "A".

26. If the GRANTEE is a governmental political subdivision, the GRANTEE will, to the extent possible and practical share criminal justice information with other authorized criminal justice agencies. The process control number (PCN) shall be used in accordance with A.R.S. § 41-1750 when sharing data with other criminal justice agencies as electronic data systems are developed or improved.

27. The GRANTEE agrees to comply with the non-discrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended; 42 USC 3789(d); Title VI of the Civil Rights Act of 1964, as amended; Section 504, Rehabilitation Act of 1973, as amended; Subtitle A, Title II of the Americans with Disabilities Act (ADA) (1990); Title IX of the Education Amendments of 1972 and the Department of Justice regulations 28 CFR Part 54; The Age Discrimination Act of 1975; Department of Justice Non-Discrimination Regulations, 28 CFR Part 42, Subparts C, D, E, G and I; Department of Justice regulations on disability discrimination 28 CFR Part 35; all applicable state laws of A.R.S. § 41-1463; and Executive Orders 2009-09 and 2007-21. These laws prohibit discrimination on the basis of race, color, religion, sex and national origin including Limited English Proficiency (LEP) in the delivery of service. In the event that a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing against the GRANTEE, the GRANTEE will forward a copy of the findings to the Office for Civil Rights, Office of Justice Programs and the CITY.

28. The GRANTEE agrees to formulate and keep on file an Equal Employment Opportunity Plan (EEOP) (if grantee is required pursuant to 28 CFR 42.302). The GRANTEE certifies that they have forwarded to the Office for Civil Rights, Office of Justice Programs the EEOP, or certifications that they have prepared and have on file an EEOP, or that they are exempt from EEOP requirements. Failure to comply may result in suspension of the receipt of grant funds. Copies of all submissions such as certifications to or correspondence with the Office for Civil Rights, Office of Justice Programs regarding this requirement must be provided to the CITY by the GRANTEE.

29. The GRANTEE certifies to comply with the Drug-Free Workplace Act of 1988, and implemented in 2 CFR Part 182.

30. The GRANTEE agrees to complete and keep on file, as appropriate, Immigration and Naturalization Form (I-9). This form is to be used by recipients to verify that persons are eligible to work in the United States. Additionally the GRANTEE ensures compliance with Executive Order 2005-30 federal immigration laws by state employers and contractors.

31. The GRANTEE agrees to notify the Arizona HIDTA Director and provide written notification to the CITY within ten (10) days in the event that the project official is replaced during the award period.

32. No rights or interest in this Agreement shall be assigned by GRANTEE without prior written approval of the CITY.

33. The GRANTEE agrees that no funds provided, or personnel employed under this Agreement shall be in any way or to any extent engaged in conduct of political activities in violation of U.S.C. Title 5, Part II, Chapter 15, Section 1502.

34. The GRANTEE certifies that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement.

35. The Grantee certifies that no federal funds will be paid, by or on behalf of, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and for the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement. If any funds other than Federal funds are paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal award, grant loan, or cooperative agreement, the GRANTEE will complete and submit to the CITY Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions

36. This Agreement is subject to cancellation pursuant to the provision of A.R.S. § 38-511.

37. This Agreement may be cancelled at the CITY's discretion if not returned with authorized signatures to the CITY within 90 days of commencement of the award.

38. If any provision of this Agreement is held invalid the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall be in full force and effect.

39. Pursuant to resolution number 21460, adopted by Mayor and Council December 15, 2009, the Tucson Police Chief is authorized to enter into contracts and grant agreements for HIDTA operations.

40. In accordance with A.R.S. §41-4401, GRANTEE warrants compliance with E-Verify and all federal immigration laws and regulations relating to employees and warrants compliance with A.R.S. § 23-214A.

IN WITNESS WHEREOF, the parties have made and executed the Agreement the day and year first above written.

FOR GRANTEE:

Signature Date

Printed Name and Title

Note: If applicable, the Agreement must be approved by the appropriate county supervisory board or municipal council and appropriate local counsel (i.e. county or city attorney). Furthermore, if applicable, resolutions and meeting minutes must be forwarded to the CITY with the signed Agreement.

Approved as to form and authority to enter into Agreement:

Legal counsel for GRANTEE Date

Printed Name and Title

INDICATE STATUTORY OR OTHER LEGAL AUTHORITY TO ENTER AGREEMENT BELOW:

Appropriate A.R.S., ordinance, or charter reference

FOR CITY OF TUCSON:

Chris Magnus, Chief of Police Date
City of Tucson Police Department

Principal Assistant City Attorney Date
City of Tucson Police Department
Approved as to form

CITY OF TUCSON
GRANT AGREEMENT

Insurance Requirements
Exhibit "A"

***Insurance Requirements* for Governmental Parties to a Grant Agreement:**

None.

***Insurance Requirements* for Any Contractors Used by a Party to the Grant Agreement:**

(Note: this applies only to Contractors used by a governmental entity, not to the governmental entity itself.) The *insurance requirements* herein are minimum requirements and in no way limit the indemnity covenants contained in the Intergovernmental Agreement. The City of Tucson in no way warrants that the minimum limits contained herein are sufficient to protect the governmental entity or Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, his agents, representatives, employees or subcontractors, and Contractor and the governmental entity are free to purchase additional insurance.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage with limits of liability not less than those stated below.

1. **Commercial General Liability – Occurrence Form**
   Policy shall include bodily injury, property damage, personal injury and broad form contractual liability.
   - General Aggregate $2,000,000
   - Products – Completed Operations Aggregate $1,000,000
   - Personal and Advertising Injury $1,000,000
   - Blanket Contractual Liability – Written and Oral $1,000,000
   - Fire Legal Liability $50,000
   - Each Occurrence $1,000,000

   a. The policy shall be endorsed to include the following additional insured language: ***"The City of Tucson, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor".***

   (Note that the other governmental entity(ies) is/are also required to be additional insured(s) and they should supply the Contractor with their own list of persons to be insured.)

   b. Policy shall contain a waiver of subrogation against the City of Tucson, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

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

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

   a. The policy shall be endorsed to include the following additional insured language: ***"The City of Tucson, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insured with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor".***

      (Note that the other governmental entity(ies) is/are also required to be additional insured(s) and they should supply the Contractor with their own list of persons to be insured.)

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

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	$500,000
Disease – Each Employee	$500,000
Disease – Policy Limit	$1,000,000

   a. Policy shall contain a waiver of subrogation against the City of Tucson, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

   b. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

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

1. The City of Tucson, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees *and the other governmental entity* shall be additional insureds to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by the Contract.
2. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.
3. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of its Contract with the other governmental entity(ies) party to the Grant Agreement.

C. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Contract shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days prior written notice has been given the City of Tucson. Such notice shall be sent directly to the GRANTEE and shall be sent by certified mail, return receipt requested.

D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with duly licensed or approved non-admitted insurers in the State of Arizona with an "A.M. Best" rating of not less than A- VII. The City of Tucson in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

E. **VERIFICATION OF COVERAGE:** Contractor shall furnish the GRANTEE with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to the GRANTEE. The City of Tucson's project/contract number and project description are to be noted on the certificate of insurance. The City of Tucson reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time**. DO NOT SEND CERTIFICATES OF INSURANCE TO THE CITY OF TUCSON'S RISK MANAGEMENT SECTION.**

F. **SUBCONTRACTORS:** Contractor's certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall furnish to the county or local government agency responsible separate certificates for each subcontractor. All coverage's for subcontractors shall be subject to the minimum requirements identified above.

G. **APPROVAL:** Any modification or variation from the *insurance requirements* must have prior approval from the City of Tucson, Risk Management Section, whose decision shall be final. Such action will not require a formal contract amendment, but may be made by administrative action.

H. **EXCEPTIONS:** In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are a City of Tucson agency, board, commission, or university then none of the above shall apply.

CITY OF TUCSON
HIGH INTENSITY DRUG TRAFFICKING AREA (HIDTA)
GRANT AGREEMENT

Confidential Funds Certification
Exhibit "B"

CONFIDENTIAL FUNDS CERTIFICATION

1) This is to certify that I have read, understand, and agree to abide by all of the conditions for confidential funds as set forth in the effective edition of the Office of National Drug Control Policy Financial and Administrative Guide.

2) My agency **is/ is not** authorized to disburse confidential funds.

Grant Number: **HT-20-2930**

Date: _____ Signature: _____
Authorized Official

PROCEDURES

Each project agency authorized to disburse confidential funds must develop and follow internal procedures, which incorporate the following elements:

Deviations from these elements must receive prior approval of the ONDCP.

1. Imprest Fund. The funds authorized will be established in an imprest fund, which is controlled by a bonded cashier.

2. Advance of Funds: The supervisor of the unit to which the imprest funds is assigned must authorize all advances of funds for the P/I. Such authorization must specify the information to be received, the amount of expenditures, and assumed name of the informant.

3. Informant Files: Informant files are confidential files of the true names, assumed names, and signature of all informants to whom payments of confidential expenditures have been made. To the extent possible, pictures and/or fingerprints of the informant payee should also be maintained. Refer to Informant Files "Documentation" (2) for a list of required documents for the informant files.

4. Cash Receipts.
   a. The cashier shall receive from the agent or officer authorized to make a confidential payment, receipt for cash advanced to him/her for such purposes.
   b. The agent or officer shall receive from the informant payee a receipt for cash paid to him/her.

5. Receipts for Purchase of Information. An Informant Payee Receipt shall identify the exact amount paid to and received by the informant payee on the date executed. Cumulative or anticipatory receipts are not permitted. Once the receipt has been completed no alteration is allowed. The agent shall prepare an Informant Payee Receipt containing the following information:

a. The jurisdiction initiating the payment.
b. A description of the information/evidence received.
c. The amount of payment, both in numeral and word form.
d. The date on which the payment was made.
e. The signature of the informant payee.
f. The signature of the case agent or officer making payment.
g. The signature of at least one other officer witnessing the payment.
h. The signature of the first-line supervisor authorizing and certifying the payment.

6. Review and Certification. The signed Informant Payee Receipt with a memorandum detailing the information received shall be forwarded to the agent or officer in charge. The agent or officer in charge shall compare the signatures. He/she shall also evaluate the information received in relation to the expense incurred, and add his/her evaluation remarks to the report of the agent or officer who made the expenditure from the imprest funds. The certification will be witnessed by the agent or officer in charge on the basis of the report and Informant Payee's Receipt.

7. Reporting of Funds. Each project shall prepare a reconciliation report on the imprest funds on a quarterly basis. Information to be included in the reconciliation report will be the assumed name of the informant payee, the amount received, the nature of the information given, and to what extent this information contributed to the investigation. Recipients/subrecipients shall retain the reconciliation report in their files and shall be available for review unless the State agency requests that the report be submitted to them on a quarterly basis.

8. Record and Audit Provisions. Each project and member agency must maintain specific records of each confidential fund transaction. At a minimum, these records must consist of all documentation concerning the request for funds, processing (to include the review and approve/disapprove), modifications, closure or impact material, and receipts and/or other documentation necessary to justify and track all expenditures. Refer to Informant Files Documentation (2) for a list of documents, which should be in an informant's file. In projects where funds are used for confidential expenditures, it will be understood that all of the above records, except the true name of the informant, are subject to the record and audit provision of grantor agency legislation.

INFORMANT FILES

1. Security. A separate file should be established for each informant for accounting purposes. Informant files should be kept in a separate and secure storage facility, segregated from any other files, and under the exclusive control of the supervisor or an employee designated by him/her. The facility should be locked at all times when unattended. Access to these files should be limited to those employees who have a necessary legitimate need. An informant file should not leave the immediate area except for review by a management official or the handling agent, and should be returned prior to the close of business hours. Sign-out logs should be kept indicating the date, informant number, time in and out, and the signature of the person reviewing the file.

2. Documentation. Each file should include the following information:

a. Informant Payment Record - kept on top of the file. This record provides a summary of informant payments.
b. Informant Establishment Record - including complete identifying and location data, plus any other documents connected with the informant's establishment.
c. Current photograph and fingerprint card (or FBI/State Criminal Identification Number).
d. Agreement with cooperating individual.
e. Receipt for P/I.
f. Copies of all debriefing reports (except for the Headquarters case file).
g. Copies of case initiation reports bearing on the utilization of the informant (except for the Headquarters case file).
h. Copies of statements signed by the informant (unsigned copies will be placed in appropriate investigative files).
i. Any administrative correspondence pertaining to the informant, including documentation of any representations made on his behalf or any other nonmonetary considerations furnished.
j. Any deactivation report or declaration of any unsatisfactory informant.

INFORMANT MANAGEMENT AND UTILIZATION

All persons who will be utilized as informants should be established as such. The specific procedures required in establishing a person as an informant may vary from jurisdiction to jurisdiction but, at a minimum, should include the following:

1. Assignment of an informant code name to protect the informant's identity.

2. An informant code book controlled by the supervisor or his/her designee containing:

a. Informant's code number.
b. Type of information (i.e. informant, defendant/informant, restricted use/informant).
c. Informant's true name.
d. Name of establishing law enforcement officer.
e. Date the establishment is approved.
f. Date of deactivation.

3. Establish each informant file in accordance with Informant File Documentation (2).

4. For each informant in an active status, the agent should review the informant file on a quarterly basis to assure it contains all relevant and current information. Where a MATERIAL face that was earlier reported on the Establishment Record is no longer correct (e.g. a change in criminal status, means of locating him/her, etc.), a supplemental establishing report should be submitted with the correct entry.

5. All informants being established should be checked in all available criminal indices. If verified FBI number is available, request a copy of the criminal records from the FBI. Where a verified FBI number is not available, the informant should be fingerprinted with a copy sent to the FBI and appropriate State authorities for analysis. The informant may be utilized on a provisional basis while awaiting a response from the FBI.

PAYMENTS TO INFORMANTS

1. Any person who is to receive payments charged against PE/PI funds should be established as an informant. This includes a person who may otherwise be categorized as sources of information or informants under the control of another agency. The amount of payment should be commensurate with the value of services and/or information provided and should be based on the following factors:

a. The level of the targeted individual, organization or operation.
b. The amount of the actual or potential seizure.
c. The significance of the contribution made by the informant to the desired objectives.

2. There are various circumstances in which payments to informants may be made.

a. Payments for Information and/or Active Participation. When an informant assists in developing an investigation, either through supplying information or actively participating in it, he/she may be paid for his/her service either in a lump sum or in staggered payments. Payments for information leading to a seizure, with no defendants, should be held to a minimum.

b. Payment for Informant Protection. When an informant needs protection, law enforcement agencies may absorb the expenses of relocation. These expenses may include travel for the informant and his/her immediate family, movement and/or storage of household goods, and living expense at the new location for a specific period of time (not to exceed 6 months). Payments should not exceed the amounts authorized by law enforcement employees for these activities.

c. Payments to Informants of Another Agency. To use or pay another agency's informant, he/she should be established as an informant. These payments should not be a duplication of a payment from another agency; however, sharing a payment is acceptable.

3. Documentation of payments to informants is critical and should be accomplished on a Informant Payee Receipt. Payment should be made and witnessed by two law enforcement officers and authorized payment amounts should be established and reviewed by at least the first line supervisory level. In unusual circumstances, a non-officer employee or an officer of another law enforcement agency may serve as witness. In all instances, the original signed receipt must be submitted to the project director for review and record keeping.

ACCOUNTING AND CONTROL PROCEDURES

Special accounting and control procedures should govern the use and handling of confidential expenditures, as described below:

1. It is important that expenditures which conceptually should be charged to PE/PI/PS are so charged. It is only in this manner that these funds may be properly managed at all levels, and accurate forecasts of projected needs be made.

2. Each law enforcement entity should apportion its PE/PI/PS allowance throughout its jurisdiction and delegate authority to approve PE/PI/PS expenditures to those offices, as it deems appropriate.

3. Headquarters management should establish guidelines authorizing offices to spend up to a predetermined limit of their total allowance on any buy or investigation.

4. In exercising his/her authority to approve these expenditures, the supervisor should consider:
   a. The significance of the investigation.
   b. The need for this expenditure to further the investigation.
   c. Anticipated expenditures in other investigations.

Funds for PE/PI/PS expenditures should be advanced to the officer for a specific purpose. If they are not expended for that purpose, they should be returned to the cashier. They should not be used for another purpose without first returning them and repeating the authorization and advance process based on the new purpose.

5. Funds for PE/PI/PS expenditure should be advanced to the officer on suitable receipt form. Informant Payee Receipt or a voucher for P/E should be completed to document funds used in the purchase of evidence or funds paid or advanced to an informant.

6. For security purposes there should be a 48-hour limit on the amount of time funds advanced for PE/PI/PS expenditure may be held outstanding. If it becomes apparent at any point within the 48-hour period that the expenditure will not materialize, the funds should be returned to the cashier as soon as possible. An extension of the 48-hour limit may be granted by the level of management that approved the advance. Factors to consider in granting such an extension are:
    a. The amount of funds involved.
    b. The degree of security under which the funds are being held.
    c. How long an extension is required.
    d. The significance of the expenditure.

    Such extensions should be limited to 48 hours. Beyond this, the funds should be returned and readvanced, if necessary. Regardless of circumstances, within 48 hours of the advance, the cashier should be presented with either the unexpended funds, an executed Informant Payee Receipt or purchase of evidence or written notification by management that an extension has been granted.

7. P/S expenditures, when not endangering the safety of the officer or informant, need to be supported by canceled tickets, receipts, lease agreements, etc. If not available, the supervisor, or his immediate subordinate, must certify that the expenditures were necessary and justify why supporting documents were not obtained.

Council-Regular Meeting **C3**

Meeting Date: 05/05/2020

To: Mayor and Council

From: Jane Fairall, Deputy Town Attorney

Date: May 5, 2020

Strategic Plan Focus Area:
Not Applicable

Subject: Resolution No. 2020-035: Relating to Administration; authorizing the Town Manager and the Economic Development Director to sign non-disclosure agreements on behalf of the Town of Marana related to economic development activities (Jane Fairall)

Discussion:

From time to time when Town staff is engaging with businesses and companies regarding economic development activities in the Town, staff is asked to sign non-disclosure agreements (NDA) to protect and keep confidential project-specific plans and information. The proposed resolution will allow the Town Manager and the Economic Development Director to sign these agreements on behalf of the Town when certain circumstances are present, namely:

- The Town Manager or Economic Development Director finds that the benefit to the Town of continuing the economic development activity is equal to or greater than any risks associated with entering into the NDA.
- The Town Attorney or designee has reviewed the NDA and approves it as to form and substance, including making a finding that the NDA is in compliance with the Arizona public records law, as well as any other applicable laws.

Staff Recommendation:

Staff recommends approval of the resolution.

Suggested Motion:

I move to adopt Resolution No. 2020-035, authorizing the Town Manager and the Economic Development Director to sign non-disclosure agreements on behalf of the Town of Marana related to economic development activities.

Attachments

Resolution No. 2020-035

MARANA RESOLUTION NO. 2020-035

RELATING TO ADMINISTRATION; AUTHORIZING THE TOWN MANAGER AND THE ECONOMIC DEVELOPMENT DIRECTOR TO SIGN NON-DISCLOSURE AGREEMENTS ON BEHALF OF THE TOWN OF MARANA RELATED TO ECONOMIC DEVELOPMENT ACTIVITIES

WHEREAS the Town Manager's Office and the Economic Development Department engage with businesses and companies interested in economic development activities in the Town of Marana; and

WHEREAS from time to time, these companies ask Town staff to sign non-disclosure agreements (NDAs) to protect and keep confidential project-specific information and plans; and

WHEREAS it would defeat the purpose of an NDA to bring it to Council in an open meeting for approval; and

WHEREAS the Mayor and Council of the Town of Marana find that authorizing the Town Manager and the Economic Development Director to sign non-disclosure agreements related to economic development activities in certain circumstances is in the best interests of the citizens of Marana.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, that the Town Manager and the Economic Development Director are hereby authorized to sign non-disclosure agreements (NDAs) on behalf of the Town of Marana related to economic development activities in the Town under the following circumstances:

A. When the Town Manager or the Economic Development Director determine that the benefit to the Town of continuing the economic development activity addressed by the NDA is equal to or greater than any detriment or risk to the Town associated with the execution of the NDA; and

B. When the Town Attorney or designee has reviewed and approved the NDA as to form and substance, and finds that the NDA is in compliance with the Arizona public records law, A.R.S. § 39-121 *et seq.*, as well as all other applicable laws.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, this 5th day of May, 2020.

Mayor Ed Honea

ATTEST:

Cherry L. Lawson, Town Clerk

APPROVED AS TO FORM:

Frank Cassidy, Town Attorney

Council-Regular Meeting **C4**

Meeting Date: 05/05/2020

To: Mayor and Council

From: Jane Fairall, Deputy Town Attorney

Date: May 5, 2020

Strategic Plan Focus Area:
Not Applicable

Subject: Resolution No. 2020-036: Relating to Real Estate; approving and authorizing the Mayor to execute a Temporary Work Space Agreement granting El Paso Natural Gas Company, LLC a temporary construction easement on Town-owned property in Block A of Gladden Farms Block 26 (Jane Fairall)

Discussion:

El Paso Natural Gas Company, LLC (EPNG) has contacted the Town requesting the execution of a Temporary Work Space Agreement, granting a temporary construction easement (TCE) to EPNG on Town-owned property in Block A of Gladden Farms Block 26.

EPNG requests the TCE to perform maintenance work on its pipeline crossing the Gladden Farms subdivision. The pipeline maintenance work will involve excavating an area of approximately 20' x 50' at the above-ground facility near Postvale Road (on the Gladden Farms property), to expose and cut the pipeline, fill the pipeline with water, and pressure it up beyond its normal operating pressure. The purpose of doing this is to test the integrity of the pipeline walls. If EPNG discovers the need for any pipeline repairs during this testing, the crew will make such repairs on the Gladden Farms Property. EPNG expects to perform this test and complete all work within a 2-week timeframe between Monday, May 11 and Friday, June 26, 2020.

For this project, EPNG is requesting the temporary use of space outside of EPNG's easement on Gladden Farms Block A, a parcel adjacent to the ROW, and a parcel that the Town of Marana (the Town) owns (see attached Final Plat, showing the dedication of this property to the Town). A map depicting the needed space, approximately 3,750 square feet or 0.09 acres, is attached to the Temporary Work Space Agreement. EPNG

will use the Temporary Work Space (TWS) to store water tanks, for parking, and for staging materials during the project. No excavations on the property will be necessary.

The agreement requires EPNG to indemnify and hold the Town harmless for any damages or claims arising out of EPNG's use of the property. EPNG is also required to provide the Town with appropriate insurance documentation prior to use of the property. The right to use the property will begin on the day that EPNG sets up its water tanks on the property, and will continue for 60 days, unless the Town grants an extension in writing. The resolution approving the Temporary Work Space Agreement authorizes the Town Manager and staff to extend the agreement without returning to Council.

Both EPNG and Town staff contacted the developer of Gladden Farms regarding this TCE and the developer had no objection to the granting of the TCE for this project.

Staff Recommendation:

Staff recommends approval of the Temporary Work Space Agreement.

Suggested Motion:

I move to adopt Resolution No. 2020-036 approving and authorizing the Mayor to execute a Temporary Work Space Agreement granting El Paso Natural Gas Company, LLC a temporary construction easement on Town-owned property in Block A of Gladden Farms Block 26.

Attachments

Resolution No. 2020-036
Exhibit A to Resolution - Agreement
FP Gladden Farms Block 26

MARANA RESOLUTION NO. 2020-036

RELATING TO REAL ESTATE; APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A TEMPORARY WORK SPACE AGREEMENT GRANTING EL PASO NATURAL GAS COMPANY, LLC A TEMPORARY CONSTRUCTION EASEMENT ON TOWN-OWNED PROPERTY IN BLOCK A OF GLADDEN FARMS BLOCK 26

WHEREAS El Paso Natural Gas Company, LLC (EPNG) has requested a temporary construction easement (TCE) from the Town to use approximately 3,750 square feet or 0.09 acres of Town-owned property in Block A of Gladden Farms Block 26 for the sole purposes of parking vehicles, trailers and equipment, including water tanks, and for staging and storing materials during the hydro-testing of EPNG's Line 1007; and

WHEREAS the Mayor and Council of the Town of Marana find that entering into a Temporary Work Space Agreement with EPNG to grant the TCE is in the best interests of the citizens of Marana.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, that the Temporary Work Space Agreement granting El Paso Natural Gas Company, LLC a temporary construction easement on Town-owned property in Block A of Gladden Farms Block 26, attached hereto as Exhibit A and incorporated in this resolution by this reference, is hereby approved and the Mayor is authorized and directed to execute it on behalf of the Town of Marana.

BE IT FURTHER RESOLVED THAT the Town's Manager and staff are hereby directed and authorized to undertake all other and further tasks required or beneficial to carry out this resolution, including granting an extension of the Temporary Work Space Agreement if requested by EPNG and approved by Town staff.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, this 5th day of May, 2020.

_____
Mayor Ed Honea

ATTEST:

_____
Cherry L. Lawson, Town Clerk

APPROVED AS TO FORM:

_____
Frank Cassidy, Town Attorney

El Paso
Natural Gas Company
a Kinder Morgan company

Tucson Division Office
Land Department
5151 E. Broadway Blvd, Suite 1680
Tucson, Arizona 85711

TEMPORARY WORK SPACE AGREEMENT

RE: El Paso Natural Gas Company L1007 Hydrotest MP 123 to MP 140 (AFE: 415157)
Water Tank Storage & Staging Area on Parcel No. 217-54-3350 in NW¼ Sec 35, T11S, R11E

I, Ed Honea, Mayor of the Town of Marana (hereinafter called "**Town**") owner of the real property commonly known as Pima County Tax Parcel No. 217-54-3350 in the NW¼ of Section 35, within Township 11S and Range 11E (the "**Property**"); for good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, do hereby grant unto El Paso Natural Gas Company, LLC, its contractors, subcontractors, agents, and employees ("**EPNG**") the right to use a 100' x 50' x 50' x 75' area (3,750 sq.ft. or 0.09 acres) on the Property, in the location depicted on Exhibit "A," which area shall constitute the "**Temporary Work Space.**" The Temporary Work Space shall be utilized for the sole purposes of parking vehicles, trailers and equipment, including water tanks, and for staging and storing materials during the hydro-testing of EPNG's Line 1007 (the "**Pipeline**").

EPNG use of the Temporary Work Space shall begin with the first day that water tanks are set up and stored on the property, and shall expire and terminate 60 days later, unless the Town agrees in writing to extend the term of this Agreement.

EPNG shall indemnify and hold the Town harmless from any claim, damage, or expense to person or property validly claimed under state or federal law which is directly caused by the negligence of EPNG, its representatives, employees, contractors, or subcontractors in its use of the Temporary Work Space.

EPNG shall obtain and maintain during the entire term of this Agreement, Commercial General Liability insurance in the amount of $1,000,000 per occurrence, $2,000,000 aggregate. The Commercial General Liability policy shall be endorsed to name the Town as an additional insured. 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 EPNG. EPNG shall deliver one or more certificates of insurance and endorsements evidencing the described coverage to the Town upon execution of this Agreement, prior to using the Temporary Work Space.

Upon completion of construction, EPNG shall (a) restore the Temporary Work Space, to its pre-construction condition or better; (b) have no further rights in and to the Temporary Work Space; and (c) settle or correct damages to fences and/or other improvements, if any.

[Signature page follows]

ACCEPTED AND AGREED TO:

By: Ed Honea, Mayor
For the Town of Marana (Property Owner)

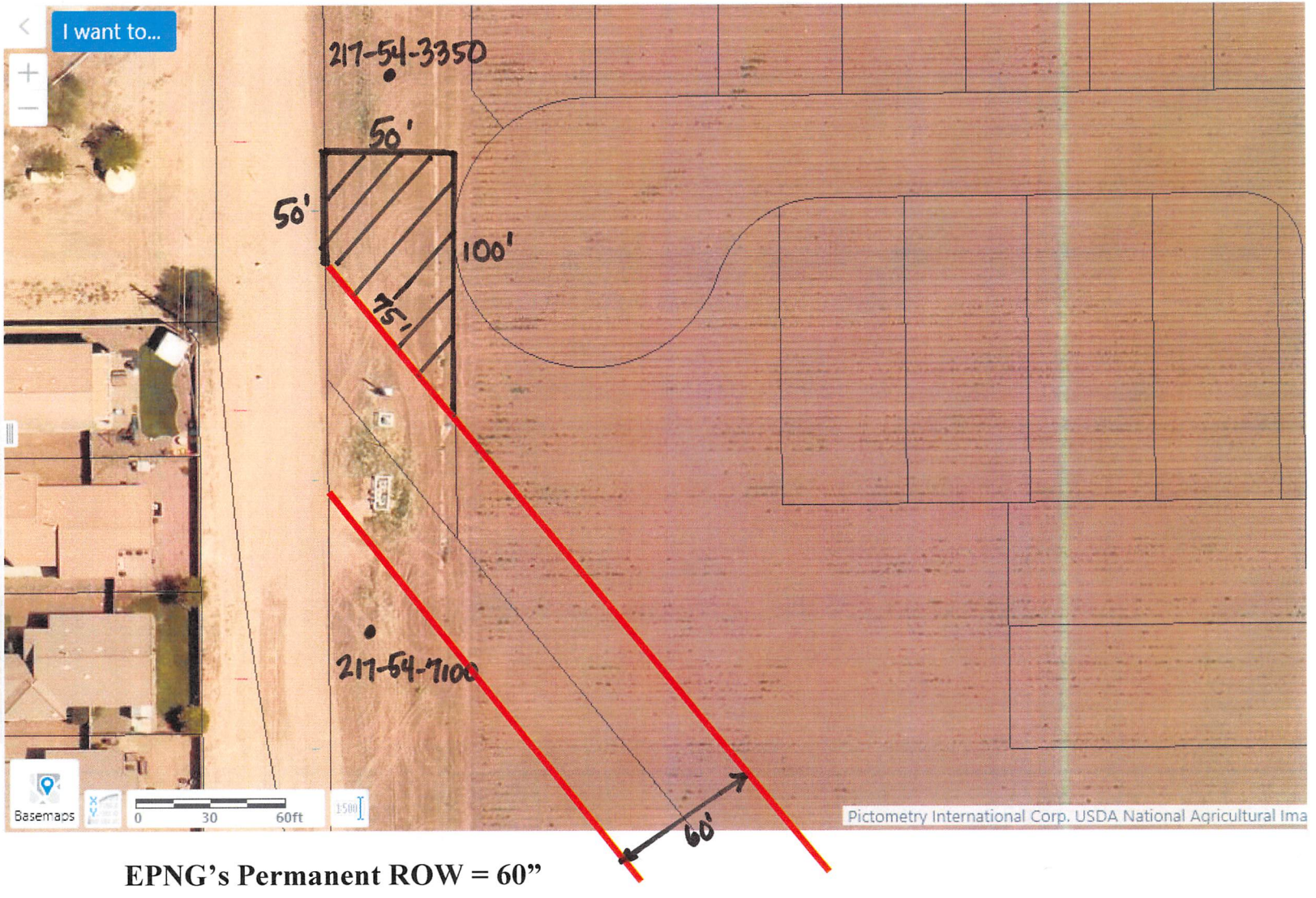
Date: _____

Kelley Sims

Kelley Sims, Senior Land Agent
El Paso Natural Gas Company, LLC (EPNG)

Date: 4/27/2020

Temporary Workspace Exhibit "A"



EPNG's Permanent ROW = 60"

Temporary Workspace = 100' x 50' x 50' x 75' (3,750 sq.ft. or 0.09 acres)

GENERAL NOTES

1. THE GROSS AREA OF THIS SUBDIVISION IS 1,072,482 SF, 24.62 AC.
RESIDENTIAL DEVELOPMENT IS 779,454 SF, 17.9 AC.

BLOCK A (LANDSCAPE/DRAINAGE/RECREATION) IS 15,263 SF, 0.35 AC.
COMMON AREA "A" (LANDSCAPE/PUBLIC AND PRIVATE UTILITIES) IS 7,278 SF, 0.17 AC.
COMMON AREA "B" (LANDSCAPE/DRAINAGE/PUBLIC AND PRIVATE UTILITIES/RECREATION) IS 270,487 SF, 6.2 AC.

2. THE TOTAL NUMBER OF RESIDENTIAL LOTS IS 96; DENSITY IS 3.9 RAC.

3. TOTAL MILES OF NEW PUBLIC STREET IS 0.70 MILES. (ALL STREETS ARE PUBLIC)

4. THE DESIGN SPEED FOR THESE STREETS IS 25 MPH. THE DESIGN VEHICLE IS WB-40.

5. MINIMUM REQUIRED LOT SIZE IS 6,000 SF PER GLADDEN FARMS II SPECIFIC PLAN (SFD-6 ZONE). TYPICAL LOT DIMENSIONS ARE 50' X 120'. MINIMUM LOT SIZE PROPOSED IS 6,000 SF. MAXIMUM LOT SIZE IS 7,761 SF. AVERAGE LOT SIZE IS 6,300 SF.

6. DEVELOPMENT STANDARDS
MAX. BUILDING HEIGHT = 30'
SETBACKS:
FRONT = 10'
- MAY BE REDUCED TO 5' WITH SIDE-LOADED GARAGE*
- FRONT PORCH: 5'*
- SIDE LOADED GARAGE: 5 FEET*
*MAY NOT ENCROACH INTO THE REQUIRED PUBLIC UTILITY EASEMENT
- FRONT-LOADED GARAGE: 20'

SIDE = 0'
- MUST PROVIDE A 3' ACCESS EASEMENT ON ADJACENT PROPERTY FOR Z-LOT LINES
- STREET: 10'
- ACCESSORY STRUCTURES: 5'

REAR = 15'
- MAY BE REDUCED TO 5' IF FRONT-LOADED GARAGE IS RECESSED 10' OR MORE FROM THE FRONT LIVING AREA
- MAY BE REDUCED TO 5' WITH REAR-LOADED GARAGE
- PATIO STRUCTURES: 5' IF OPEN ON 3 SIDES
- ACCESSORY STRUCTURES: 5'

7. PARKING SPACES: 2 PER LOT IN GARAGE; 2 PER LOT IN DRIVEWAY = 384 SPACES.

8. THE EXISTING ZONING IS F (SPECIFIC PLAN - GLADDEN FARMS II). LAND USE DESIGNATION SFD-6 PER ORDINANCE 2006.03.

9. NO FURTHER LOT SPLITTING OR SUBDIVIDING SHALL BE DONE WITHOUT THE WRITTEN APPROVAL OF THE TOWN OF MARANA.

10. A PROFESSIONAL ENGINEER SHALL CERTIFY AS TO THE FORM, LINE, AND FUNCTION OF ALL PUBLIC AND PRIVATE ROADWAYS AND DRAINAGE STRUCTURES BEFORE THE RELEASE OF ASSURANCES.

11. MATERIALS WITHIN THE SIGHT VISIBILITY TRIANGLE EASEMENT SHALL BE PLACED SO AS NOT TO INTERFERE WITH A VISIBILITY PLANE DESCRIBED BY TWO HORIZONTAL LINES LOCATED 30 INCHES AND 72 INCHES ABOVE FINISHED GRADE OF THE ROADWAY SURFACE, AND SHALL CONFORM TO THE TOWN OF MARANA SUBDIVISION STREET STANDARDS.

12. THIS SUBDIVISION IS SUBJECT TO THE REQUIREMENTS OF MARANA ORDINANCE NO.2006.03 AS ADOPTED BY THE TOWN OF MARANA MAYOR AND COUNCIL ON MARCH 7, 2006 AND SPECIFIC PLAN AMENDMENT ORDINANCE 2006.35. THIS DEVELOPMENT IS SUBJECT TO THE CONDITIONS AND AGREEMENTS OF REZONING ORDINANCE 2006.03 AND DEVELOPMENT AGREEMENT RESOLUTION 2006-38 AND FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT RESOLUTION 2006-218.

13. POTABLE WATER FOR THIS SUBDIVISION SHALL BE PROVIDED BY THE TOWN OF MARANA WATER UTILITY AND NON-POTABLE WATER SHALL BE PROVIDED BY THE CORTARO-MARANA IRRIGATION DISTRICT.

14. APPROVAL OF THIS PLAN DOES NOT AFFIRM, CERTIFY OR APPROVE ANY LAND DIVISION THAT MAY BE CONTRARY TO STATE LAW, NOR DOES IT CERTIFY THE EXISTENCE OF COMPLIANCE WITH ANY DEED RESTRICTIONS OR EASEMENTS.

15. THIS PLAT FALLS UNDER THE REQUIREMENTS AND GUIDELINES OF THE GLADDEN FARMS II SPECIFIC PLAN AS WELL AS THE TOWN OF MARANA LAND DEVELOPMENT CODE.

16. PER THE TOWN OF MARANA TOWN CODE, TITLE 17-5.3.B.9.B, THE MINIMUM AREA (IN SQUARE FEET) FOR PRIVATE, COMMON ON-SITE RECREATION AREAS SHALL BE, FOR SINGLE FAMILY RESIDENTIAL, 185 SQUARE FEET PER UNIT, FOR SUBDIVISIONS OVER 50 UNITS. THIS PROJECT SHALL REQUIRE 17,760 SQUARE FEET OF DEVELOPED RECREATION AREA. A TOTAL OF 270,487 SQUARE FEET OF DEVELOPED RECREATION AREA IS PROVIDED.

17. PER SECTION 6.5 OF THE GLADDEN FARMS II DEVELOPMENT AGREEMENT, A VOLUNTARY IMPROVEMENT IN-LIEU FEE OF $1,200 PER LOT SHALL BE PAID TO THE MARANA UNIFIED SCHOOL DISTRICT UPON THE ISSUANCE OF BUILDING PERMITS FOR EACH INDIVIDUAL RESIDENTIAL UNIT WITHIN THIS BLOCK.

18. THE RELOCATION OF ANY UTILITIES SHALL BE AT NO EXPENSE TO THE PUBLIC, THE TOWN OF MARANA, OR THE CORTARO MARANA IRRIGATION DISTRICT.

19. THIS PROPERTY LIES WITHIN THE GLADDEN FARMS II COMMUNITY FACILITIES DISTRICT.

20. AN AVIGATION EASEMENT HAS BEEN RECORDED ON THIS PROPERTY. THIS PROPERTY IS IN THE AIRPORT INFLUENCE AREA FOR THE MARANA REGIONAL AIRPORT AND IS SUBJECT TO AIRCRAFT NOISE AND AIRCRAFT OVERFLIGHT. AVIGATION EASEMENT RECORDED AT DOCKET 13063, PAGE 4202.

21. ANY BUILDING OVER 3,600 SQUARE FEET UNDER ROOF MUST BE EVALUATED BY THE NORTHWEST FIRE DISTRICT FOR ADDITIONAL FIRE PROTECTION MEASURES. ANY DWELLING HAVING LIMITED ACCESS IN EXCESS OF 150-FEET, OR 12% ACCESS GRADE, OR LOW CLEARANCE MUST BE EVALUATED BY THE NORTHWEST FIRE DISTRICT FOR ADDITIONAL FIRE PROTECTION MEASURES.

22. FIRE HYDRANTS AT 500 FOOT MAXIMUM INTERVALS SHALL BE INSTALLED WITHIN PUBLIC STREETS. THE FIRE FLOW REQUIREMENT IS 1,500 GALLONS/MINUTE APPROVED BY NORTHWEST FIRE DISTRICT. ALL HYDRANTS MUST BE INSTALLED AND OPERATIONAL PRIOR TO BEGINNING COMBUSTIBLE CONSTRUCTION MATERIALS ON SITE.

23. THIS PROPOSED SUBDIVISION IS LOCATED IN THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) 500-YR FLOODPLAIN, WHICH DOES NOT REGULATE THE DEVELOPMENT OF THIS PROJECT.

24. THIRTY DAYS PRIOR TO GRADING, PLEASE CONTACT THE TOWN ENVIRONMENTAL PROJECTS MANAGER AT (520) 382-2658 AND ALLOW ACCESS TO PERFORM A BURROWING OWL CLEARANCE SURVEY, PRIOR TO RECEIVING A GRADING PERMIT.

25. THE USE OF COMMON AREAS "B" SHOWN ON THE PLAT IS PRIMARILY FOR THE CONVEYANCE AND STORAGE OF FLOODWATERS. SECONDARY USES SUCH AS, LANDSCAPING, UTILITIES, AND RECREATION USES ARE PERMITTED WHEN THESE USES DO NO CONFLICT OR IMPEDE THE PRIMARY USE OF THIS COMMON AREA.

GENERAL NOTES CONTINUED

26. PER THE DEVELOPMENT AGREEMENT 2.6 BANK PROTECTION, IN COMPLIANCE WITH CONDITION 16 OF ORDINANCE NO. 99.02, DEVELOPER SHALL PAY $500 PER ACRE OF AFFECTED PROPERTY FOR BANK PROTECTION AS SET FORTH HEREINAFTER. THEREFORE, THE TOTAL OBLIGATION OF DEVELOPER FOR THE PROJECT IS $316,640 ($500 x 633.28 AFFECTED ACRES). EACH RESIDENTIAL OR COMMERCIAL SUBDIVISION PLAT SHALL BE REQUIRED TO PAY THEIR TOTAL OBLIGATION OF $18,625.88 PER BLOCK. PRIOR TO RELEASE OF ASSURANCES FOR THAT BLOCK. WITHIN BLOCKS THAT ARE NOT SUBDIVIDED AND DEVELOPMENT PLAT IS THE ONLY PROCESS, THE OBLIGATION FOR THOSE BLOCKS SHALL BE PAID PRIOR TO DEVELOPMENT PLAN APPROVAL.

27. SOME OR ALL OF THE LANDS WITHIN THIS PROJECT SHALL CONTINUE TO BE SUBJECT TO TAX AND/OR ASSESSMENTS BY THE CORTARO-MARANA IRRIGATION DISTRICT AND CORTARO WATER USERS' ASSOCIATION.

28. ALL NEW AND EXISTING UTILITIES EXCEPT ELECTRICAL TRANSMISSION LINES CARRYING 48 KV OR GREATER, AND THOSE LINES WHICH CAN BE SHOWN TO EXIST IN CURRENT OR FUTURE ELECTRICAL TRANSMISSION CORRIDORS, WITHIN OR CONTIGUOUS TO THE SITE, SHALL BE PLACED UNDERGROUND.

29. INSTALLATION OF ITEMS SUCH AS LANDSCAPE, IRRIGATION, SIGNAGE, MONUMENTS, AND WALLS WITHIN THE PUBLIC RIGHTS-OF-WAY SHALL REQUIRE A PERPETUAL LICENSE AGREEMENT FOR INSTALLATION, MAINTENANCE, AND INDEMNIFICATION. THIS DOCUMENT SHALL BE EXECUTED PRIOR TO ANY PLAN APPROVALS ALLOWING INSTALLATIONS WITHIN THE PUBLIC RIGHTS-OF-WAY. THE HOMEOWNER'S ASSOCIATION SHALL REVIEW AND APPROVE ALL INSTALLATIONS WITHIN THE RIGHTS-OF-WAY PRIOR TO AND UPON COMPLETION, AS THESE ITEMS WILL BE REGULATED UNDER THE LICENSE AGREEMENT EXECUTED BETWEEN THE HOMEOWNER'S ASSOCIATION AND THE TOWN OF MARANA.

30. INTERIOR PROPERTY CORNERS SHALL BE MONUMENTED AS SOON AS COMPLETION OF THE INFRASTRUCTURE AND IMPROVEMENTS MAKE IT PRACTICAL TO DO SO. IF SUCH MONUMENTS SHOULD DIFFER FROM THE TYPE DESCRIBED ON THIS FINAL PLAT, A RECORD OF SURVEY SHALL BE FILED SHOWING THOSE DIFFERENCES. ALL MONUMENTS SET SHALL BE UNDER THE DIRECT SUPERVISION OF THE SURVEYOR OF RECORD. IF FOR ANY REASON THE SURVEYOR OF RECORD IS NOT AVAILABLE TO SUPERVISE THE SETTING OF THE INTERIOR CORNER MONUMENTS, SUBSEQUENT TO THE RECORDING OF THE FINAL PLAT, THE REPLACEMENT SURVEYOR SHALL SET MONUMENTS WITH HIS/HER IDENTIFYING NUMBER AND A RECORD OF SURVEY SHALL BE RECORDED IN ACCORDANCE WITH ARIZONA STATE STATUTES.

31. BEARINGS AND DISTANCES AS SHOWN ON THE BOUNDARY OF THIS PLAT ARE RECORD PER THE FINAL PLAT OF GLADDEN FARMS BLOCKS 26 - 43 RECORDED IN BOOK 62 OF MAPS AND PLATS AT PAGE 64.

32. THIS SUBDIVISION IS LOCATED WITHIN THE TOWN OF MARANA SERVICE AREA, WHICH IS DESIGNATED AS HAVING AN ASSURED WATER SUPPLY UNDER A.R.S. SEC.45-576.

DEDICATION

I, THE UNDERSIGNED, HEREBY WARRANT THAT I AM ALL AND THE ONLY PARTY HAVING ANY FEE TITLE INTEREST IN THE LAND SHOWN ON THIS PLAT, AND I CONSENT TO THE SUBDIVISION OF THIS LAND IN THE MANNER SHOWN ON THIS PLAT.

I, THE UNDERSIGNED, HEREBY DEDICATE FEE TITLE OF BLOCK A TO THE TOWN OF MARANA FOR LANDSCAPE, DRAINAGE, PUBLIC UTILITIES, WALLS AND MONUMENTS, AND RECREATION USES.

I, THE UNDERSIGNED HEREBY DEDICATE TO THE TOWN OF MARANA ALL RIGHTS-OF-WAY SHOWN ON THIS PLAT, INCLUDING ALL STREETS, ALLEYS, DRAINAGEWAYS, AND EASEMENTS, INCLUDING NO ACCESS EASEMENTS. UTILITY EASEMENTS AS SHOWN ON THIS PLAT ARE DEDICATED TO THE TOWN OF MARANA AND ALL PUBLIC AND PRIVATE UTILITY COMPANIES FOR THE PURPOSE OF INSTALLATION AND MAINTENANCE OF, AND ACCESS TO, PUBLIC AND PRIVATE UTILITIES AND PUBLIC SEWERS. NO ACCESS EASEMENTS SHOWN ON THIS PLAT ARE DEDICATED TO THE TOWN OF MARANA FOR THE PURPOSE OF ACCESS CONTROL TO ADJACENT RIGHTS-OF-WAY. OTHER EASEMENTS SHOWN ON THIS PLAT ARE DEDICATED TO THE TOWN OF MARANA FOR THE PURPOSE OR PURPOSES NOTED ON THIS PLAT.

I, THE UNDERSIGNED, MY SUCCESSORS AND ASSIGNS, DO HEREBY HOLD THE TOWN OF MARANA, ITS EMPLOYEES, OFFICERS, AND AGENTS HARMLESS FROM ANY AND ALL CLAIMS FOR DAMAGES RELATED TO THE USE OF THESE LANDS NOW AND IN THE FUTURE BY REASON OF FLOODING, FLOWAGE, EROSION, OR DAMAGE CAUSED BY WATER, WHETHER SURFACE FLOOD, OR RAINFALL. NATURAL DRAINAGE SHALL NOT BE ALTERED, DISTURBED, OR OBSTRUCTED WITHOUT THE APPROVAL OF THE MARANA TOWN COUNCIL.

PRIVATE DRAINAGEWAYS AND COMMON AREAS AS SHOWN ON THIS PLAT ARE RESERVED FOR THE PRIVATE USE AND CONVENIENCE OF ALL OWNERS OF PROPERTY WITHIN THIS SUBDIVISION AND THEIR GUESTS AND INVITEES, COMMON AREA, BUT NOT PRIVATE DRAINAGEWAYS, ARE GRANTED AS EASEMENTS TO THE TOWN OF MARANA AND ALL PUBLIC AND PRIVATE UTILITY COMPANIES FOR THE PURPOSE OF INSTALLATION AND MAINTENANCE OF, AND ACCESS TO, UNDERGROUND PUBLIC AND PRIVATE UTILITIES AND SEWERS. PRIVATE DRAINAGEWAYS ARE ALSO RESERVED FOR THE FLOW OF WATER, WHETHER SURFACE, FLOOD, OR RAINFALL, FROM THIS SUBDIVISION AND OTHER LANDS AS APPROVED BY THE TOWN ENGINEER. TITLE TO ALL PRIVATE DRAINAGEWAYS AND COMMON AREAS SHALL BE VESTED IN AN ASSOCIATION OF INDIVIDUAL LOT OWNERS AS ESTABLISHED BY COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED IN DOCKET 12103 AT PAGE 11266 IN THE OFFICE OF THE RECORDER OF PIMA COUNTY, ARIZONA. EACH AND EVERY LOT OWNER WITHIN THE SUBDIVISION SHALL BE MEMBER OF THE ASSOCIATION, WHICH IS RESPONSIBLE FOR THE CONTROL, MAINTENANCE, SAFETY, AND LIABILITY OF THE PRIVATE DRAINAGEWAYS AND COMMON AREAS WITHIN THIS SUBDIVISION.

FIDELITY NATIONAL TITLE AGENCY, INC., AN ARIZONA CORPORATION, AS TRUSTEE UNDER TRUST NO. 60,423, AS TRUSTEE ONLY, AND NOT AND NOT IN ITS CORPORATE CAPACITY.

BY: Martha L. Hill 10-31-17
MARTHA L. HILL, TRUST OFFICER DATE

STATE OF ARIZONA } ss.
COUNTY OF PIMA }

OFFICIAL SEAL
RITA L KIPPES
NOTARY PUBLIC-ARIZONA
PIMA COUNTY
My Comm. Ex. May 9, 2018

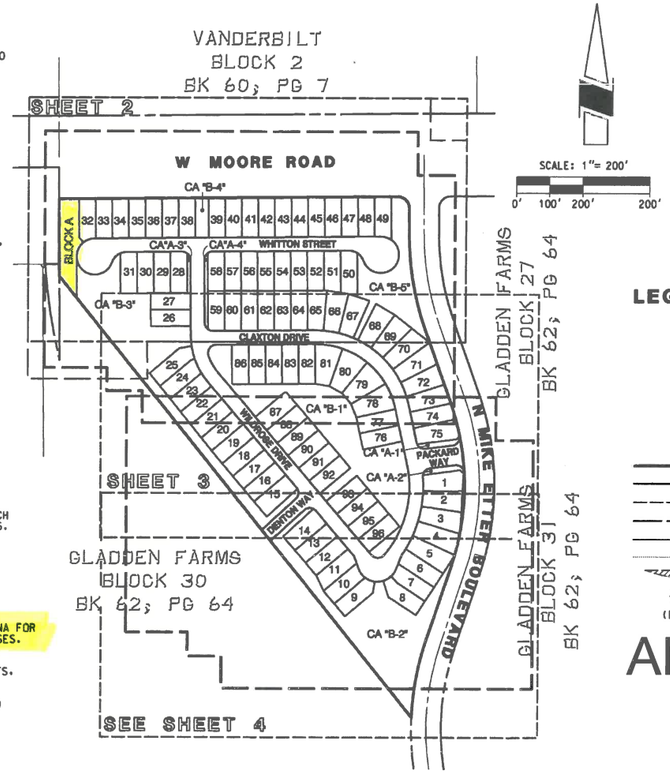
ON THIS 31st DAY OF October, 2017, BEFORE ME PERSONALLY APPEARED MARTHA L. HILL WHO ACKNOWLEDGED TO BE THE TRUST OFFICIAL OF FIDELITY NATIONAL TITLE AGENCY, INC. TRUST NO. 60,423, AND BEING AUTHORIZED SO TO DO, EXECUTED THE FOREGOING INSTRUMENT FOR THE PURPOSE THEREIN.

5-9-18 Rita L. Kippes
MY COMMISSION EXPIRES NOTARY PUBLIC

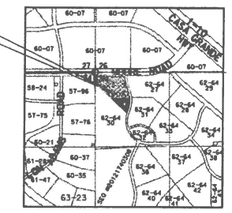
BENEFICIARY

* PURSUANT TO A.R.S. SECTION 33-404(B), THE NAME AND ADDRESS OF THE SOLE BENEFICIARY OF TRUST NO. 60,423, DESCRIBED ABOVE AS DISCLOSED BY THE RECORDS OF SAID TRUST IS:

GLADDEN PHASE II, L.L.C. A DELAWARE LIMITED LIABILITY COMPANY
333 EAST WETMORE ROAD, SUITE 250
TUCSON, AZ 85705
(520) 888-3962



SCALE: 1"= 200'
0' 100' 200' 200'



LOCATION MAP
SECTION 35, T 11 S, R 11 E
G & SRM TOWN OF MARANA
PIMA COUNTY, ARIZONA

LEGEND

- FOUND SURVEY MONUMENT AS NOTED
- 2" BRASS CAP SURVEY MONUMENT TO BE SET BY RLS
- 2" BRASS CAP PER FINAL PLAT BK 62, PG 64 NOT FOUND, IN AREA OF ACTIVE FARMING
- BOUNDARY MONUMENT NOT SET, IN AREA OF ACTIVE FARMING
- LOT CORNER TO BE SET BY RLS (SEE GENERAL NOTE NO. 30)
- 1/2" REBAR WITH IDENTIFICATION TAG, "LS 17479"
- SUBDIVISION BOUNDARY LINE
- PROPERTY LINE
- EASEMENT BOUNDARY
- EXISTING RIGHT OF WAY
- SECTION LINE
- QUARTER SECTION LINE
- SIGHT VISIBILITY EASEMENT
- DRIVEWAY ORIENTATION ON LOT
- (RAD) INDICATES LINE IS RADIAL

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BASIS OF ELEVATION

BEING A 1/2" IRON PIN AT THE INTERSECTION OF MOORE & POSTVALE ROAD, SAID MONUMENT ALSO BEING THE NORTHEAST CORNER OF SECTION 34, TOWNSHIP 11 SOUTH, RANGE 11 EAST, GILA & SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA. ELEVATION BEING 2006.43 (NAVD 88).

BASIS OF BEARING

THE WEST LINE OF THE NORTHWEST 1/4 OF SECTION 35, TOWNSHIP 11 SOUTH, RANGE 11 EAST, GILA & SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA, AS MONUMENTED BY A 1.5 INCH ALUMINUM DISC STAMPED "17436" AT THE WEST ONE QUARTER OF SAID SECTION 35 AND BY A HALF INCH REBAR IN PAVEMENT AT THE NORTHWEST CORNER OF SAID SECTION. SAID BEARING BEING N00°30'09"W.

ASSURANCES

ASSURANCES IN THE FORM OF A THIRD PARTY TRUST NO. 60,423 FROM FIDELITY NATIONAL TITLE AGENCY, INC. AS RECORDED IN SEQ #20173130073 IN THE OFFICE OF THE RECORDER OF PIMA COUNTY, ARIZONA HAVE BEEN PROVIDED TO GUARANTEE INSTALLATION OF REQUIRED STREET, SEWER, ELECTRIC, GAS AND WATER UTILITIES, DRAINAGE, FLOOD CONTROL AND OTHER SUBDIVISION IMPROVEMENTS MEETING ESTABLISHED MINIMUM STANDARDS OF DESIGN AND CONSTRUCTION.

BY: SJ Homen 11-8-17
TOWN OF MARANA DATE

ASSURED WATER SUPPLY

A CERTIFICATE OF ASSURED WATER SUPPLY HAS BEEN RECEIVED FROM THE DIRECTOR OF WATER RESOURCES.

11-7-17
MARANA WATER DIRECTOR - TOWN OF MARANA DATE

CERTIFICATION OF SURVEY

I HEREBY CERTIFY THAT THIS PLAT REPRESENTS A SURVEY MADE BY ME OR UNDER MY SUPERVISION AND THAT ALL BOUNDARY MONUMENTS INDICATED HEREON AND THEIR LOCATION, SIZE AND MATERIAL ARE CORRECTLY SHOWN.

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
17479
DOUGLAS E. SCHNEIDER
11/9/17
ARIZONA U.S.A.
Expires 6/30/19

RELATED CASES:
PRV-08032P
PCZ-05028
PRV-06073F

TOWN OF MARANA APPROVALS

P.E. 11-7-17
MARANA TOWN ENGINEER/DEVELOPMENT ENGINEER DATE

11/8/17
MARANA PLANNING DIRECTOR DATE

11-7-17
MARANA WATER DIRECTOR - TOWN OF MARANA DATE

I, Jocelyn C. Bronson, CLERK OF THE TOWN OF MARANA HEREBY CERTIFY THAT THIS PLAT WAS APPROVED BY THE TOWN COUNCIL OF THE TOWN OF MARANA ON THE 7th DAY OF November, 2017.

11-7-2017
TOWN CLERK DATE

FINAL PLAT FOR
GLADDEN FARMS
BLOCK 26

LOTS 1-96, BLOCK A & COMMON AREAS: "A-1" - "A-4" (LANDSCAPE/PUBLIC AND PRIVATE UTILITIES) "B-1" - "B-5" (LANDSCAPE/DRAINAGE/PUBLIC AND PRIVATE UTILITIES/RECREATION)
BEING A RESUBDIVISION OF BLOCK 26 OF GLADDEN FARMS BLOCKS 26-43
BOOK 62, PAGE 64 SECTION 35, TOWNSHIP 11 SOUTH, RANGE 11 EAST
GILA & SALT RIVER MERIDIAN, TOWN OF MARANA, PIMA COUNTY, ARIZONA.

PRV1707-002 SHEET 1 OF 4

RICK ENGINEERING COMPANY
Tucson
3945 EAST FORT LOWELL ROAD - SUITE 111
TUCSON, AZ 85712
520-795-1000
(FAX) 520-322-6956
J-36528
San Diego - Riverside - Orange - Sacramento - San Luis Obispo - Phoenix - Denver
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VANDERBILT BLOCK 2; BK 60; PG 7
F

VANDEBILT
BK 60, PG 7

W MOORE ROAD
(PUBLIC STREET)
BK 2 ROAD MAPS PG 126

GLADDEN FARMS
BK 62, PG 64

N89°27'27"E 2638.48'
1099.57'

NORTHWEST CORNER SECTION 35
TOWN OF MARANA
BRASS DISC

N 1/4 CORNER SECTION 35
ALUMINUM CAP STAMPED
"RLS 29873 N35"

SCALE: 1"= 40'
0' 20' 40' 80'

10' CMID ESMT
BK 55, PG 60

15' CMID ESMT
BK 107, PG 151

20' PUBLIC SEWER ESMT
BY DKT 13494, PG 373

UNSUB.
217-53-008J
TR

BLOCK A
15271 SF

N89°27'27"E 1019.66'

32 6185 SF	33 6000 SF	34 6000 SF	35 6000 SF	36 6000 SF	37 6000 SF	38 6000 SF	CA "B-4" 4800 SF	39 6000 SF	40 6000 SF	41 6000 SF	42 6000 SF	43 6000 SF	44 6000 SF	45 6000 SF	46 6000 SF	47 6000 SF	48 6000 SF	49 6106 SF						

WHITTON STREET
(PUBLIC STREET)
S89°27'27"W 308.85'
N89°27'27"E 552.20'

31 6291 SF	30 6250 SF	29 6250 SF	28 6289 SF	CA "A-3" 1140 SF±/-	WILDROSE DRIVE (PUBLIC STREET)	CA "A-4" 2180 SF	58 6036 SF	57 6000 SF	56 6000 SF	55 6000 SF	54 6000 SF	53 6000 SF	52 6000 SF	51 6138 SF	50 6543 SF	CA "B-5" 36908 SF								

27 6000 SF
26 6000 SF

59 6036 SF | 60 6000 SF | 61 6000 SF | 62 6000 SF | 63 6000 SF | 64 6000 SF | 65 6424 SF | 66 6782 SF | 67 6798 SF | 68 6798 SF | 69 6870 SF | 70 7383 SF

N MIKE ETTER BOULEVARD
(PUBLIC STREET)
BK 62 PG 64

GLADDEN FARMS
BLOCK 27
BK 62; PG 64
HDR

GLADDEN FARMS BLOCK 6
BK 57; PG 96
R-6

60' EL PASO NATURAL GAS ESMT
PER DKT 13048, PG 5916

GLADDEN FARMS
BLOCK 30
BK 62; PG 64
SFD-7

CA "B-3"
75094 SF

CLAXTON DRIVE
(PUBLIC STREET)
S89°27'27"W 354.88'

50' OPEN SPACE DEDICATED
TO TOWN OF MARANA
BK 57, PG 96

W 1/4 CORNER
SECTION 35
ALUMINUM CAP

SW GAS ESMT
DKT 10610, PG 295

POSTVALE RD RIGHT OF WAY
DEDICATED TO TOWN OF
MARANA PER BK 51, PG 96

KEYNOTES

SEE SHEET 3

1. 10' PUBLIC UTILITY, ROADWAY MAINTENANCE AND SIGNAGE, AND HOME OWNERS ASSOCIATION STREET TREE LANDSCAPE EASEMENT BY FINAL PLAT
2. 1' NO ACCESS ESMT BY FINAL PLAT
3. PUBLIC SIGHT VISIBILITY TRIANGLE EASEMENT GRANTED BY THIS PLAT. SEE GENERAL NOTE 11

RICK ENGINEERING COMPANY
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CERTIFICATE NO. 17479
DOUGLAS E. SCHNEIDER
REGISTERED
ARIZONA U.S.A.
Expires 6/30/19

RELATED CASES:
PRV-08032P
PCZ-05028
PRV-06073F

FINAL PLAT FOR
GLADDEN FARMS
BLOCK 26

LOTS 1-96, BLOCK A & COMMON AREAS: "A-1" - "A-4"
(LANDSCAPE/PUBLIC AND PRIVATE UTILITIES) "B-1" - "B-5"
(LANDSCAPE/DRAINAGE/PUBLIC AND PRIVATE UTILITIES/RECREATION)
BEING A RESUBDIVISION OF BLOCK 26 OF GLADDEN FARMS BLOCKS 26-43
BOOK 62, PAGE 64 SECTION 35, TOWNSHIP 11 SOUTH, RANGE 11 EAST
GILA & SALT RIVER MERIDIAN, TOWN OF MARANA, PIMA COUNTY, ARIZONA.

PRV1707-002 SHEET 2 OF 4

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17-OCT-2017

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SCALE: 1"= 40'
0' 20' 40' 80'

CLAXTON DRIVE (PUBLIC STREET) S89°27'27"W 354.88'

CA "B-3" 75094 SF

CA "B-1" 78682 SF

CA "A-1" 2220 SF

CA "A-2" 2148 SF

WILDROSE DRIVE (PUBLIC STREET)

DENTON WAY (PUBLIC STREET)

PACKARD WAY (PUBLIC STREET) 151.08'

N MIKE EITER BOULEVARD (PUBLIC STREET) BK 62, PG 64

GLADDEN FARMS BLOCK 27 BK 62; PG 64 HDR

GLADDEN FARMS BLOCK 30 BK 62; PG 64 SFD-7

GLADDEN FARMS BLOCK 31 BK 62; PG 64 SFD-6

60' EL PASO NATURAL GAS ESMT PER DKT 13048, PG 5916

KEYNOTES

(1) 10' PUBLIC UTILITY, ROADWAY MAINTENANCE AND SIGNAGE, AND HOME OWNERS ASSOCIATION STREET TREE LANDSCAPE EASEMENT BY FINAL PLAT

(2) 1' NO ACCESS ESMT BY FINAL PLAT

(3) PUBLIC SIGHT VISIBILITY TRIANGLE EASEMENT GRANTED BY THIS PLAT. SEE GENERAL NOTE 11

SEE SHEET 4

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17-OCT-2017

RELATED CASES:
PRV-08032P
PCZ-05028
PRV-06073F

FINAL PLAT FOR
GLADDEN FARMS
BLOCK 26

LOTS 1-96, BLOCK A & COMMON AREAS: "A-1"-"A-4" (LANDSCAPE/PUBLIC AND PRIVATE UTILITIES) "B-1"-"B-5" (LANDSCAPE/DRAINAGE/PUBLIC AND PRIVATE UTILITIES/RECREATION)
BEING A RESUBDIVISION OF BLOCK 26 OF GLADDEN FARMS BLOCKS 26-43
BOOK 62, PAGE 64 SECTION 35, TOWNSHIP 11 SOUTH, RANGE 11 EAST
GILA & SALT RIVER MERIDIAN, TOWN OF MARANA, PIMA COUNTY, ARIZONA.

PRV1707-002 SHEET 3 OF 4

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LINE ANNOTATION DATA TABLE

NAME	DIRECTION	LENGTH
L1	S 12°14'16" E	10.56
L2	N 8°04'06" E	34.17
L3	S 0°32'33" E	34.00
L4	N 3°45'57" E	30.21
L5	S 0°32'33" E	34.00
L6	S 89°27'27" W	17.93
L7	S 89°27'27" W	3.12
L8	S 20°15'21" E	24.48
L9	S 20°15'21" E	17.52
L10	N 21°49'18" E	18.38
L11	N 21°49'18" E	29.01
L12	N 40°16'18" W	11.63
L13	N 89°27'27" E	0.98
L14	S 12°14'16" E	2.98
L15	N 39°13'42" W	20.00
L16	N 32°45'38" E	12.72
L17	N 89°27'27" E	10.00
L18	N 89°27'27" E	8.65
L19	N 70°45'33" E	11.41
L20	N 89°27'27" E	6.49
L21	N 43°39'34" W	28.06
L22	N 53°43'27" W	13.90
L23	N 37°24'44" W	5.00

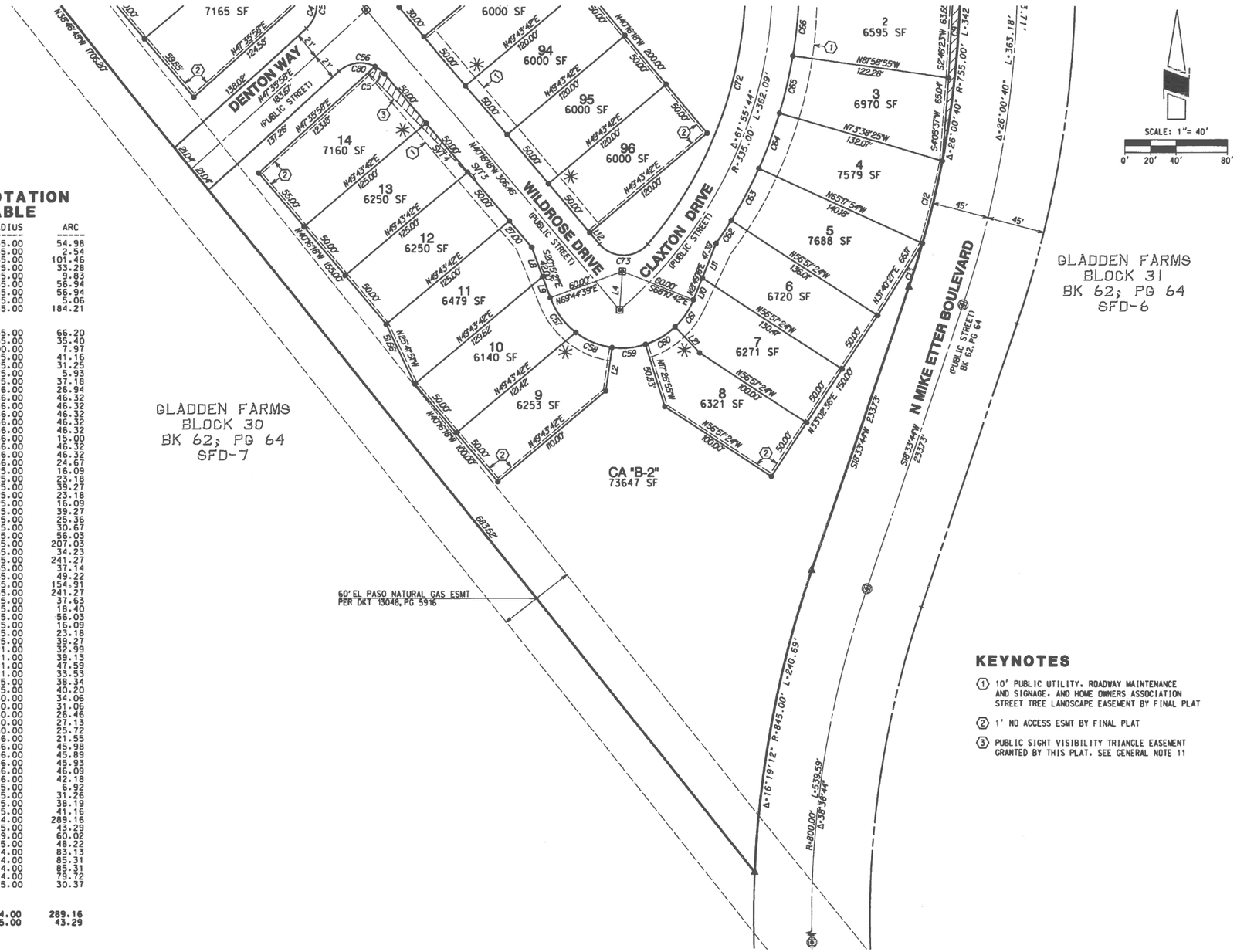
SVT EASEMENT LINE ANNOTATION DATA TABLE

NAME	DIRECTION	LENGTH
SVT1	S 12°14'16" E	12.45
SVT2	S 17°53'50" E	88.66
SVT3	N 40°16'18" W	8.35
SVT4	N 44°47'45" W	118.02
SVT5	N 40°16'18" W	3.07
SVT6	S 36°42'22" E	152.58
SVT7	S 89°27'27" W	26.13
SVT8	S 84°56'37" W	124.76
SVT9	N 89°27'27" E	22.08
SVT10	S 86°57'58" E	161.35

CURVE ANNOTATION DATA TABLE

NAME	DELTA	RADIUS	ARC
C1	90°00'00"	35.00	54.98
C2	0°11'33"	755.00	2.54
C3	7°41'59"	755.00	101.46
C4	76°16'54"	25.00	33.28
C5	22°31'49"	25.00	9.83
C6	4°19'15"	755.00	56.94
C7	4°19'15"	755.00	56.94
C8	11°35'22"	25.00	5.06
C9	13°58'46"	755.00	184.21
C10	NOT USED		
C11	NOT USED		
C12	5°01'26"	755.00	66.20
C13	2°41'12"	755.00	35.40
C14	2°17'04"	200.00	7.97
C15	94°19'15"	25.00	41.16
C16	71°36'44"	25.00	31.25
C17	13°35'56"	25.00	5.93
C18	85°12'40"	25.00	37.18
C19	5°23'52"	286.00	26.94
C20	9°16'48"	286.00	46.32
C21	9°16'48"	286.00	46.32
C22	9°16'48"	286.00	46.32
C23	9°16'48"	286.00	46.32
C24	9°16'48"	286.00	46.32
C25	3°00'18"	286.00	15.00
C26	9°16'48"	286.00	46.32
C27	9°16'48"	286.00	46.32
C28	4°56'30"	286.00	24.67
C29	36°52'12"	25.00	16.09
C30	53°07'48"	25.00	23.18
C31	90°00'00"	25.00	39.27
C32	53°07'48"	25.00	23.18
C33	36°52'12"	25.00	16.09
C34	90°00'00"	25.00	39.27
C35	32°17'24"	45.00	25.36
C36	39°02'49"	45.00	30.67
C37	71°20'13"	45.00	56.03
C38	215°40'25"	55.00	207.03
C39	35°39'49"	55.00	34.23
C40	251°20'13"	55.00	241.27
C41	38°41'09"	55.00	37.14
C42	31°16'28"	55.00	49.22
C43	161°22'37"	55.00	154.91
C44	251°20'13"	55.00	241.27
C45	47°54'46"	45.00	37.63
C46	23°25'28"	45.00	18.40
C47	71°20'13"	45.00	56.03
C48	36°52'12"	25.00	16.09
C49	53°07'48"	25.00	23.18
C50	90°00'00"	25.00	39.27
C51	8°33'14"	221.00	32.99
C52	10°08'40"	221.00	39.13
C53	12°20'13"	221.00	47.59
C54	8°41'38"	221.00	33.53
C55	87°52'16"	25.00	38.34
C56	92°07'44"	25.00	40.20
C57	32°31'35"	60.00	34.06
C58	29°39'40"	60.00	31.06
C59	25°16'16"	60.00	26.46
C60	25°54'17"	60.00	27.13
C61	24°33'33"	60.00	25.72
C62	3°28'07"	356.00	21.55
C63	7°24'02"	356.00	45.98
C64	7°23'11"	356.00	45.89
C65	7°23'32"	356.00	45.93
C66	7°25'04"	356.00	46.09
C67	6°47'20"	356.00	42.18
C68	15°52'10"	25.00	6.92
C69	71°38'49"	25.00	31.26
C70	87°30'59"	25.00	38.19
C71	94°19'15"	25.00	41.16
C72	52°45'50"	314.00	289.16
C73	99°12'08"	25.00	43.29
C74	19°12'48"	179.00	60.02
C75	110°30'58"	25.00	48.22
C76	19°31'10"	244.00	83.13
C77	20°01'57"	244.00	85.31
C78	20°01'58"	244.00	85.31
C79	18°43'11"	244.00	79.72
C80	69°35'55"	25.00	30.37

C72 52°45'50" 314.00 289.16
C73 99°12'08" 25.00 43.29



KEYNOTES

1. 10' PUBLIC UTILITY, ROADWAY MAINTENANCE AND SIGNAGE, AND HOME OWNERS ASSOCIATION STREET TREE LANDSCAPE EASEMENT BY FINAL PLAT
2. 1' NO ACCESS ESMT BY FINAL PLAT
3. PUBLIC SIGHT VISIBILITY TRIANGLE EASEMENT GRANTED BY THIS PLAT. SEE GENERAL NOTE 11

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J-3652B

REGISTERED LAND SURVEYOR
DOUGLAS E. SCHNEIDER
17479
ARIZONA U.S.A.
Expires 6/30/19

RELATED CASES:
PRV-08032P
PCZ-05028
PRV-06073F

FINAL PLAT FOR GLADDEN FARMS BLOCK 26

LOTS 1-96, BLOCK A & COMMON AREAS: "A-1"-"A-4" (LANDSCAPE/PUBLIC AND PRIVATE UTILITIES) "B-1"-"B-5" (LANDSCAPE/DRAINAGE/PUBLIC AND PRIVATE UTILITIES/RECREATION)
BEING A RESUBDIVISION OF BLOCK 26 OF GLADDEN FARMS BLOCKS 26-43
BOOK 62, PAGE 64 SECTION 35, TOWNSHIP 11 SOUTH, RANGE 11 EAST
GILA & SALT RIVER MERIDIAN, TOWN OF MARANA, PIMA COUNTY, ARIZONA.

PRV1707-002 SHEET 4 OF 4

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17-OCT-2017

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Council-Regular Meeting **C5**

Meeting Date: 05/05/2020

To: Mayor and Council

From: Cherry L. Lawson, Town Clerk

Date: May 5, 2020

Subject: Approval of the Council Meeting Regular Summary Minutes of April 21, 2020 (Cherry L. Lawson)

Attachments

Council Regular Meeting Summary Minutes, 04/21/2020

MARANA TOWN COUNCIL
REGULAR COUNCIL MEETING

April 21, 2020 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
John Officer, Council Member
Roxanne Ziegler, Council Member

SUMMARY MINUTES

CALL TO ORDER AND ROLL CALL

Mayor Honea called the meeting to order at 6:02 PM and directed the Clerk to call the roll. **Vice Mayor Jon Post, Council Members Dave Bowen, Patti Comerford, Herb Kai, Roxanne Ziegler and John Officer** were present. There was a quorum of council members present constituting a quorum.

PLEDGE OF ALLEGIANCE/INVOCATION/MOMENT OF SILENCE

APPROVAL OF AGENDA

Council Member Ziegler moved and Council Member Kai second the motion approving the agenda as presented. Motion passes unanimously, 7-0.

CALL TO THE PUBLIC

Mayor Honea open the meeting to receive public comments. One member of the public submitted written comments to the Council.

Mark Johnson commended the Town of Marana for its great communication and response during the ongoing COVID-19 pandemic. He commented on the economic fallout every community will face as a result, and suggested Marana contact the Arizona State Land Department (ASLD) and request the lease payment is waived for the entire year for the Tortolita Preserve.

Mayor Honea closed the meeting to public comments.

PROCLAMATIONS

MAYOR AND COUNCIL REPORTS: SUMMARY OF CURRENT EVENTS

Council Member Ziegler reported that she had attended the Nighthawk Memorial Services on Saturday at the Marana Regional Airport. Despite the current circumstances, there were many in attendance for the service.

Council Member Comerford reported that she had heard from plenty businesses in town and many are hurting badly. Many have not received loans, but they are ready to open the doors of their businesses. She hopes the town has a plan for reopening as the public is watching the town.

Mayor Honea reported he has spoken with many business owners in the area as well as all the mayors in Pima County. Generally, Mr. Huckleberry or Mr. Bellavance at the County in their conference call—he has made it clear that as soon as the governor gives the cities and towns the right to open, Marana will do everything that the governor provides for the town to do. Right now, Governor Ducey has not provided details on reopening of the state—a soft opening. Marana cannot supersede the governor's orders, but we will do all that we can to reopen once Governor Ducey gives the go-ahead.

MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Town Manager Jamsheed Mehta reported on the following:

<u>Status of Town operations during the pandemic</u>
As mentioned in my previous reports, town operations that require employees in the field are continuing normally. Town operations are currently being handled 100% virtually, and that our residents and businesses would not know the difference.

The Marana Chamber is hosting Marana Insights tomorrow morning, and at the usual 7:45 AM, Marana Insights will air live Ora Mae Harn Park. **Economic Development Director Curt Woody** will provide a quick update on economic activities continuing in the community. **Parks and Recreation Director Jim Conroy** will provide an update on our part projects and all recreation programs.

Marana Municipal Airport appears to be busier than it is normally, not just from our local pilots, but also because some of the major airlines have chosen to park their aircraft for several months at the time. **Airport Director Steve Miller** was featured in a news story that highlights how Marana Regional Airport and Pinal Airpark are assisting with airport parking arrangements during this pandemic.

Status of Federal Funding for Covid-19 related expenses

Town staff are finalizing the paperwork to receive $69,000 from the FAA for the Airport. The grant can be used for any airport related purpose including payroll, operational and debt service costs.

Regarding funding from FEMA, we have two different funding opportunities under the CARES Act: Through the state under the Public Assistance declaration, through the county out of the Relief Fund.

From the state, we have already applied for the Public Assistance Program through the Department of Emergency and Military Affairs (DEMA). The funding begins with FEMA, and will pass through the state to the town. The Town submitted its application on April 10 and are awaiting further instruction from DEMA.

From Pima County, we may be eligible for funding from the Department of Treasury to cover necessary expenditures of the COVID-19 public health emergency. The County has informed us that they submitted their application on Friday (4/17) and they are awaiting guidelines from the Federal level. Until they receive direction from the federal government, they are unsure how they will roll out funding to other jurisdictions.

Total eligible amounts and the specifics of what may be reimbursed to us are still being discussed at this time. As a result, we are already tracking all expenses we believe are a result of the pandemic and intent to apply for funding for all eligible expenses once that determination becomes clear. We are awaiting for more information from the both the State and the County. Additional guidance and information on FEMA funding is anticipated soon.

Marana is also eligible to receive some funding from the Byrne Justice Assistance Grant (JAG) Program. This money would come to us through the City of Tucson Police Department, administered through CAN (Counter Narcotics Alliance), and would allow us to be reimbursed for the purchase of personal protective equipment or other needed medical supplies and overtime for officers on the front lines. We are awaiting further updates from our partners at Tucson Police Department on this funding.

Status of Budget Preparations

Our budget process will be pushed back by one month. The Manager Recommended Budget is now scheduled for May 26. This is because our revenue assumptions will

obviously change, and we are doing our best to come up with reasonable assumptions for revenues. In addition to re-examining Marana's revenue from sales tax, we are also dependent on state shared revenues that may not be available to us until mid-May. In previous years, we could make intelligent assumptions about state shared revenues ahead of it being released by the Arizona Department of revenue. This year however we do not have the luxury of making intelligent guesses, so we will wait for the state to tell us how much we can expect the next fiscal year.

In advance of the manager's recommended budget on May 26, we will present revisions to our budget assumptions at the next council meeting on May 5. At the May 5 meeting, we will share with you our revised estimates of how we will be ending the current year, and our best guess for looking into the next fiscal year.

Council Member Ziegler commented on the emails and telephone calls received from members of the public requesting Mayor and Council to lift some of the restrictions as it pertains to the Town of Marana. She asked whether the Town would be responding to those citizens who reached out to Council. She wants the public to understand that Marana does not called the shots on when it will reopen. Mayor and Council will move forward once the Governor decides to reopen.

Mayor Honea replied stating he has personally contacted each person who has emailed him, or who has called him and telling him or her that Council is anxiously waiting to reopen; however, we cannot supersede the Governor.

Council Member Comerford asked whether **Mr. Mehta** could provide Council with a report on the information that he reported under the Manager's Report. **Mr. Mehta** stated in addition to the minutes, he would provide Council with the report from this meeting.

PRESENTATIONS

CONSENT AGENDA

C1 Ordinance No. 2020.007: Relating to Utilities; amending Marana Ordinance No. 2020.006 to extend the temporary suspension of enforcement of Marana Town Code section 14-5-4 (Nonpayment of delinquent bill; filing of lien; interest) as it relates to disconnecting utility service for non-payment; and declaring an emergency (David L. Udall)

C2 Resolution No. 2020-032: Relating to Mayor and Council; amending Marana Resolution No. 2020-030 to extend the temporary suspension of Marana Resolution No. 2009-69 section 2, subsection H, regarding the number of members of the Town Council and of special and standing boards, commissions, and committees of the Town allowed

to participate in a public meeting by electronic attendance; and declaring an emergency (David L. Udall)

C3 Approval of the Council Meeting Regular Meeting Summary Minutes of April 7, 2020 (Cherry L. Lawson)

Council Member Ziegler moved and Council Member Kai second the motion approving the consent agenda. Mayor Honea requested a roll-call vote on the consent agenda. Roll call: Mayor Honea, Vice Mayor Post Council Member Bowen, Council Member Comerford, Council Member Kai, Council Member Officer, and Council Member Ziegler. Motion passes unanimously, 7-0.

LIQUOR LICENSES

L1 Relating to Liquor Licenses; recommendation to the Arizona Department of Liquor Licenses and Control regarding an application for a new series #012 Restaurant liquor license submitted by Kerry Ann Lajeunesse on behalf of Frankie's Cheesesteaks & Hoagies, located at 3780 W. Ina Road #184 Tucson, Arizona 85741.

Town Clerk Cherry Lawson provided an overview of the application for a new series #012 Restaurant liquor license submitted by Kerry Ann Lajeunesse on behalf of Frankie's Cheesesteaks & Hoagies, located at 3780 W. Ina Road #184 Tucson, Arizona 85741.

Council Member Bowen moved and Council Member Kai second the motion to approve and submit to the DLLC an order recommending approval of an application for a new series #012 Restaurant liquor license submitted by Kerry Ann Lajeunesse on behalf of Frankie's Cheesesteaks & Hoagies, located at 3780 W. Ina Road #184 Tucson, Arizona 85741. Motion passes unanimously, 7-0.

BOARDS, COMMISSIONS AND COMMITTEES

COUNCIL ACTION

ITEMS FOR DISCUSSION / POSSIBLE ACTION

D1 Relating to Development; update, discussion, and possible direction regarding the Town's subdivision requirements for private and common on-site recreation areas (Jason Angell)

Development Director Jason Angell provided a PowerPoint Presentation update to the Town's subdivision requirements for private and common on-site recreation areas. Below are highlights from the presentation. (A copy of the presentation is on file in the Town Clerk's Office.)

Presentation Overview:

- Background
- Stakeholder meetings
- Stakeholder feedback and input
- Code revisions
- Next steps

Stakeholder Meetings:

Town staff met with stakeholders

- Homebuilders
- Developers
- Developer representatives (SAHBA, consultants)
- Other jurisdictions

Topics discussed

- Current code vs other jurisdictions
- Consideration of different ways to calculate
- Suggestions for revisions to Town Code

Stakeholder Feedback – Comments:

Likes

- Use of a sliding scale
- Buy-down concept but need more information
- Use of design manual for consistency and predictability similar to Pima County
- Use of in-lieu fees

Considerations

- Areas east and west of the freeway have different conditions
- Credit for Natural Undisturbed Open Space (NUOS)
- Town should utilize in-lieu fee process
- Amenities should be based on demographics
- Parks size and amenities have impact on HoA fees
- Well-connected parks have value

Mayor Honea commented stating natural open space is something that Marana is big on, 'clustering.' The owner may use half of its property and leave the other half open. If the town allows for this, he is not sure whether the town wants to provide credit for an open space against improved park amenities.

Mr. Angell replied stating allowing reduction or some credit to the park space allows it to pull the development in tighter. If it is not the desire of Council to give credit in this situation, the Town will take that out. **Mayor Honea** stated open space becomes available, as it has been used in Sky Ranch, as well as other big developments. Marana is giving them the right to cluster development, as it helps on the cost of infrastructure. However, open space is created by giving them the right to cluster its housing. He believes this may be two different issues. He does not want someone building on 50 of the 100 acres that

they have and stating that they have 50 acres of open space while looking to the town for a credit for that space for not building a park. He is concern that this could occur.

Mr. Angell stated for clarification purposes that it would not be a one-for-one reduction. The example of 50% of the development was set aside for reduction could potentially be 50% of the park space. However, understands **Mayor Honea** concerns. **Mayor Honea** stated he does not agree with it and explained that [we] are trying to get improved amenities in neighborhoods for children and others to use. Because of the clustering that we use quite commonly, he has an issue with this. He wants the open space as many people do but does not want to give half the credit on the park, as Marana is doing them a favor by allowing them to cluster. **Council Member Comerford** stated she agrees with **Mayor Honea's** position.

Council Member Ziegler asked for clarification of **Mayor Honea's** comment referring to "allowing them to cluster." She explained *clustering* is a tool that developers use, and Marana likes clustering as we have done it several times in several different areas. She commented on double dipping stating she does not understand the meaning behind **Mayor Honea** comment.

Mayor Honea explained stating if someone has 100 acres in two rack, they could build 200 homes. Marana may allow them to build R6 lots and use half or 40 of the 100 acres; that would help them immensely by cutting their cost on infrastructure. However, that open space happens because the Town has allowed them to cluster. He does not want that to become a tool used to in an effort to avoid building or improving park amenities.

Town Attorney Frank Cassidy the town uses its Park Impact Fees for public parks within the Town of Marana. In-lieu fees that requested by the development community would be paid to the Town and would become public funding. The trouble with this, we as the Town do not provide neighborhood parks that have been discussed before now. The point of this subdivision recreation requirement is to put an HOA control park within a subdivision. The desire is to have homeowner associations own recreation facility. If they pay a fee to the Town, it becomes public money. If Marana builds a subdivision park, the Town would have to maintain it, and the Town has not had an interest in maintaining subdivision parks. We would want the HOA's to maintain those parks.

It does not work for the Town to accept an in-lieu fee, as the only way that Marana could is to put together a program that involves an in-lieu fee would be to open up impact fees to provide a credit against impact any recreation that is provided – that is not the way the Town does this at this time. That would be a significant change in the way that Marana does business.

Town staff is proposing that rather than an in-lieu fee, that we would create some in-lieu options for smaller subdivisions. This may include entering into an agreement with an adjacent development where the two developments together (two smaller developments)

would provide a park for those two subdivisions. If there is, a small subdivision next to a larger subdivision that has park facilities--that has HOA operated facilities that could be opened to the new subdivision. There could be an option whereby the new smaller subdivision would pay for additional amenities for the existing HOA parks so that the new subdivision would have the benefit of having those recreation facilities. It would not be an in-lieu fee, but rather an in-lieu option. The Town would be looking at that approach rather than an in-lieu fee.

Council Member Bowen asked whether there would be any (within the options presented) time where Marana would take responsibility for parks, or would those always be a subdivision sharing responsibility with another subdivision through an inter HOA agreement. **Mr. Cassidy** stated from the Town's position, we would want to ensure that parks are HOA parks. The goal of the Town is not operate any neighborhood recreational amenities.

Council Member Comerford stated every development is going to be different, and every development will likely have different requirements. She asked that the Town exercise some caution in becoming overly regulated if there are situations that may work better for certain developments. In reviewing some of the requirements from other communities, she would be very interested in learning what those actuals are, as they may be requirements made by Oro Valley, Sahuarita or others. It would be interesting if Town staff could further look into those communities' actuals. She expressed concern over the Town constantly changing things, because the tools does not match the needs.

Mayor Honea replied stating Marana is trying to establish a base minimum, as ours was ridiculously; it had not be changed in many years. This provides the Town with a starting point.

Council Member Ziegler stated she do like the in-lieu option that **Mr. Cassidy** presented and asked whether Marana has done this in the past or presently doing—recalling Sunflower or Continental Ranch recreational amenities. **Mayor Honea** recalled the example cited by **Council Member Ziegler.** He explained that when Sunflower was developed, they built their own amenities—pool, clubhouse, and bocce ball court. With this subdivision being part of Continental Ranch, Continental Ranch wanted them to pay the full scale despite Sunflower having its own amenities that only Sunflower supports.

Council Member Comerford stated Sunflower continues to pay a small portion Continental Ranch.

Mr. Angell stated he and his team would continue to work to gather that information, and will submitted to the Council once compiled, including the baseline from the other communities. The developers are saying that the amenities are driven by the demographics. If it were an age-restricted community, certain amenities within the playground would not make sense. However, if the Town developed an A' la carte

approach for developers to select from for amenities that align to the remarks made by **Council Member Comerford**; that is, exercising caution as to not make one size fit all developments. It has to be flexible.

Park size and amenities will have an impact on HOA fees, as developers has asked the Town to keep that in mind. The connectivity of parks has value. It is not just the placement of parks; how it connects to the existing trail system that goes throughout the entire community, as well as connecting through the neighborhood subdivision.

Mr. Angell explained the proposed changes within the Town Code as provided below, and discussed the Proposed Recreation Area Requirement graphic stating R-3.5 is our existing zone. The Town will propose in the updated LDC to eliminate the R-3.5, and would replace that with R-3, R-4, and R-5. Those would be the smaller lots subdivisions. The proposed recreation requirement would increase to 350. The R-6 to R-8 zoning categories (common categories) would increase to 300 per feet per unit. The R-10 to R-16 would increase to 200.

He explained the reasoning for stopping at R-16 is that the Town's existing design requirement for residential are also capped at R-16. As one moves into the R-80 and above, those are mainly for larger lot developments.

Mayor Honea questioned the disparity in Marana proposed park size when compared to neighboring communities. **Mr. Angell** explained that the Town looked at Pima County standards, and found that both Pima County and Sahuarita have the exact same standards. They then do a sliding scale adjustment based upon density. Town staff discussed those standards with both entities, and landing on 350 is short of the midpoint that Pima County and Sahuarita began their discussions. Some of the feedback received from homebuilders was the other jurisdictions does not have an impact fee. Therefore, implementing an impact fee on top of the 350 is where they currently sit with it.

Staff settled on 350 based on the discussions of Council during the Council Meeting in October 2019, where it was higher density equals higher amenities. They placed the higher number on the smaller lot-zoning district. **Mayor Honea** stated he understands, but was reviewing the lot size in Sahuarita and in Pima County at 436. **Council Member Comerford** stated that was the reasons for her the request to be able to see the other communities actuals. Other communities may state the required amount, however is not sure whether the actuals actually matches its standards. Perhaps in reviewing the language, it be revised to state *starting at*. She does not want the town to get into a situation where it cannot be flexible with a developer. **Mayor Honea** stated he understands; however stressed that Marana total is much lower than other reported communities are.

Mr. Angell explained that he has had conversations with **Carla Blackwell Director of Development** with Pima County stating the County's most common approach in new

subdivisions is that the developer will satisfy the park requirement through 50% of the square footage. At 436 cut in half is 218, and will pay the remaining 50% in cash as they have the in lieu option at which time the County will utilize to improve, create or maintain our regional parks throughout the County. **Council Member Comerford** stated homebuilders are not paying any of the fees that Marana sets. **Mr. Angell** replied stating there is no impact fee, and therefore those fees are not assessed on homebuilders. **Council Member Comerford** stated the assessed impact fee is the County's way of collecting a fee.

Mayor Honea stated if Marana were to set 350 that would be in addition to the impact fee. **Council Members Comerford and Kai** affirmed. **Council Member Bowen** commented on the differences in the amounts of Oro Valley at 512 versus Marana. Council requested to see some additional numbers related to the actuals from the neighboring communities.

Proposed Code Changes:

- Revise minimum square footage requirement per single-family unit
- Use sliding scale based on zoning
- Credit allowance:
    - Natural Undisturbed Open Space (NUOS)
    - Trail connections
    - Drainage basins meeting certain criteria

Mr. Angell explained the proposed changes to the Design Manual stating the Town is looking at Pima County, as everyone is familiar with it and works with it within the region. Staff will work from that document and make changes to it accordingly to Marana standards. One of the items that is included within the document is a Recreation Area Plan requirement. This is a simple written document that has to be included as part of the rezoning or plat approval that would define those amenities that are included within certain parks or development. They would have specific amenity options based upon the park size. There would also be an alternative amenity allowance, as this is the higher value amenity gives homebuilders the option to buy-down. The Town is looking to include that within the Design Manual.

Proposed changes

- New ordinance with reference to design manual
- Design manual based on Pima County's
    - Recreation Area Plan (RAP) requirements
    - Specific amenity options based on park size
    - Alternative amenity allowance

Mr. Angell discussed the next steps in this process stating staff will continue to collect stakeholder feedback; they participated in a meeting with SAHBA Tec Committee Meeting with this group. Staff will continue to work with the Legal team to draft the

draft code amendments and design manual, and will make it available for public review and comment. Once the Town has drafted and reviewed these documents, staff will proceed forward with placing the item on the Planning Commission agenda for its consideration and approval, then to Council for its consideration.

Next Steps

- Collect stakeholder feedback
- Refine draft code and design manual
- Return for Planning Commission approval and Town Council adoption

Public comments submitted:

Mark Johnson commented stating although TA supports the initiative to upgrade these provisions, they find that the proposed Recreation Area Requirements for Zoning District Groups to be wholly inadequate for a variety of reason.

Karen Kansfield expressed concern over not having had the opportunity to participate in the process as a community stakeholder.

John Cicotte expressed concern over not having had the opportunity to participate in the process as a community stakeholder.

Nancy Ernst expressed her support for the alliance to be involved in the creation of new and improved recreational area standards.

Nevena and Steven Mrdalj expressed their support for upgrading the requirements, but is concern that the community stakeholder involvement did not occur.

D2 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 (Jamsheed Mehta)

Mr. Mehta reported on the following legislative updates:

FEDERAL

- **April 16th, 2020**: The President released guidelines for "Opening up America Again". These guidelines are not obligatory by any means, as there is no legal authority behind them. (See attachment). Elements include:
    - Gating Criteria (14-day downward trajectory of symptoms and cases, coupled with a flat or increasing number of tests being performed.
    - Contact tracking (tracking of individuals w/ COVID19 cases, including asymptomatic cases, to ID potential hotspots/areas of need).

    - Healthcare System Capacity ("Surge ICU Capacity") - sufficient beds to treat COVID19 patients at projected peak case levels, adequate PPE levels for healthcare and public safety staff, continue social distancing protocol where appropriate).
    - Guidelines for Individuals: good hygiene, handwashing, no face touching, frequent disinfection of surfaces and items, face coverings in public, etc.
    - Guidelines for Employers: temperature checks, social distancing, adequate PPE, minimal business travel, workforce monitoring for indicative symptoms.
    - 3 Phases for Individuals and Employers
        - Phase 1 guidelines can be used when states have achieved Gating Criteria one time.
        - Phase 2 guidelines can be used when states have no evidence of a rebound that satisfies gating criteria a second time.
        - Phase 3 guidelines can be used when states have no evidence of a rebound that satisfies gating criteria a third time.
- **April 21st, 2020**: Congress is expected to pass a "CARES Act 3.5" by the end of this week, which would include Senate has passed the bill, and H of reps will act on it on Thursday.
    - Additional funding for the Paycheck Protection Program for Small Businesses through the SBA (approx. $300B), TBD
    - Language allowing for much more flexibility in the way that current CARES Act relief dollars can be expended (including revenue recovery)
    - Language to use 2019 Census Data to allocate money to smaller cities, towns, and counties below 500k population as well as direct access to those funds from the State.
    - CURRENT NUMBERS:
        - Total State Stabilization Fund: $2.8B
        - $1.6B for State of Arizona
        - $1.2B for Cities and Counties w/ populations above 500K.
- **April 21st, 2020**: Congress is also said to be entertaining the idea of a fourth Stimulus Bill that would include the following.
    - $ for municipalities of all sizes
    - Direct access for funding
    - Infrastructure Spending stimulus money
    - Municipal employer tax credits for paid sick time, emergency leave, obligations created by Families First Coronavirus Relief Act, and even OT pay related to COVID19.

- Provisions protecting the function and liquidity of the municipal bond market.

STATE

- The State Legislature is still in recess through April at minimum.
- The Governor's Office is soliciting input from cities and towns throughout AZ to determine guidelines on reopening Arizona.
- No specific guidelines have been released from the Governor's Office, nor has a date been officially set as to when the State will reopen.
- The Senate GOP meets every Tuesday to discuss the situation at large regarding COVID19, including elements of when the recess might end, people returning to work, and the phased approach to reopening Arizona's economy.
- **The Legislature will officially return to session on Friday, May 1, only to Sine Die, and return for a Special Session to deal with the budget shortfall.**
- **All 600 active bills, except for a few, will die, unless they addressed during the Special Session.**

BILL TRACKING

- *Marana Bills*: Due to the nature of the pandemic, and the compounding negative effect on the Economy, it looks as if the Tangerine Road Funding Bill (SB1246) sponsored by Senator Leach will not make it through, unless addressed at a Special Session.
    - The odds of this happening are slim, given the state of the economy, as well as Special Sessions typically having a VERY narrow focus.

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).

Council Member Ziegler spoke earlier about the Nighthawk Memorial that occurred in early April at the Marana Airport. Teri Byrne approached her and ask whether the signage can be placed off Interstate 10 (much like the Veterans Cemetery), that directs visitors to the memorial site. **Mayor Honea** replied stating that request can be done internally without having to come to the Council for its approval.

Mayor Honea stated to add to his earlier report; he received a telephone call today from **Dale Post** that the funding for the Villages at Tortolita for the Adonis Road had been pulled by their backers. They do not have the money for this project. Council has promised to move this project forward and, **Council Member Ziegler** has been very

passionate about this project. If they do not have the money, Marana may not have the $2 million funding as well.

Mr. Cassidy stated Council can take up the matter of a future Council Agenda discussion for the May 5 meeting, and cautioned Council, as the matter is not on this meeting agenda for discussion. **Mayor Honea** asked for this matter to come forward to Council on the next scheduled agenda.

ADJOURNMENT

Mayor Honea asked for a motion to adjourn the meeting.

Council Member Ziegler moved and Vice Mayor Post second the motion to adjourn the meeting. Motion passes unanimously, 7-0. Meeting adjourned at 7:12 PM.

CERTIFICATION

I hereby certify that the foregoing are the true and correct minutes of the Marana Town Council meeting held on April 21, 2020. I further certify that a quorum was present.

_____

Cherry L. Lawson, Town Clerk

DRAFT

Council-Regular Meeting **L1**

Meeting Date: 05/05/2020

To: Mayor and Council

Submitted For: Cherry L. Lawson, Town Clerk

From: Suzanne Sutherland, Executive Assistant to the Town Clerk

Date: May 5, 2020

Strategic Plan Focus Area:
Not Applicable

Subject: Relating to Liquor Licenses; recommendation to the Arizona Department of Liquor Licenses and Control regarding a new application for a series #012 Restaurant liquor license submitted by Jared Michael Repinski on behalf of Native Grill & Wings, located at 8225 N. Courtney Page Way Marana, Arizona 85743.

Discussion:

This application is for a series #012 Restaurant liquor license at Native Grill & Wings, located at 8225 N. Courtney Page Way 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 an application for a new series #012 Restaurant liquor license submitted by Jared Michael Repinski on behalf of Native Grill & Wings, located at 8225 N. Courtney Page Way Marana, Arizona 85743.

OPTION 2: I move to adopt and submit to the DLLC an order recommending disapproval of an application for a new series #012 Restaurant liquor license submitted by Jared Michael Repinski on behalf of Native Grill & Wings, located at 8225 N. Courtney Page Way Marana, Arizona 85743.

Attachments

Application
Affidavit of Posting
Local Governing Body Recommendation
Description of Common Types of Liquor Licenses

State of Arizona
Department of Liquor Licenses and Control

Created 03/19/2020 @ 11:06:15 AM

Local Governing Body Report

LICENSE

Number:
Type: 012 RESTAURANT
Name: NATIVE GRILL & WINGS
State: Pending
Issue Date:
Expiration Date:
Original Issue Date:
Location: 8225 N COURTNEY PAGE WAY
MARANA, AZ 85743
USA
Mailing Address: [redacted]
Phone:
Alt. Phone:
Email:

AGENT

Name: JARED MICHAEL REPINSKI
Gender: Male
Correspondence Address: [redacted]
Phone:
Alt. Phone:
Email:

OWNER

Name: THIARA ENTERPRIZES LLC
Contact Name: JARED REPINSKI
Type: LIMITED LIABILITY COMPANY
AZ CC File Number: 23011198
State of Incorporation: AZ
Incorporation Date: 08/11/2019
Correspondence Address: [redacted]
Phone:
Alt. Phone:
Email:

Officers / Stockholders

Name:
Title:
% Interest:

MANDHIR SINGH THIARA MEMBER 100.00

THIARA ENTERPRIZES LLC - MEMBER

Name: MANDHIR SINGH THIARA
Gender: Male
Correspondence Address: [redacted]
Phone:
Alt. Phone:
Email:

APPLICATION INFORMATION

Application Number: 103178
Application Type: New Application
Created Date: 03/19/2020

abagail Tarazon

QUESTIONS & ANSWERS

012 Restaurant

1) Are you applying for an Interim Permit (INP)?
   Yes
   A Document of type INTERIM PERMIT (INP) NOTARY PAGE is required.
2) Are you one of the following? Please indicate below.
   Property Tennant
   Sub-tenant
   Property Owner
   Property Purchaser
   Property Management Company
   TENANT
3) Is there a penalty if lease is not fulfilled?
   No
4) Is the Business located within the incorporated limits of the city or town of which it is located?
   Yes
5) What is the total money borrowed for the business not including the lease?
   Please list each amount owed to lenders/individuals.
   $0
6) Is there a drive through window on the premises?
   No
7) If there is a patio please indicate contiguous or non-contiguous within 30 feet.
   CONTIGUOUS
8) Is your licensed premises now closed due to construction, renovation or redesign or rebuild?
   No

[redacted]

[redacted]

[redacted]

State of Arizona
Department of Liquor Licenses and Control

Created 03/19/2020 @ 11:07:56 AM

Local Governing Body Report

LICENSE

Number:	INP100011052	Type:	INP INTERIM PERMIT
Name:	NATIVE GRILL & WINGS		
State:	Active		
Issue Date:	03/19/2020	Expiration Date:	07/02/2020
Original Issue Date:	03/19/2020		
Location:	8225 N COURTNEY PAGE WAY MARANA, AZ 85743 USA		
Mailing Address:	[redacted]		
Phone:			
Alt. Phone:			
Email:			

AGENT

Name:	JARED MICHAEL REPINSKI
Gender:	Male
Correspondence Address:	[redacted]
Phone:	
Alt. Phone:	
Email:	

OWNER

Name:	THIARA ENTERPRIZES LLC		
Contact Name:	JARED REPINSKI		
Type:	LIMITED LIABILITY COMPANY		
AZ CC File Number:	23011198	State of Incorporation:	AZ
Incorporation Date:	08/11/2019		
Correspondence Address:	[redacted]		
Phone:			
Alt. Phone:			
Email:			

Officers / Stockholders

Name:	Title:	% Interest:

MANDHIR SINGH THIARA	MEMBER	100.00

THIARA ENTERPRIZES LLC - MEMBER

Name: MANDHIR SINGH THIARA
Gender: Male
Correspondence Address: [redacted]

Phone:
Alt. Phone:
Email:

APPLICATION INFORMATION

Application Number: 103180
Application Type: New Application
Created Date: 03/19/2020

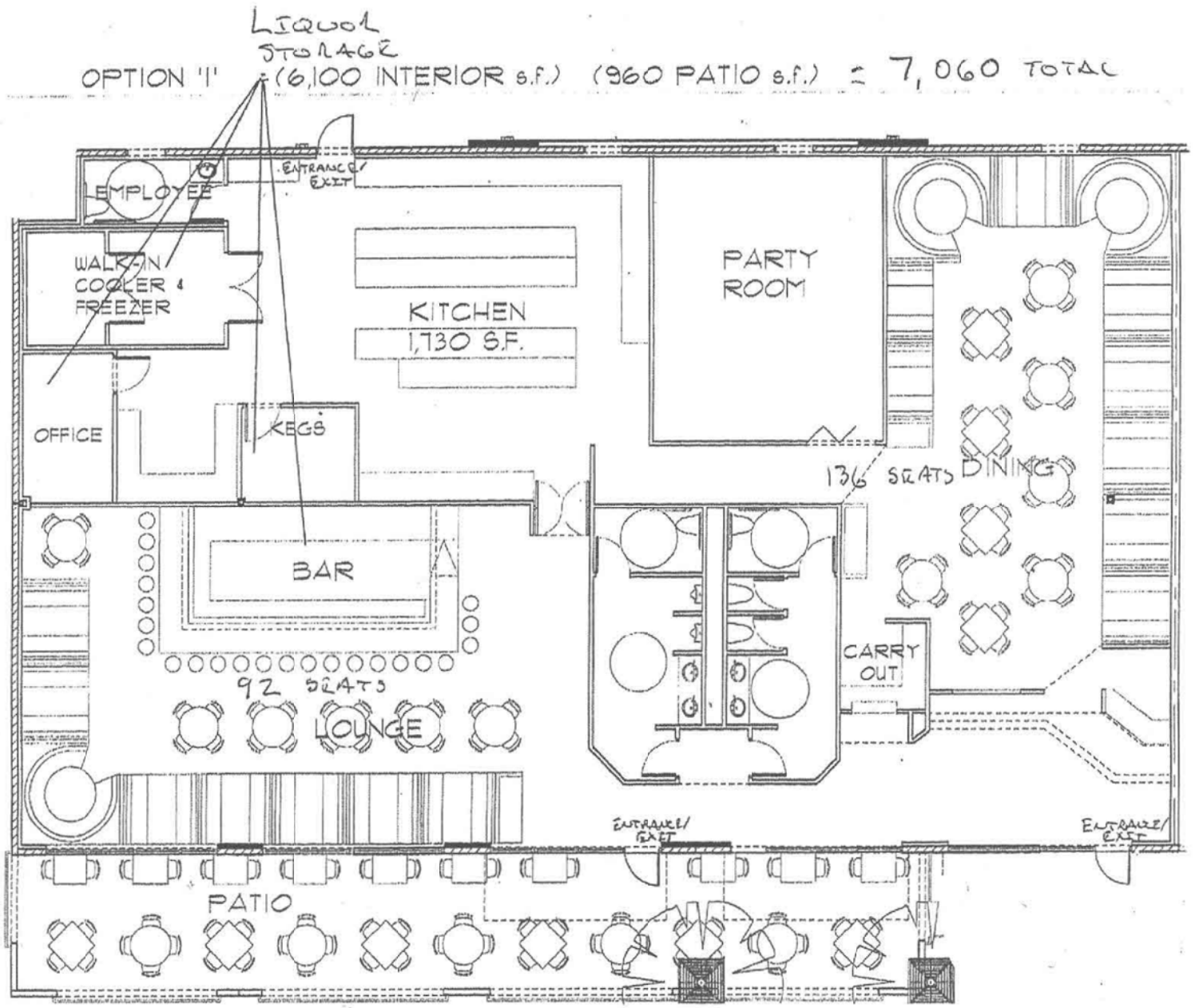
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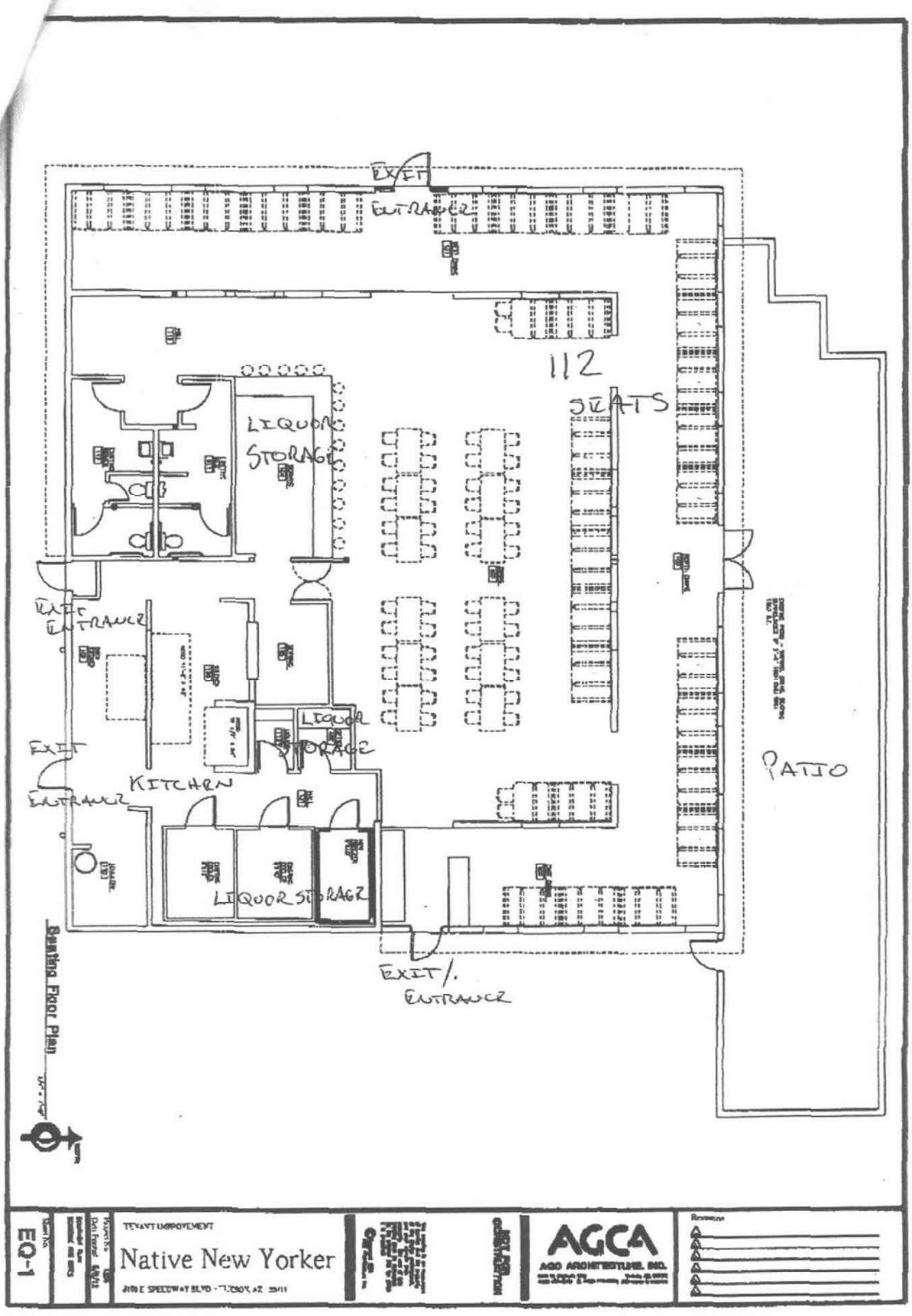
QUESTIONS & ANSWERS

INP Interim Permit

1) Enter License Number currently at location
   12103856
2) Is the license currently in use?
   Yes
3) Will you please submit section 5, page 6, of the license application when you reach the upload page?
   No

[redacted]


N
OPTION 'I'
LIQUOR STORAGE
(6,100 INTERIOR s.f.)
(960 PATIO s.f.)
= 7,060 TOTAL
EMPLOYEE
ENTRANCE/ EXIT
WALK-IN COOLER & FREEZER
KITCHEN 1,730 S.F.
PARTY ROOM
OFFICE
KEGS
136 SEATS DINING
BAR
92 SEATS
LOUNGE
CARRY OUT
ENTRANCE/ EXIT
ENTRANCE/ EXIT
PATIO


N
EXIT
ENTRANCE
112
SEATS
LIQUOR
STORAGE
EXIT
ENTRANCE
LIQUOR
STORAGE
EXIT
KITCHEN
ENTRANCE
LIQUOR STORAGE
PATIO
EXIT/.
ENTRANCE
Seating Floor Plan
EQ-1
TENANT IMPROVEMENT
Native New Yorker
AGCA
AGO ARCHITECTURE, INC.

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

DLLC USE ONLY
Job #: 103178

RESTAURANT OPERATION PLAN

1. Name of restaurant (Please print): Native Grill & Wings

2. List equipment below by Make, Model, and Capacity : **(PROVIDE THE FOLLOWING ITEMS ONLY, NO ATTACHMENTS)**

Grill	Imperial Broiler, Imperial Griddle
Oven	Imperial Stove/Oven, Convection & Conveyor Oven
Freezer	True Food Reach-In Freezer, Kolpak Walk-In Freezer
Refrigerator	Kolpak Walk-In Fridge, True Food 2 Door Reach-In Fridge, True Food 1 Door Reach-In Fridge,
Sink	Hand Sink, Advance Tabco3 Compartment Sink
Dish Washing Facilities	Jackson Dishwasher Unit
Food Preparation Counter (Dimensions)	1-72", 1-96", 1-18", 2-24" Stainless Steel Prep Tables
Other	Slicer, 5 Fryers, Microwave Oven, Steam-table, 3 Door Cold-Top, 2 Door Cold-Top

3. Attach a copy of your full menu **including prices**
(examples: Breakfast, Lunch, Dinner, and Nonalcoholic beverages).

4. List the **seating capacity** for:

   a. Restaurant dining area of your premises: [112]
   (**Do not include patio seating**)

   b. Bar area of your premises: [+ 14]

   c. Total dining and bar seating capacity of your premises: [= 126]

5. What Type of dinnerware and utensils are utilized within your restaurant?

   ☑ Reusable ☐ Disposable ☐ Both

6. Does your restaurant have a bar area that is distinct and separate from the dining area? ☐ YES ☑ No

   (**If yes, what percentage of the public floor space does this area cover?**) _____%

7. What percentage of your public premises is used primarily for restaurant dining?

   (**Do not include kitchen, bar, hi-top tables, or game area.**) 80 %

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

8. Does your restaurant contain any games, televisions, or any other entertainment? ☑ YES ☐ No
(**If yes, specify what types and how many** (examples: 4-TV's, 2-Pool Tables, 1-Video Game, etc.)

32 TV's (42" to 60")

9. Do you have live entertainment or dancing? ☐ YES ☑ No
(**If yes, what type and how often** 8.5
example: DJ-2 x a week, Karaoke-2 x a month, Live Band-1 x a month, etc.)

10. Use space below to list how many employees for each position to fully staff your business.

Position	How many
Cooks	15
Bartenders	5
Hostesses	4
Managers Supervisors	2
Servers	20
Other (Slicer, 5 Fryers, Microwave Oven, Steam-table)	
Other (Bussers)	4
Other (Dishwashers)	3

I, Jared Michael Repinski, hereby declare that I am the APPLICANT filing this application. I have read this application and the contents and all statements true, correct and complete.

X _____
(Signature of APPLICANT)

NOTARY

State of AZ County of Maricopa

The foregoing instrument was acknowledged before me this 4th day of March 2020
Day Month Year

My Commission Expires on: _____ Cynthia M. Cabrejo
Date Signature of Notary Public

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

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

AFFIDAVIT OF POSTING

Date of Posting: April 3, 2020 Date of Posting Removal: 4/23/2020

Applicant's Name: Repinski (Last) Jared (First) Michael (Middle)

Business Address: 8225 N. Courtney Page Way (Street) Marana (City) 85743 (Zip)

License #: 103178

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.

JR Burns	Housing Rehabilitation Specialist	520-382-1927
Print Name of City/County Official	Title	Phone Number

E Otha E Burns Jr. 4/23/2020

Signature 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: Town of Marana (Circle one) Liquor License Application #: 103178 (Arizona application #)

2. County of: Pima County City/Town/County #: LL2020-15

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 5th (Day) of May (Month), 2020 (Year) considered the application of Jared Michael Repinski (Name of applicant)

for a license to sell spirituous liquor at the premises described in application 103178 (Arizona liquor license application #),

for the license series #: type Series #012 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 Jared Michael Repinski (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: 05/05/2020

To: Mayor and Council

From: Frank Cassidy, Town Attorney

Date: May 5, 2020

Strategic Plan Focus Area:
Not Applicable

Subject: Resolution No. 2020-037: Relating to Utilities; approving and authorizing the Mayor to sign the Second Amendment to Amended and Restated Agreement for Construction of Water Facilities and Provision of Water Utility Service for the Saguaro Bloom Development Project (Frank Cassidy)

Discussion:

The Marana Town Council formed the Saguaro Springs Community Facilities District (the "Saguaro Springs CFD") by its adoption of Marana Resolution No. 2007-152 on September 4, 2007. The Saguaro Springs CFD covers the development project now called Saguaro Bloom.

In 2012, the Town and the then-developer of Saguaro Bloom entered into an Amended and Restated Agreement for Construction of Water Facilities and Provision of Water Utility Service for the Saguaro Bloom Development Project (the "Restated WSA"), which included a provision indicating that public water improvements constructed by the developer could not be subject to both a development impact fee (DIF) credit and sale to the Saguaro Springs CFD. The thinking at the time was that allowing both the DIF credit and CFD acquisition would somehow double-compensate the developer for the infrastructure.

Based on further analysis, the Town Attorney has concluded that there is no double compensation. The DIF credit is required by law for any developer-funded public infrastructure included in an infrastructure improvements plan. The credit ensures that the developer is not charged a second time (through DIFs) for public improvements it constructed. Acquisition of eligible public infrastructure by the Saguaro Springs CFD allows the developer's original public infrastructure design and construction costs to be

reimbursed by the CFD, as it does for any eligible public infrastructure.

This proposed Second Amendment to the Restated WSA will allow the developer to enjoy the originally-anticipated benefits of the formation of the Saguaro Springs CFD.

Staff Recommendation:

Town staff recommends adoption of Resolution No. 2020-037, approving and authorizing the Mayor to sign the Saguaro Bloom Second WSA Amendment.

Suggested Motion:

I move to adopt Resolution No. 2020-037, approving and authorizing the Mayor to sign the Saguaro Bloom Second WSA Amendment.

Attachments

Resolution No. 2020-037

Saguaro Bloom 2nd WSA Amendment

MARANA RESOLUTION NO. 2020-037

RELATING TO UTILITIES; APPROVING AND AUTHORIZING THE MAYOR TO SIGN THE SECOND AMENDMENT TO AMENDED AND RESTATED AGREEMENT FOR CONSTRUCTION OF WATER FACILITIES AND PROVISION OF WATER UTILITY SERVICE FOR THE SAGUARO BLOOM DEVELOPMENT PROJECT

WHEREAS the Town of Marana and the then-developer of Saguaro Bloom entered into an Amended and Restated Agreement for Construction of Water Facilities and Provision of Water Utility Service for the Saguaro Bloom Development Project, recorded June 29, 2012, at Sequence 20121810303, Pima County Recorder's office (the "Restated WSA"); and

WHEREAS the Restated WSA was amended by the First Amendment to Amended and Restated Agreement for Construction of Water Facilities and Provision of Water Utility Service for the Saguaro Bloom Development Project recorded April 10, 2015, at Sequence 20151000319, Pima County Recorder's office (the "1st WSA Amendment"); and

WHEREAS the Town of Marana and D.R. Horton, Inc., the current developer of Saguaro Bloom, desire to further amend the Restated WSA as amended by the 1st WSA Amendment to provide that, subject to compliance with all applicable requirements in documents governing the Saguaro Springs Community Facilities District, the developer may sell eligible public water infrastructure to the Saguaro Springs Community Facilities District for the amount of the developer's actual costs for design and construction of the public water infrastructure as determined by the Town Engineer; and

WHEREAS the Mayor and Council find that the terms and conditions of the amendment are in the best interest of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, that the "Second Amendment to Amended and Restated Agreement for Construction of Water Facilities and Provision of Water Utility Service for the Saguaro Bloom Development Project" (the "2nd WSA Amendment") included in the agenda materials accompanying this resolution is hereby approved and the Mayor is hereby authorized and directed to sign it for and on behalf of the Town of Marana, and 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 Restated WSA as amended by the 1st WSA Amendment and the 2nd WSA Amendment.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, this 5th day of May, 2020.

Mayor Ed Honea

ATTEST:

Cherry L. Lawson, Town Clerk

APPROVED AS TO FORM:

Frank Cassidy, Town Attorney

SECOND AMENDMENT TO AMENDED AND RESTATED AGREEMENT FOR CONSTRUCTION OF WATER FACILITIES AND PROVISION OF WATER UTILITY SERVICE FOR THE SAGUARO BLOOM DEVELOPMENT PROJECT

Town of Marana, Arizona

THIS SECOND AMENDMENT TO AMENDED AND RESTATED AGREEMENT FOR CONSTRUCTION OF WATER FACILITIES AND PROVISION OF WATER UTILITY SERVICE FOR THE SAGUARO BLOOM DEVELOPMENT PROJECT (this "Second WSA Amendment") is entered into by and between the TOWN OF MARANA, an Arizona municipal corporation (the "Town"), and D.R. HORTON, INC., a Delaware corporation (the "Developer"). The Town and the Developer are sometimes collectively referred to as the "Parties," each of which is sometimes individually referred to as a "Party."

RECITALS

A. Upon application by the Developer's predecessor in interest, the Marana Town Council adopted Marana Resolution No. 2007-152 on September 4, 2007, forming the Saguaro Springs Community Facilities District pursuant to Arizona Revised Statutes (A.R.S.) Title 48, Chapter 4, Article 6 (A.R.S. § 48-701 *et seq.*).

B. The Town and the Developer's predecessor in interest entered into an instrument titled "AMENDED AND RESTATED AGREEMENT FOR CONSTRUCTION OF WATER FACILITIES AND PROVISION OF WATER UTILITY SERVICE FOR THE SAGUARO BLOOM DEVELOPMENT PROJECT" (the "Restated WSA"), recorded in the Pima County Recorder's office on June 29, 2012 at Sequence 20121810303.

C. Paragraph 5.5 ("Water Fees, Rates, and Credits") of the Restated WSA includes subparagraph 5.5.2, which provides: "To the extent the Developer receives credits [against the Town's Marana Water System Infrastructure Impact Fees], the Developer shall not be entitled to reimbursement from the Saguaro Springs Community Facilities District for the cost of the Developer-Installed Water Facilities."

D. The Town and the Developer's predecessor in interest entered into an instrument titled "FIRST AMENDMENT TO AMENDED AND RESTATED AGREEMENT FOR CONSTRUCTION OF WATER FACILITIES AND PROVISION OF WATER UTILITY SERVICE FOR THE SAGUARO BLOOM DEVELOPMENT PROJECT" (the "First WSA Amendment"), recorded in the Pima County Recorder's office on April 10, 2015 at Sequence 20151000319.

E. The rights and obligations under the Restated WSA as amended by the First WSA Amendment were assigned and assumed by the Developer pursuant to the "ASSIGNMENT AND ASSUMPTION OF AMENDED AND RESTATED AGREEMENT FOR CONSTRUCTION OF WATER

FACILITIES AND PROVISION OF WATER UTILITY SERVICE FOR THE SAGUARO BLOOM DEVELOPMENT PROJECT" (the "WSA Assignment"), recorded in the Pima County Recorder's office on October 9, 2015 at Sequence 20152820341.

F. The Developer avoids having to pay twice for the Developer-Installed Water Facilities by receiving credits against the Town's Marana Water System Infrastructure Impact Fees as provided in the Restated WSA as amended by the First WSA Amendment.

G. Subparagraph 5.5.2 of the Restated WSA restricts the Developer's ability to be reimbursed by the Saguaro Springs Community Facilities District for the Developer's original costs to design and construct the Developer-Installed Water Facilities.

H. The Saguaro Springs Community Facilities District was formed (among other reasons) to allow qualified developers of what is now known as the Saguaro Bloom development project ("Saguaro Bloom") to be reimbursed for qualified public infrastructure costs, as more particularly and specifically described in the instrument titled "DISTRICT DEVELOPMENT, FINANCING PARTICIPATION AND INTERGOVERNMENTAL AGREEMENT" recorded in the Pima County Recorder's office on June 7, 2013 at Sequence 20131580460 (the "Saguaro Springs CFD DA & IGA").

I. Title to some of the lots and blocks in Saguaro Bloom are held by TITLE SECURITY AGENCY OF ARIZONA, an Arizona corporation, as trustee under Trust No. 201434-T ("TITLE SECURITY 201434-T"), for the benefit of Developer, as the sole beneficiary.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants set forth in this Second WSA Amendment, the Parties hereby agree as follows:

1. The Developer's representation of ownership. By entering into this Second WSA Amendment, D.R. HORTON, INC., the "Developer" under this Second WSA Amendment, represents that it is the sole beneficiary of TITLE SECURITY 201434-T and is entitled to enter into this Second WSA Amendment.

2. Deletion of subparagraph 5.5.2 of the Restated WSA. Subparagraph 5.5.2 of the Restated WSA is hereby deleted in its entirety.

3. CFD reimbursement. Subject to compliance with all applicable requirements in documents governing the Saguaro Springs Community Facilities District, the Developer may sell eligible public infrastructure to the Saguaro Springs Community Facilities District for the amount of the Developer's actual costs for design and construction of the Developer-Installed Water Facilities as determined by the Town Engineer pursuant to the Saguaro Springs CFD DA & IGA.

4. Binding effect. This Second WSA Amendment shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the Parties.

5. Cancellation for conflict of interest. This Second WSA Amendment is subject to A.R.S. § 38-511, which provides for cancellation in certain instances involving conflict of interest.

6. Counterparts. This Second WSA Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signatures of all Parties may be physically attached to a single document.

7. Good standing. The Developer represents and warrants to the Town that it is duly formed and validly existing and authorized to do business in the state of Arizona. The Town represents and warrants to the Developer that it is an Arizona municipal corporation with authority to enter into this Second WSA Amendment under applicable state laws.

8. Authority. Each Party represents and warrants that the individual executing this Second WSA Amendment on its behalf is authorized and empowered to bind the Party on whose behalf each such individual is signing.

9. Governing law. This Second WSA Amendment is entered into in Arizona and shall be construed and interpreted under the laws of the State of Arizona, and the Parties agree that any litigation or arbitration shall take place in Pima County, Arizona.

10. Interpretation. This Second WSA Amendment has been negotiated by the Parties, and no Party shall be deemed to have drafted this Second WSA Amendment for purposes of construing any portion of this Second WSA Amendment for or against any Party.

[Remainder of page intentionally left blank. Signature pages follow.]

IN WITNESS WHEREOF, the Parties have executed this Second WSA Amendment, effective as of the last date set forth below their respective signatures.

The "Town":

TOWN OF MARANA, an Arizona municipal corporation

By: _____
Ed Honea, Mayor

Date: _____

ATTEST:

_____
Cherry L. Lawson, Town Clerk

APPROVED AS TO FORM:

_____
Frank Cassidy, Town Attorney

The "Developer":

D.R. HORTON, INC., a Delaware corporation

By: _____
Brent Davis, Vice President

Date: 4/14/2020

STATE OF ARIZONA)
) ss
County of Pima)

The foregoing instrument was acknowledged before me on April 14, 2020, by Brent Davis, the Vice President of D.R. HORTON, INC., a Delaware corporation, on behalf of the corporation.

(Seal)

NOTARY PUBLIC
STATE OF ARIZONA
Pima County
CINDY A. REICHE
COMMISSION # 556114
My Commission Expires December 27, 2022

Cindy A. Reiche
Notary Public

The undersigned, the record owner of certain of the lots and blocks in Saguaro Bloom, hereby consents to this Second WSA Amendment:

TITLE SECURITY AGENCY OF ARIZONA, an Arizona corporation, solely in its capacity as trustee under Trust No. 201434-T, and not personally

By: _____
Name: Diane L. Sloane
Title: Trust Officer

STATE OF ARIZONA)
) ss
County of Pima)

The foregoing instrument was acknowledged before me on April 15th, 2020, by Diane L. Sloane, the Trust Officer of TITLE SECURITY AGENCY OF ARIZONA, an Arizona corporation, solely in its capacity as trustee under Trust No. 201434-T, and not personally, on behalf of the corporation.

(Seal)

Cindy A. Reiche
Notary Public

NOTARY PUBLIC
STATE OF ARIZONA
Pima County
CINDY A. REICHE
COMMISSION # 556114
My Commission Expires December 27, 2022

Council-Regular Meeting **A2**

Meeting Date: 05/05/2020

To: Mayor and Council

From: Frank Cassidy, Town Attorney

Date: May 5, 2020

Strategic Plan Focus Area:
Not Applicable

Subject: Resolution No. 2020-038: Relating to Utilities; approving and authorizing the Mayor to sign the First Amendment to Agreement for Construction of Water Facilities and Provision of Water Utility Service for the Rancho Marana 154 Subdivision; designating as protected facilities the 16" potable water main and the offsite non-potable water facilities constructed by Meritage Homes of Arizona; and adopting the Rancho Marana Water Main protected facility charge and the Rancho Marana Non-Potable Water Facilities protected facility charge (Frank Cassidy)

Discussion:

Meritage Homes and the Town are parties to a 2005 water service agreement for the Rancho Marana 154 development (the "Original Agreement") that required Meritage to install oversized potable and non-potable water facilities.

The Original Agreement committed the Town to require benefiting developments to reimburse Meritage for new connections to a Meritage-constructed 16" potable water main. When the work was completed in 2007, Marana Water employee Ann Meaders wrote a letter allocating the 16" potable water main's oversizing costs among the various projects benefiting from it. Initial water service agreements for Fianchetto Farms, Farm Field Five, and Payson Farms implemented the 16" potable water main allocations as described in the 2007 allocation letter.

Over the years, only the Farm Field Five allocation toward the 16" potable water main was paid. Payson Farms remained undeveloped, and a water line that was supposed to have been constructed through Payson Farms to serve the Fianchetto Farms project was never constructed. As a result, the Fianchetto Farms subdivision was served with a

water main extension from the Honea Heights neighborhood and ended up not benefiting from, or being required to pay its allocated share of, the 16" potable water main.

The 2007 allocation letter also allocated a $174,247 portion of Meritage's non-potable water facilities costs to the Vanderbilt Farms project, and indicated that the non-potable facilities would be "protected" to ensure payment to Meritage. But the Original Agreement was not amended to designate the Meritage-constructed non-potable facilities as "protected," and no protected main designation was made for the non-potable facilities by separate resolution. With the Great Recession, neither Vanderbilt Farms nor Payson Farms moved forward.

The Original Agreement had a 15-year term, the maximum term allowed for protected facility agreements at the time under Marana Town Code section 14-4-3. The Original Agreement is set to expire on June 2, 2020.

This agenda item presents for Council's consideration a proposed resolution which, if adopted, will (1) approve and authorize the Mayor to sign an amendment to the Original Agreement (the "Amendment"), (2) declare the Meritage-constructed potable main and non-potable facilities as "protected facilities," and (3) establish the Rancho Marana Potable Water Main protected facility fee and the Rancho Marana Non-Potable Water Facilities protected facility fee.

The Amendment was negotiated by Town staff and Meritage with a primary purpose of extending the reimbursement to Meritage for oversizing the 16" potable water main and to establish reimbursement to Meritage for oversizing the non-potable facilities. The Amendment also clarifies various technical issues that have come up over the years related to the Original Agreement.

The current version of the protected facility provision of the Marana Town Code, which is still found at section 14-4-3, no longer limits the reimbursement term to 15 years, but instead allows the Town Council to set the reimbursement term. In light of the unanticipated effects of the Great Recession, and considering the current market unease with the COVID-19 pandemic, Meritage seeks to extend the term for reimbursement for an additional 10 years, to June 2, 2030. As presented for Council's consideration, the Amendment extends the reimbursement for ten years, but also includes a further extension to ensure that the Town passes on to Meritage any fair-share contributions received through agreements between the Town and Payson Farms or Vanderbilt Farms, even if those fair-share contributions are received beyond 2030.

As mentioned above, the proposed resolution accompanying this agenda item would also designate as "protected facilities" the 16" potable water main and the non-potable water facilities installed by Meritage for the Rancho Marana 154 project, and would establish "protected facility charges" for each. Payson Farms is the only future development project that is anticipated to pay the Rancho Marana Potable Water Main protected facility charge, and it will be in the same amount as was found in a 2006 Payson Farms water service agreement that was automatically terminated when Payson Farms was not timely developed. Vanderbilt Farms is the only future development

project that is anticipated to pay the Rancho Marana Non-Potable Water Facilities protected facility charge, and the total of all such charges to be collected from Vanderbilt Farms is calculated to equal the $174,247 fair-share Vanderbilt Farms allocation set forth in the 2007 allocation letter.

Town staff has also been negotiating a proposed Vanderbilt Farms development agreement, which is currently scheduled to be brought to Council for adoption on May 19. As currently drafted, the Vanderbilt Farms development agreement includes the Rancho Marana Non-Potable Facilities protected facility charge. If the Rancho Marana Non-Potable Water Facilities protected facility charge is adopted as proposed tonight, the charge will remain in the Vanderbilt Farms development agreement, and any future Payson Farms water service agreement will include the Rancho Marana Potable Water Main protected facility charge. If the Council decides not to adopt the resolution approving the Amendment and establishing the protected facility charges, the Rancho Marana Non-Potable Facilities protected facility charge will be removed from the Vanderbilt Farms development agreement, and any future Payson Farms water service agreement will exclude the Rancho Marana Potable Water Main protected facility charge.

Marana Water staff has expressed reservations about extending the reimbursement to Meritage as provided in the Amendment, out of concern that it will create a precedent for 25-year or more reimbursement periods and will be an administrative burden to track, collect, and reimburse the protected facility charges. The Town Attorney believes that declining to enter into the Amendment could cause developers to be less willing to oversize public infrastructure. The Amendment will provide fair-share reimbursement to Meritage without costing the Town anything beyond routine administrative costs.

Staff Recommendation:

Staff recommends adoption of Resolution No. 2020-038, approving and authorizing the Mayor to sign the First Amendment to Agreement for Construction of Water Facilities and Provision of Water Utility Service for the Rancho Marana 154 Subdivision; designating as protected facilities the 16" potable water main and the offsite non-potable water facilities constructed by Meritage Homes of Arizona; and adopting the Rancho Marana Water Main protected facility charge and the Rancho Marana Non-Potable Water Facilities protected facility charge.

Suggested Motion:

I move to adopt Resolution No. 2020-038, approving and authorizing the Mayor to sign the First Amendment to Agreement for Construction of Water Facilities and Provision of Water Utility Service for the Rancho Marana 154 Subdivision; designating as protected facilities the 16" potable water main and the offsite non-potable water facilities constructed by Meritage Homes of Arizona; and adopting the Rancho Marana Water Main protected facility charge and the Rancho Marana Non-Potable Water Facilities protected facility charge.

Attachments

Resolution No. 2020-038
Rancho Marana WSA Amendment

MARANA RESOLUTION NO. 2020-038

RELATING TO UTILITIES; APPROVING AND AUTHORIZING THE MAYOR TO SIGN THE FIRST AMENDMENT TO AGREEMENT FOR CONSTRUCTION OF WATER FACILITIES AND PROVISION OF WATER UTILITY SERVICE FOR THE RANCHO MARANA 154 SUBDIVISION; DESIGNATING AS PROTECTED FACILITIES THE 16" POTABLE WATER MAIN AND THE OFFSITE NON-POTABLE WATER FACILITIES CONSTRUCTED BY MERITAGE HOMES OF ARIZONA; AND ADOPTING THE RANCHO MARANA WATER MAIN PROTECTED FACILITY CHARGE AND THE RANCHO MARANA NON-POTABLE WATER FACILITIES PROTECTED FACILITY CHARGE

WHEREAS Meritage Homes of Arizona and the Town of Marana are parties to an "Agreement for Construction of Potable and Non-Potable Water Facilities and Provision of Water Utility Service" dated January 18, 2005 and recorded in the office of the Pima County Recorder on June 10, 2005 at Docket 12571, Page 2724 (the "Original Agreement"); and

WHEREAS representatives of Meritage Homes and the Town have negotiated an amendment to the Original Agreement, entitled "First Amendment to Agreement for Construction of Water Facilities and Provision of Water Utility Service for the Rancho Marana 154 Subdivision" (the "Amendment"); and

WHEREAS the Original Agreement provides for reimbursement of the oversizing costs of a 16" water main constructed by Meritage Homes and referred to in the Amendment as the "Rancho Marana Water Main"; and

WHEREAS Meritage Homes also constructed certain non-potable facilities referred to in the Amendment as the "Rancho Marana Non-Potable Water Facilities"; and

WHEREAS 2007 negotiations between the parties and others led to the Town of Marana's preparation of what is referred to in the Amendment as the "2007 Allocation Letter," which allocated among then-anticipated benefiting development projects the fair-share costs of the Rancho Marana Water Main and the Rancho Marana Non-Potable Water Facilities; and

WHEREAS the 2007 Allocation Letter indicated that the Rancho Marana Non-Potable Water Facilities would be treated as "protected facilities" to ensure that Meritage received a pro-rata contribution from Vanderbilt Farms development project, which

will be served by and benefit from the Rancho Marana Non-Potable Water Facilities; and

WHEREAS no formal steps were taken by the Town to designate the Rancho Marana Non-Potable Water Facilities as protected facilities to date; and

WHEREAS, for reasons including the Great Recession and the resulting significant slow-down in development activities in this market, the number of connections made to the Rancho Marana Water Main during the 15-year reimbursement period under the Original Agreement has been significantly fewer than anticipated, and no connections have been made to the Rancho Marana Non-Potable Water Facilities; and

WHEREAS the Town Council finds that extending the time for reimbursement of costs for the Rancho Marana Water Main and formally establishing a mechanism for reimbursement of costs for the Rancho Marana Non-Potable Water Facilities is consistent with a policy of facilitating fair-share reimbursement to developers for oversizing of public facilities, promotes fairness, and assures continued developer participation in Town of Marana infrastructure oversizing initiatives; and

WHEREAS thirty days' mailed notice has been provided to the owners of the Payson Farms development project, which is the area identified by the Water Director as the land likely someday to be served by the Rancho Marana Water Main, and to the owners of the Vanderbilt Farms development project, which is the area identified by the Water Director as the land likely someday to be served by the Rancho Marana Non-Potable Water Facilities; and

WHEREAS the Mayor and Council of the Town of Marana find that designation of the Rancho Marana Water Main and the Rancho Marana Non-Potable Water Facilities as protected facilities and adoption of the Rancho Marana Water Main protected facility charge and the Rancho Marana Non-Potable Water Facilities protected facility charge will ensure fair-share reimbursement to Meritage Homes by property owners who use and benefit from those facilities and that said designations and adoption are in the best interests of the Town of Marana and the public.

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

SECTION 1. The "First Amendment to Agreement for Construction of Water Facilities and Provision of Water Utility Service for the Rancho Marana 154 Subdivision" (the "Amendment") between Meritage Homes and the Town of Marana, in substantially the form included in the Council agenda materials accompanying this resolution, is hereby approved, and the Mayor is hereby authorized and directed to sign it for and on behalf of the Town of Marana.

SECTION 2. Pursuant to Marana Town Code Section 14-4-3 (C), the Town Council of the Town of Marana hereby designates as a protected facility the Rancho Marana Water Main, consisting of the 16" potable water main and associated facilities extending from the Civic Center Drive/Barnett Road intersection southward to the Civic Center Drive/Clark Farms Boulevard intersection and from there westward to the Clark Farms Boulevard/Sandario Road intersection, more particularly depicted in the Town-approved as-built plans entitled "FARM FIELD FIVE OFFSITE WATER 16" W+ZONE POTABLE WATER MAIN AND 8" AND 12" NON-POTABLE WATER MAIN," prepared by THE WLB GROUP for Meritage Homes with an engineering stamp date of January 14, 2006, with the last Town of Marana signature approval date of March 6, 2006, and with an as-built certification by Westland Resources, Inc., the Town of Marana's then-contract engineer, dated February 9, 2007 (the "As-Built Plans").

SECTION 3. Pursuant to Marana Town Code Section 14-4-3 (C), the Town Council of the Town of Marana hereby adopts a Rancho Marana Water Main protected facility charge in the amount of $759.09 per lot for the currently-proposed 367-lot residential Payson Farms subdivision, payable when the building permit is issued for the home on the lot. If Payson Farms is resubdivided, the protected facility charge will be recalculated based on the total Rancho Marana Water Main costs attributable to Payson Farms (i.e., $278,584.14) divided by the number of lots in the resubdivision.

SECTION 4. Pursuant to Marana Town Code Section 14-4-3 (C), the Town Council of the Town of Marana hereby designates as protected facilities the Rancho Marana Non-Potable Water Facilities, consisting of the 8" and 12" non-potable water mains and associated facilities located near the Civic Center Drive/Barnett Road intersection, the Civic Center Drive/Clark Farms Boulevard intersection, and the Clark Farms Boulevard/Sandario Road intersection, more particularly depicted in the As-Built Plans.

SECTION 5. Pursuant to Marana Town Code Section 14-4-3 (C), the Town Council of the Town of Marana hereby adopts a Rancho Marana Non-Potable Water Facilities protected facility charge in the total amount of $495.06 per acre for the currently-proposed 351.97-acre Vanderbilt Farms Block Plat (excluding 0.09-acre Block 4), for a total protected facility charge of $174,247 for the Rancho Marana Non-Potable Water Facilities. For residential projects, the total Rancho Marana Non-Potable Water Facilities protected facility charge for a particular block of the Vanderbilt Farms development project will be divided by the number of subdivision lots in the block, and the resulting protected facility charge per lot will be payable when the building permit is issued for the home on the lot. For non-residential or multi-family projects, the $495.06 per acre protected facility charge will be payable when the building permit for the non-residential building is issued.

SECTION 6. The Town Manager and Town staff are authorized to perform and carry out the terms of the Amendment, and the Town of Marana Water Director is hereby authorized to administer the collection of the Rancho Marana Water Main pro-

tected facility charge and the Rancho Marana Non-Potable Water Facilities protected facility charge.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 5th day of May, 2020.

Mayor Ed Honea

ATTEST:

Cherry L. Lawson, Town Clerk

APPROVED AS TO FORM:

Frank Cassidy, Town Attorney

FIRST AMENDMENT TO AGREEMENT FOR CONSTRUCTION OF WATER FACILITIES AND PROVISION OF WATER UTILITY SERVICE

TOWN OF MARANA

Rancho Marana 154 Subdivision

THIS AMENDMENT is entered into by and between the TOWN OF MARANA, an Arizona municipal corporation (the "Town"), and MERITAGE HOMES ARIZONA, INC., an Arizona corporation formerly known as Monterey Homes of Arizona, Inc. (the "Developer"). The Town and the Developer are sometimes referred to collectively as the "Parties," either of which is sometimes individually referred to as a "Party."

RECITALS

A. Developer (when known as Monterey Homes Arizona, Inc.) and U S Home Corporation (collectively the "Original Owners") and the Town entered into an "Agreement for Construction of Potable and Non-Potable Water Facilities and Provision of Water Utility Service" dated January 18, 2005 and recorded in the office of the Pima County Recorder on June 10, 2005 at Docket 12571, Page 2724 (the "Original Agreement").

B. The introductory paragraph of the Original Agreement states that it was "entered into as of the 18th day of January, 2005, and the Original Agreement was approved by Marana Resolution No. 2005-10, which was adopted on January 18, 2005.

C. The Original Agreement was signed on behalf of the Original Owners on June 2, 2005, and was recorded on June 10, 2005.

D. Paragraph 2.1(a)(ii) of the Original Agreement required the Original Owners to construct all of the following (all of which together are referred to as the "Rancho Marana Water Main"):

1. Extend the 16" water main on the east side of Ora Mae Harn Park with a 16" main to a then-existing 16" water main in Civic Center Loop Drive at Lon Adams Road. This work is referred to in this Amendment as "Category #1."

2. Extend the then-existing 16" water main from Civic Center Loop Drive at Barnett Road south to Clark Farms Drive, and then west on Clark Farms Drive to Sandario Road. This work is referred to in this Amendment as "Category #2."

3. Extend the 16" water main from Sandario Road to the most westerly property boundary of the Rancho Marana Project. This work is referred to in this Amendment as "Category #3."

E. Paragraph 2.1(a)(iii) of the Original Agreement stated that the Rancho Marana Water Main would be "a Protected Main by Marana Town Code 14-7 through Vanderbilt Farm and to neighboring property boundary. (Developer share is estimated to be one third (1/3) of total construction cost.)" The words "Vanderbilt Farm" refers to the Vanderbilt Farms development project (referred to herein as "Vanderbilt Farms"), according to the Final Block Plat of Vanderbilt Blocks 1 thru 13 recorded in the Pima County Recorder's office on July 13, 2005, in Book 60 of Maps and Plats, Page 7 (Sequence 20051340763).

F. The reference to Marana Town Code 14-7 in paragraph 2.1(a)(iii) of the Original Agreement was incorrect—Marana Town Code Article 14-7 as it existed at the time of the Original Agreement was titled "Water Rates and Charges" and said nothing about protected mains.

G. Marana Town Code section 14-4-3 ("Capacity Requirements") as it existed at the time of the Original Agreement provided an "Oversizing Recovery Charge" mechanism for reimbursing an applicant for installing "water facilities of a size greater than is required to provide service to applicant's development, referred to as oversizing." A copy of Marana Town Code section 14-4-3 as adopted by Marana Ordinance No. 96.06 and as it appeared at the time of the Original Agreement is attached as Exhibit A.

H. Exhibit "F" ("System Oversize Agreement") to the Original Agreement correctly cited Marana Town Code section 14-4-3 as the mechanism to reimburse oversizing costs.

I. The Town-approved as-built plans for the Rancho Marana Water Main are titled "FARM FIELD FIVE OFFSITE WATER 16" W+ZONE POTABLE WATER MAIN AND 8" AND 12" NON-POTABLE WATER MAIN," prepared by THE WLB GROUP for Meritage Homes with an engineering stamp date of January 14, 2006, with the last Town of Marana signature approval date of March 6, 2006, and with an as-built certification by Westland Resources, Inc., the Town of Marana's then-contract engineer, dated February 9, 2007. The non-potable water facilities depicted in these Town-approved as-built plans are referred to in this Amendment as the "Rancho Marana Non-Potable Water Facilities."

J. The Town's Water Department sent the Developer a letter dated April 25, 2007 (the "2007 Allocation Letter"), which is attached as Exhibit B.

K. The 2007 Allocation Letter:

1. Allocated the costs of the Rancho Marana Water Main among various proposed developments then-anticipated to connect to and benefit from the Rancho Marana Water Main, and

2. Allocated a portion of the cost of the Rancho Marana Non-Potable Water Facilities to the Vanderbilt Farms development project, stating "Protected non-potable main to Meritage to be collected from Vanderbilt" in the amount of $174,247.

L. Notwithstanding the statement in the 2007 Allocation Letter indicating that the Rancho Marana Non-Potable Water Facilities would be "protected" so as to ensure fair-share reimbursement from the Vanderbilt Farms development project, no formal steps

were taken to establish the Rancho Marana Non-Potable Water Facilities as protected facilities.

M. At the time of the Original Agreement, Marana Town Code section 14-4-3(B)(2) limited the oversize recovery charge reimbursement period to 15 years.

N. Since the execution of the Original Agreement, the Town has changed Marana Town Code section 14-4-3 to remove the 15-year limitation, allowing the reimbursement period to be set forth in an agreement approved by the Town Council between the parties.

O. The Developer has to date received certain oversize recovery charge reimbursements for the Rancho Marana Water Main, which the Parties desire to confirm and reconcile within this Amendment.

P. For reasons including the major economic recession and the resulting significant slow-down in development activities in this market, the number of connections made to the Rancho Marana Water Main during the reimbursement period has been significantly fewer than the Parties anticipated and no connections have been made to the Rancho Marana Non-Potable Water Facilities.

Q. The Parties desire to establish the Rancho Marana Non-Potable Water Facilities as protected facilities and to extend the period of Developer reimbursement to more fairly reimburse the Developer for the Rancho Marana Water Main and the Rancho Marana Non-Potable Water Facilities and to clarify and confirm certain provisions of the Original Agreement.

R. In December 2018, the Town adopted Marana Ordinance No. 2018.022, which adds the procedure set forth in Marana Town Code section 14-4-5 for the designation of a "protected facility" and for the establishment of an associated charge.

S. To comply with Marana Town Code section 14-4-5, the Town has provided notice to the owners of Payson Farms and Vanderbilt Farms, the lands the water director reasonably believes are likely someday to be served by the Rancho Marana Water Main or the Rancho Marana Non-Potable Water Facilities, and the Town is now designating both the Rancho Marana Water Main and the Rancho Marana Non-Potable Water Facilities as "protected facilities" and is establishing the "Rancho Marana Water Main protected facility charge" and the "Rancho Marana Non-Potable Water Facilities protected facility charge" pursuant to Marana Resolution No. 2020-___, which also authorizes the signing of this Amendment.

T. Although U S Home Corporation was a party to the Original Agreement, the Rancho Marana Water Main and the Rancho Marana Non-Potable Water Facilities were constructed by the Developer at its expense, and reimbursements by the Town associated with the Rancho Marana Water Main have been made to the Developer. No reimbursements to date have been made for the Rancho Marana Non-Potable Water Facilities.

U. The Developer is the sole beneficiary of TITLE SECURITY AGENCY LLC, a Delaware limited liability company, formerly known as Title Security Agency of Arizona, LLC, a Delaware limited liability company, as Trustee under Trust 201812T and not otherwise,

which is the title owner of the Developer's remaining land holdings within the Rancho Marana Project, and to the extent the trust's interests are implicated, is signing this Amendment in its capacity as sole beneficiary of the trust.

V. The Parties understand and acknowledge that this Agreement is a "Development Agreement" within the meaning of, and entered into pursuant to the terms of, A.R.S. § 9-500.05.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants set forth in this Amendment, the Parties hereby agree as follows:

1. Clarification and confirmation of certain elements of the Original Agreement. The Parties acknowledge and agree that the following correctly describe the current circumstances and the rights and obligations of the Parties under the Original Agreement as amended by this Amendment:

a. The effective date of the Original Agreement was June 2, 2005, when the last party signed the Original Agreement.

b. The 15-year reimbursement period under the Original Agreement ends on June 2, 2020.

c. The 2007 Allocation Letter attached as Exhibit B is a true and correct copy of the letter received by the Developer.

d. The last page of the 2007 Allocation Letter reflects the originally agreed-upon allocation of the Rancho Marana Water Main costs among the developments originally anticipated to be served and benefited by the Rancho Marana Water Main; specifically, it is a breakdown of the Category #1, Category #2, and Category #3 cost of the Rancho Marana Water Main among the Developer, the Farm Field Five project, and the "Payson" project.

e. The Developer was previously reimbursed $272,580.31 for the Category #1 and Category #2 costs of the Rancho Marana Water Main shown in the 2007 Allocation Letter as being attributable to Farm Field Five development. These were the only Rancho Marana Water Main costs allocated to properties east of the western terminus of the Rancho Marana Water Main.

f. The "Payson" column of the 2007 Allocation Letter refers to Category #1, Category #2, and Category #3 costs of the Rancho Marana Water Main attributable to Payson Farms and Fianchetto Farms, located west of the western terminus of the Rancho Marana Water Main, and provides for an allocation to "Payson" of 33% of the Category #1 and Category #2 costs and 50% of the Category #3 costs.

g. Fianchetto Farms is the land area depicted on the final plat for Fianchetto Farms, a 114-lot residential subdivision recorded in the Pima County Recorder's office on March 10, 2006, at Book 60 of Maps and Plats, Page 97 (Sequence 20060470609).

h. Payson Farms is the land area depicted on the final plat for Payson Farms, a 367-lot residential subdivision recorded in the Pima County Recorder's office on March 31, 2006, at Book 61 of Maps and Plats, Page 7 (Sequence 20060620398).

i. The Town and the original developer of Fianchetto Farms entered into the Fianchetto Farms Development Agreement (the "Fianchetto DA"), recorded in the Pima County Recorder's office on August 25, 2005, at Docket 12624, Page 2871 (Sequence 20051650918).

j. The Town and the original developer of Payson Farms entered into an Agreement for Construction of Water Facilities under Private Contract (the "Payson WSA"), recorded in the Pima County Recorder's office on March 24, 2006, at Docket 12768, Page 1823 (Sequence 20060570400).

k. The Town carried out the 33% Category #1 and Category #2 "Payson" allocation in the 2007 Allocation Letter by allocating 9.97% of the Category #1 and Category #2 costs to Fianchetto Farms in the Fianchetto DA and by allocating 23.33% of the Category #1 and Category #2 costs to Payson Farms in the Payson WSA.

l. The Town carried out the 50% Category #3 "Payson" allocation in the 2007 Allocation Letter by allocating 14.96% of the Category #3 costs to Fianchetto Farms in the Fianchetto DA and by allocating 35.04% of the Category #3 costs to Payson Farms in the Payson WSA.

m. From the western terminus of the Rancho Marana Water Main as constructed by the Developer, a water main extension was designed to pass through Payson Farms to reach Fianchetto Farms.

n. The land area of Payson Farms was rough-graded and taken out of farm production in or around 2006, but is currently vacant and undeveloped; consequently, none of the Rancho Marana Water Main costs attributable to Payson Farms have been paid.

o. Because Payson Farms was not developed, the water main extension was not constructed through Payson Farms connecting to the Rancho Marana Water Main, and potable water service to Fianchetto Farms was instead provided through the Honea Heights subdivision located south of Fianchetto Farms. The Town entered into an Agreement to Terminate Fianchetto Farms Development Agreement, recorded in the Pima County Recorder's office on December 9, 2016 at Sequence 20163440413. Consequently, none of the Rancho Marana Water Main costs attributable to Fianchetto Farms have been paid or will be paid.

p. As a consequence of all of the above, Payson Farms is the only remaining land area to be benefited by the Rancho Marana Water Main for which costs allocated in the 2007 Allocation Letter have not been paid.

q. The 2007 Allocation Letter confirms that the total Category #1 costs were $351,261.60, so the 23.33% attributable to Payson Farms is $81,949.33.

r. The 2007 Allocation Letter confirms that the total Category #2 costs were $466,479.33, so the 23.33% attributable to Payson Farms is $108,829.63.

s. The 2007 Allocation Letter confirms that the total Category #3 costs were $250,585.56, so the 35.04% attributable to Payson Farms is $87,805.18.

t. The sum of the preceding three subparagraphs, or $278,584.14, is the total Rancho Marana Water Main costs attributable to Payson Farms.

u. If Payson Farms is developed as a 367-lot residential subdivision, as currently platted, the total Rancho Marana Water Main costs attributable to Payson Farms would be fully paid with payments of $759.09 per lot.

v. The last page of the 2007 Allocation Letter reflects the originally agreed-upon allocation of $174,247 of the cost of the Rancho Marana Non-Potable Water Facilities to be reimbursed by the Vanderbilt Farms development project.

w. A new block plat is currently being processed for Vanderbilt Farms containing a total developable area of 351.97 acres (the total lot area of all of the blocks of Vanderbilt Farms except 0.09-acre Block 4).

x. The total Rancho Marana Non-Potable Water Facilities costs attributable to Vanderbilt Farms and to be fully paid with payments from the owner(s) of Vanderbilt Farms is $495.06 per acre ($174,247 ÷ 351.97).

2. Extension of reimbursement and the Original Agreement. The reimbursement period and the term of the Original Agreement are hereby extended to and including June 2, 2030, subject to the further contingent extension set forth below in this paragraph 2. The Town and the owners of Vanderbilt Farms are currently negotiating a development agreement that includes reimbursement of Rancho Marana Non-Potable Water Facilities costs attributable to Vanderbilt Farms and the Town anticipates that it will in the future negotiate a development agreement with the owner of the Payson Farms development project that includes reimbursement of Rancho Marana Water Main costs attributable to the Payson Farms development project. If one or more of those agreements is executed and recorded on or before June 2, 2030, the reimbursement period and the term of the Original Agreement as extended above shall automatically without further action be and hereby are further extended to the last termination date of the executed and recorded Vanderbilt Farms and/or Payson Farms development agreement.

3. Rancho Marana Water Main protected facility charge. Pursuant to Marana Town Code section 14-4-3 paragraph C, the Rancho Marana Water Main is hereby designated as a protected facility and a protected facility charge is hereby established over the land area of Payson Farms in the amount of $759.09 per lot for the currently-proposed 367-lot residential subdivision, payable when the building permit is issued for the home on the lot. If Payson Farms is resubdivided, the protected facility charge will be recalculated based on the total Rancho Marana Water Main costs attributable to Payson Farms (i.e., $278,584.14) divided by the number of lots in the resubdivision.

4. Rancho Marana Non-Potable Water Facilities protected facility charge. Pursuant to Marana Town Code section 14-4-3 paragraph C, the Rancho Marana Non-Potable Water Facilities are hereby designated as protected facilities and a protected facility charge is hereby established over the land area of the Vanderbilt Farms development project in the total amount of $495.06 per acre for the currently-proposed 351.97-acre subdivision (excluding 0.09-acre Block 4) for a total protected facility charge of $174,247 for the Rancho Marana Non-Potable Water Facilities. For residential projects, the total Rancho Marana Non-Potable Water Facilities protected facility charge for a particular block of the Vanderbilt Farms development project will be divided by the number of subdivision lots in the block, and the resulting protected facility charge per lot will be payable when the building permit is issued for the home on the lot. For non-residential or multi-family projects, the $495.06 per acre protected facility charge will be payable when the building permit for the non-residential building is issued.

5. No guarantee of reimbursement. Nothing in the Original Agreement or in this Amendment constitutes a guarantee by the Town that any reimbursements will be made to the Developer for the Rancho Marana Water Main or the Rancho Marana Non-Potable Water Facilities. The Parties acknowledge that the Town's right to charge and affected landowners' obligation to pay oversizing recovery charges are limited by applicable law.

6. Effect on other provisions of the Original Agreement. The Parties acknowledge that the reimbursement provisions addressed by this Amendment are the only surviving substantive elements of the Original Agreement. All of the water facilities construction contemplated by the Original Agreement was long ago completed, paid for, and transferred to the Town. The indemnification and warranty periods set forth in the Original Agreement have lapsed. The remaining general terms of the Original Agreement relating to water service, charges, easements, etc., are covered by the generally applicable provisions of Marana Town Code Title 14.

7. Binding effect. This Amendment shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the Parties.

8. Exhibits. Exhibits attached to this Amendment are incorporated by reference in this Amendment.

9. Cancellation for conflict of interest. This Amendment is subject to A.R.S. § 38-511, which provides for cancellation in certain instances involving conflict of interest.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the Parties have executed this Amendment by their duly authorized representatives effective upon the last Party's signature date below.

The "Town":

TOWN OF MARANA, an Arizona municipal corporation

By: _____
Ed Honea, Mayor

Date: _____

The "Developer":

MERITAGE HOMES ARIZONA, INC., an Arizona corporation

By: _____

Its: Division President-Tucson

Date: April 13, 2020

ATTEST:

_____
Cherry L. Lawson, Town Clerk

APPROVED AS TO SUBSTANCE:

_____
Scott Schladweiler, Water Director

APPROVED AS TO FORM:

_____
Frank Cassidy, Town Attorney

STATE OF ARIZONA)
ss
County of Pima)

The foregoing instrument was acknowledged before me on April 13th, 2020 by Jeff Grobstein, the Division President of MERITAGE HOMES ARIZONA, INC., an Arizona corporation, on its behalf.

(Seal)

Antonio Aviles
Notary Public - ARIZONA
Pima County
My Commission Expires
March 19, 2023
Commission Number 560494

_____
Notary Public

EXHIBITS

Exhibit A Marana Town Code section 14-4-3 as adopted by Marana Ordinance No. 96.06 and as it appeared at the time of the Original Agreement

Exhibit B Letter dated April 25, 2007 from Marana Water Department to the Developer (the "2007 Allocation Letter")

Section 14-4-3 Capacity Requirements

A. Water System Capacity Requirements. The director of the town water utility may require an applicant to install "on-site" or "off-site" water facilities of a size greater than is required to provide service to applicant's development, referred to as oversizing.

B. Refunds. Refunds of the cost of oversizing shall be solely by agreement approved by the council. Should a water distribution main installed pursuant to this section be installed in such a manner as to provide water service to a property not participating in the construction cost, (hereinafter referred to as "non-participating property") the town may enter into an agreement for partial refund of the cost of the water main so installed, subject to the following:

1. In no case will the agreed refunded amount exceed the total funds to be collected as oversizing charges pursuant to this section;

2. Such refunds shall continue for a maximum of fifteen years from the date of the agreement. Any balances remaining unpaid shall be considered canceled, and the town shall be fully discharged from any further obligation under the agreement;

3. The amount of the annual refund shall not exceed ten percent of the gross revenue derived from water sales from the benefitting but non-participating property;

4. In no event shall the town be liable to pay any interest on any amount of costs advanced by an applicant which are agreed to be refunded by the town.

C. Oversizing Recovery Charge. In lieu of annual refunds from the gross revenue derived from water sales from the benefitting but non-participating property, the council may, at its sole option, establish an "oversizing recovery charge" to be charged against non-participating property for each subsequent connection by non-participating property owners made to or benefitting from the water facilities previously paid for by a prior applicant, and provide by agreement with the applicant funding the oversizing for refund of the oversized capacity costs from revenues derived from said oversizing recovery charge.

1. The oversizing recovery charge shall be determined by computing the total cost of the water facility improvement, determination of other property which will benefit from the oversized capacity, allocation of the capacity installed between the original applicant's property and any non-participating property benefitting from the capacity installed, and determination of a per connection pro rata cost share for the oversized capacity by meter size of new connections. The per connection pro rata cost share for the oversized capacity shall be the oversizing recovery charge.

2. No oversizing recovery charge shall be levied or collected by the town unless approved by the council. No oversizing recovery charge shall be in effect for more than fifteen years.

3. Proceeds from an oversizing recovery charge authorized by the town to pay for oversized capacity installed at the expense of an original applicant shall be used to refund the applicant's costs incurred for such oversizing. The town shall, on or before June 30th of

each calendar year, pay to the applicant pursuant to an approved refund agreement, the proceeds collected from the oversizing recovery charge applicable to applicant's water system oversizing costs derived from non-participating property. At the end of fifteen years from the date of the agreement and effective date of the applicable oversizing recovery charge any balances remaining unpaid shall be considered cancelled, and the town shall be fully discharged from any further obligation under the agreement.

4. No interest shall be paid by the town for any amount agreed to be refunded pursuant to an agreement under this section.

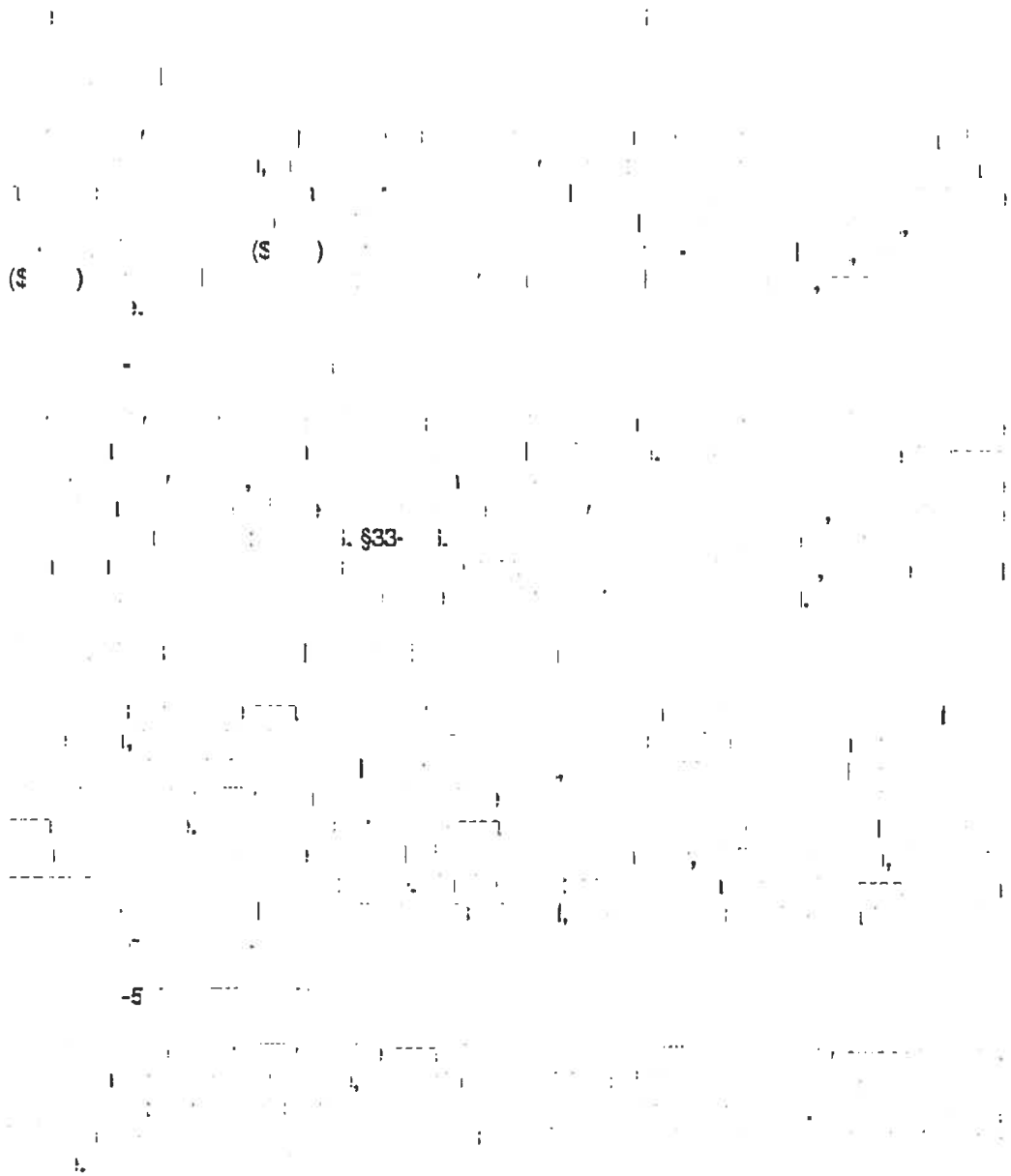


EXHIBIT B TO 1ST AMENDMENT TO RANCHO MARANA WSA

MARANA
TOWN OF MARANA

WATER DEPARTMENT

April 25, 2007

Ms. Lisa S. Hoskin
Vice-President of Land Acquisition
Meritage Homes
3275 W. Ina Rd., Suite 220
Tucson, AZ 85741

Re: 16" main line extension cost

Dear Lisa:

In response to your letter dated March 30, 2007, please find enclosed the spreadsheet itemizing the qualifying cost reimbursement components by phase for the sixteen inch main line extension from the east side of Ora Mae Harn Park to the westerly property boundary of Rancho Marana 154.

In category #1, we have no comments on the cost distribution as indicated in your letter; please provide the final construction costs when the installation is complete.

In category #2, we have removed the cost of the non-potable from Civic Center Loop at Barnett to Sandario Road and the Town will protect the non-potable portion of this project for Meritage in the amount of $174,247.

In category #3, we have removed the cost of the non-potable and potable incidental to your development and will collect ½ of the remaining cost directly relating to the 16" installation from Payson Farms.

Category #4, is the cost to the Town for the extension in Civic Center Loop from Lon Adams to Barnett.

5100 W. Ina Road ■ Tucson, Arizona 85743 ■ Phone: (520) 382-2570 ■ Fax: (520) 382-2590

EXHIBIT B TO 1ST AMENDMENT TO RANCHO MARANA WSA

In reference to the water service agreement paragraph 2.1(a)(iii) the Town will collect from Farm Field Five Development and Payson their proportionate share of the cost of the 16" as outlined in the enclosed spreadsheet. The protected main in paragraph 2.1(a)(iii) and the system oversize agreement in exhibit F are referring to the same sixteen inch water line.

Reimbursement of the oversize agreement will be made per Marana Town Code 14-4-3C. The Town shall, on or before June 30th of each calendar year, pay to the applicant pursuant to an approved refund agreement, the proceeds collected from the oversizing cost derived from non-participating property.

The Town of Marana Water Department would like to thank Meritage Homes for facilitating the construction of the sixteen inch main line extension and working with us in such a professional and congenial manner.

Please let me know if you have any questions.

Sincerely,

Ann P. Meaders

Ann P. Meaders
Utility Administrator

Enclosure

5100 W. Ina Road ■ Tucson, Arizona 85743 ■ Phone: (520) 382-2570 ■ Fax: (520) 382-2590

EXHIBIT B TO 1ST AMENDMENT TO RANCHO MARANA WSA

COST OF 16" MAIN FROM ORA MAE HARN PARK TO WESTERLY BOUNDARY OF RANCHO MARANA 154

	Meritage	Farm Field Five	Payson	Total
Category #1* 3 way split	117,087.20	117,087.20	117,087.20	$351,261.60
Category #2* 3 way split less non-potable	155,493.11	155,493.11	155,493.11	$466,479.33
Category #3* 2 way split less on site potable and non-potable	125,292.78		125,292.78	$250,585.56
Category #4* 3 way split	52,000.00	52,000.00	52,000.00	$156,000.00
Total per split	449,873.09	324,580.31	449,873.09	
Protected non-potable main to Meritage to be collected from Vanderbilt				$174,247.00
			GRAND TOTAL	$1,398,573.49

*Category definition
Category #1 - extension of 16" main from Ora Mae Harn Park to Civic Center Loop at Lon Adams
Category #2 - extension of 16" main from Civic Center Loop at Barnett to Sandario Road
Category #3 - extension of 16" from Sandario Road to westerly boundary of Rancho Marana 154
Category #4 - extension of 16" from Lon Adams to Barnett in Civic Center Loop

Council-Regular Meeting **A3**

Meeting Date: 05/05/2020

To: Mayor and Council

Submitted For: Kristin Taft, Grants Manager

From: Kristin Taft, Grants Manager

Date: May 5, 2020

Strategic Plan Focus Area:
Not Applicable

Subject: Resolution No. 2020-039: A resolution of the Mayor and Common Council of the Town of Marana, Arizona, approving the form and authorizing the execution and delivery of a loan agreement with the Water Infrastructure Finance Authority of Arizona (WIFA) from its Clean Water Revolving Fund Program; delegating the determination of certain matters relating thereto to the Town Manager and the Finance Director of the Town; providing for the transfer of certain moneys and making certain covenants and agreements with respect thereto; authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by such loan agreement and this resolution; and declaring an emergency (Kristin Taft)

Discussion:

On May 15, 2018, the Town Council adopted Resolution No. 2018-047, authorizing the acquisition of the Adonis Mobile Home Park wastewater conveyance system. On August 7, 2018, the Town Council approved resolution No. 2018-075 approving the form and authorizing the execution and delivery of a loan agreement with the Water Infrastructure Finance Authority of Arizona from its Clean Water Revolving Fund Program. With this resolution, The Town Council directed staff to design and construct a new lift station and force main to convey flow from the Adonis collection system to the existing system of the Marana Water Reclamation Facility. To that end, Town staff proceeded with the design of the facilities and applied for a Clean Water State Revolving Fund loan from the Water Infrastructure Finance Authority of Arizona (WIFA).

WIFA approved the original loan for this project (Loan No. 910176-19) in the amount of

$1,481,990 with 50% forgivable principal. After receiving the loan, beginning the project, completing the design, and receiving bids for the proposed work, the Town experienced a shortfall of approximately $475,000. The Town of Marana is seeking an additional loan from WIFA in the amount of $475,000 with $237,500 in forgivable principal to the Town for these expenses.

WIFA requires the Town to adopt a resolution approving the loan agreement and containing other standard language and terms. The Town's bond attorney, Michael Cafiso, has reviewed the loan agreement and has prepared the proposed resolution accompanying this agenda item, to comply with WIFA's requirements. The anticipated loan closing date is May 15, 2020.

The proposed resolution includes an emergency clause, to allow the resolution to be effective immediately, thereby allowing the closing to occur as scheduled on May 15, 2020. The closing may be delayed if the resolution is adopted without the emergency clause.

The backup materials include the current draft of the loan agreement. The resolution provides for further reasonable modifications of the loan agreement as approved by the Town Manager.

Financial Impact:

Fiscal Year:	20
Budgeted Y/N:	Y
Amount:	$237,500

The principal amount of the loan and financial assistance under the loan agreement is $475,000 with $237,500 in forgivable principal. The primary repayment source is excise taxes (including state shared revenues). The loan term is 20 years. Payments are to be made semi-annually. The "Combined Interest and Fee Rate" (CIFR) is shown on the loan documents to be 3.4%. This includes a fee of 1.5%. The 3.4 CIFR is an estimate. The actual rate charged on the amount of the loan required to be repaid will be based on market activity on the Wednesday prior to closing.

Staff Recommendation:

Staff recommends adoption of Resolution No. 2020-039, approving the form and authorizing the execution and delivery of a loan agreement with the Water Infrastructure Finance Authority of Arizona from its Clean Water Revolving Fund Program; delegating the determination of certain matters relating thereto to the Town Manager and the Finance Director of the Town; providing for the transfer of certain moneys and making certain covenants and agreements with respect thereto; authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by such loan agreement and this resolution; and declaring an emergency.

Suggested Motion:

I move to adopt Resolution No. 2020-039, approving the WIFA loan and other related matters and declaring an emergency.

Attachments

Resolution No. 2020-039
Draft Loan Agreement

RESOLUTION NO. 2020-039

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF MARANA, ARIZONA, APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT WITH THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA FROM ITS CLEAN WATER REVOLVING FUND PROGRAM; DELEGATING THE DETERMINATION OF CERTAIN MATTERS RELATING THERETO TO THE MANAGER AND THE FINANCE DIRECTOR OF THE CITY; PROVIDING FOR THE TRANSFER OF CERTAIN MONEYS AND MAKING CERTAIN COVENANTS AND AGREEMENTS WITH RESPECT THERETO; AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY SUCH LOAN AGREEMENT AND THIS RESOLUTION AND DECLARING AN EMERGENCY

WHEREAS, the Mayor and Common Council of the Town of Marana, Arizona (the "Town"), has heretofore applied to the Water Infrastructure Finance of Arizona (the "Authority"), for a loan (the "Loan") from the Authority's Water Revolving Fund Program (the "Program") to provide additional funds to design and construct a new lift station and force main to convey flow from the Adonis collection system to the existing system of the Town where it will be treated at the Marana Water Reclamation Facility, to assess the condition of the existing collection system and to reimburse the cost of the impact fees for connections related to such collection system as well as payment of the Town's proportionate share of expenses of administering the Program and any bonds issued by the Authority with respect thereto (collectively, the "Project"); and

WHEREAS, the terms and conditions under which the Loan will be made and the obligations of the Town with respect to the Loan will be set forth in a loan agreement to be executed and delivered by the Town and the Authority (the "Loan Agreement"); and

WHEREAS, the Loan and the loan repayments payable by the Town pursuant to the Loan Agreement (the "Loan Repayments") will be secured by a pledge of certain excise taxes and State shared revenues of the Town (collectively, the "Source of Repayment"); and

WHEREAS, the Mayor and Common Council of the Town have determined that it will be beneficial to the citizens of the Town to enter into and to perform the Loan Agreement, whereby the Town will borrow not to exceed $1,200,000 from the Authority; and

WHEREAS, the Loan shall be repaid on or before twenty-one (21) years from the date of the execution and delivery of the Loan Agreement and the Loan shall bear interest at a rate not to exceed three and one-half percent (3.50%) per annum; and

WHEREAS, there has been placed on file with the Clerk of the Town and presented at the meeting at which this Resolution was adopted the proposed form of the Loan Agreement;

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

Section 1. The form, terms and provisions of the Loan Agreement, in the form of such document (including the exhibits thereto) presented at the meeting at which this Resolution was adopted are hereby approved, with such insertions, omissions and changes, not inconsistent with the Town's application to the Authority or the requirements of the federal government or the Authority, as shall be approved by the Manager of the Town, the execution of such document being conclusive evidence of such approval, and the Manager of the Town is hereby authorized and directed, for and on behalf of the Town, to execute and attest and deliver, respectively, the Loan Agreement.

Section 2. For the payment of the principal of and interest on the Loan, the Town shall pay the Loan Repayments provided for in the Loan Agreement. The Town shall also pay all other amounts required to be paid by the Town pursuant to the provisions of the Loan Agreement.

Section 3. The obligation of the Town to pay the Loan Repayments provided for in the Loan Agreement to make the other payments provided for in the Loan Agreement is limited to payment from the Source of Repayment, and the obligations of the Town under the Loan Agreement shall not constitute nor give rise to a general obligation of the Town or any claim against its ad valorem taxing powers, or constitute an indebtedness within the meaning of any statutory or constitutional debt limitation applicable to the Town.

Section 4. The appropriate officials and officers of the Town are hereby authorized and directed to take all action necessary or reasonably required to carry out, give effect to and to consummate the transactions contemplated by the Loan Agreement, and by this Resolution, including, without limitation, the execution and delivery of any closing and other documents reasonably required to be delivered in connection therewith.

Section 5. If any section, paragraph, subdivision, sentence, clause or phrase of this Resolution is for any reason held to be illegal or unenforceable, such decision will not affect the validity of the remaining portions of this Resolution. The

Mayor and Common Council of the Town hereby declare that it would have adopted this Resolution and each and every other section, paragraph, subdivision, sentence, clause or phrase hereof and authorized the execution and delivery of the Loan Agreement pursuant hereto irrespective of the fact that any one or more sections, paragraphs, subdivisions, sentences, clauses or phrases of this Resolution may be held illegal, invalid or unenforceable. All resolutions or parts thereof, inconsistent herewith, are hereby waived to the extent only of such inconsistency. This waiver shall not be construed as reviving any resolution or any part thereof.

Section 6. All actions of the officers and agents of the Town including the Mayor and Common Council of the Town which conform to the purposes and intent of this Resolution and which further the execution and delivery of the Loan Agreement as contemplated by this Resolution, whether heretofore or hereafter taken, are hereby ratified, confirmed and approved. The proper officers and agents of the Town are hereby authorized and directed to do all such acts and things and to execute and deliver all such documents on behalf of the Town as may be necessary to carry out the terms and intent of this Resolution.

Section 7. All acts and conditions necessary to be performed by the Town or to have been met precedent to and in the execution and delivery of the Loan Agreement in order to make it a legal, valid and binding obligation of the Town will at the time of delivery of the Loan Agreement have been performed and have been met, in regular and due form as required by law, and no statutory, charter or constitutional limitation of indebtedness or taxation will have been exceeded in the execution and delivery of the Loan Agreement.

Section 8. All formal actions of the Mayor and Common Council of the Town concerning and relating to the passage of this Resolution were taken in an open meeting of the Mayor and Common Council of the Town, and all deliberations of the Mayor and Common Council of the Town and of any committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

Section 9. The immediate operation of the provisions of this Resolution is necessary for the preservation of the public health and welfare and for the further reason that the execution and delivery at the earliest possible date of the Loan Agreement is urgently needed to attempt to secure the lowest possible interest cost to the Town; therefore, an emergency is hereby declared to exist and this Resolution is enacted as an emergency measure and shall be in full force and effect from and after the passage and adoption by the Mayor and Common Council of the Town, as required by law, and this Resolution is hereby exempt from the referendum provisions of the Constitution and laws of the State of Arizona.

Section 10. After the execution and delivery of the Loan Agreement and upon receipt of the Loan from the Authority, this Resolution shall be and remain irrepealably until the Loan and the Loan Agreement and the interest thereon shall have been fully paid, cancelled and discharged.

[Signature page follows.]

PASSED AND ADOPTED by the Common Council and approved by the Mayor of the Town of Marana, Arizona, this 5th day of May, 2020.

.....
Mayor

ATTEST:

.....
Town Clerk

APPROVED AS TO FORM:

.....
Town Attorney

CERTIFICATION

I hereby certify that the foregoing Resolution No. 2020-039 was duly passed and adopted by the Mayor and Common Council of the Town of Marana, Arizona, at a regular meeting held on the 5th day of May, 2020, and the vote was ..... ayes and ..... nays.

.....
Town Clerk

Town of Marana and

Water Infrastructure Finance Authority of Arizona

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WIFA Board Resolution	2.
Loan Agreement	3.
Loan Agreement Addendum-Wage Rate and Forgivable Principal Requirements for Compliance with P.L. 111-88	4.
Loan Agreement Addendum-American Iron and Steel Requirements for Compliance with Federal Law	5.
Exhibit A of Loan Agreement: Financial Terms and Conditions	6.
Exhibit B of Loan Agreement: Technical Terms and Conditions	7.
Exhibit C of Loan Agreement: Reporting Requirements	8.
Exhibit D of Loan Agreement: Source of Repayment and Rate Covenant Provisions	9.
Exhibit E of Loan Agreement: Debt Service Reserve Provisions	10.
Exhibit F of Loan Agreement: Replacement Reserve Provisions	11.
Exhibit G of Loan Agreement: Form of Opinion of Local Borrower	12.
Exhibit H of Loan Agreement: Tax Compliance Certificate of Local Borrower	13.
IRS Form 8038-G	14.
Standard Terms and Conditions	15.
WIFA Disbursement Requisition Procedures and Payment Requisitions (on CD)	

Loan Resolution 2020-013 – Town of Marana

Water Infrastructure Finance Authority of Arizona

Section 1: Resolution

WHEREAS, the Water Infrastructure Finance Authority of Arizona (the "*Authority*") has received from Town of Marana (the *"Local Borrower"*) a request for a loan (the "*Loan*"); and

WHEREAS, the Authority has determined that the Local Borrower has met the requirements of Arizona Revised Statutes §49-1201 et seq. (the "*Act*") and the rules promulgated thereunder (the *"Rules"*); and

WHEREAS, the terms and conditions under which a Loan will be made and the obligations of the Local Borrower will be set forth in a loan agreement or bond purchase agreement (the "*Loan Agreement*") to be executed by the Local Borrower and the Authority.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE AUTHORITY AS FOLLOWS:

The Executive Director of the Authority is hereby authorized and directed to execute a Loan Agreement with the Local Borrower to evidence a Loan in accordance with the Act, the Rules, the Local Borrower's applications to the Authority, and the Project Summary detailed in Section 2 of this Loan Resolution.

The Executive Director and other Authority officials, as appropriate, are authorized and directed to sign any document and take such actions as necessary and appropriate to consummate the transactions contemplated by this Resolution and the Loan Agreement and to ensure that the Local Borrower has completed all requirements of the Authority as detailed in Section 3, Section 4, and Section 5 of this Loan Resolution.

This Resolution shall take effect immediately and shall terminate one year from the date of Board Action.

Dated: February 26, 2020

By:_____ Attest:_____

Chairman Executive Director

Loan Resolution 2020-013 - Town of Marana

Water Infrastructure Finance Authority of Arizona

Section 2: Project Summary

2.1 Project Number(s)

CW 006-2020

2.2 Project Priority Data

PPL Rank	Funding Cycle	Population Served	Subsidy Rate
1	CW 2020	10,057	85%

2.3 Project Description(s)

This loan will provide an additional $475,000 to complete construction of the sewer lines and lift station.

The Town of Marana will design and construct a new lift station and force main to convey flow from the Adonis collection system to the existing Town of Marana municipal system. The Town will use the funding from the previous loan to assess the condition of the existing collection system and to reimburse the cost of the impact fees. The previous loan included $700,000 to construct a new lift station and construct 2,900 linear feet of force main. Three bids for this work were received on September 26, 2019, with the low bid being $1,045,673.10.

2.4 Previous Board or Committee Actions

December 19, 2018 – Board adopted Loan Resolution 2019-009 to award $15,000,000 (Loan No. 920293-19) to the Town of Marana to fund the installation of two advanced water treatment systems designed to reduce concentrations of currently unregulated compounds found in the Town's water supply wells.

June 27, 2018 – Board adopted Loan Resolution 2018-008 to award $1,481,990 in financial assistance with 50% forgivable principal (Loan No. 910176-19) to the Town of Marana to fund the connection of the Adonis sewage collection system to the existing Town of Marana municipal system.

2017 Technical Assistance Funding Cycle - the Board awarded the Town of Marana $34,950 of clean water technical assistance for the El Rio Riparian Restoration Project.

December 16, 2009 – Board adopted Loan Resolution 2010-023 to award $5,250,000 (Loan No. 920193-10) to the Town of Marana to fund multiple water projects at various stages of development.

2010 Technical Assistance Funding Cycle - the Board awarded Adonis Mobile Home Association $10,000 of clean water technical assistance for an alternative analysis report.

2.5 Project Finance Committee Recommendations

Not reviewed by the Project Finance Committee.

Section 3: Financial Assistance Terms & Conditions (Section 7.1 of Due Diligence)

Financial Assistance Amount: $475,000 with 50% in forgivable principal ($237,500)

Primary Repayment Source: Excise Taxes

Secondary Repayment Source: None

Loan Term: 20 years

Frequency of Repayment: Semi-Annual

Loan Structure: Standard Governmental - Level 1 Disadvantage Community

Debt Service Reserve Fund Requirements: No Requirement

Repair and Replacement Fund Requirements: No Requirement

Requirements Prior to Loan Execution:

Require Legal Opinion: Yes

Other: No Requirement

Requirements Prior to Construction: No Requirement

Requirement During Construction: No Requirement

Requirements Prior to Final Disbursements: No Requirement

Loan Category: Qualified, Not Pledged

Policy Exceptions: None

Section 4: Technical Terms & Conditions (Section 7.2 of Due Diligence)

Observation Schedule B:

Observation 1: Upon borrower notification of construction commencement

Additional Observations: at least one site observation within each 12 month period

Final Observation: 80% construction budget disbursement

Withholding Percentage:

50% (released after Fiscal Sustainability Plan Certification received)

10% (released after deliverables received)

Requirements Prior to Loan Execution: No Requirement

Requirements Prior to Construction:

Prior Review and Approval of Construction Bids: Yes

Project Publicity/Signage: Yes

The Local Borrower shall erect a construction sign displaying information on the Project and the funding sources. The Authority shall provide specifications for such construction signs.

Other: No Requirement

Requirements During Construction:

Prior Review of Changes in Project Scope: Yes

The Local Borrower shall submit to the Authority, for review and approval prior to execution, any change to the plans and specifications, construction contracts, Eligible Project Costs, or any other change which will effect the performance standards or purpose of the Project.

Other: No Requirement

Requirements Prior to Releasing Withholdings:

50% Withholding of Construction Funds:

Submission of Fiscal Sustainability Plan Certification: Yes

Submission of Fiscal Sustainability Plan: No Requirement

10% Withholding

Require Plan of Operation: No Requirement

Require Final Approval: Yes

Other: No Requirement

Policy Exceptions: None

Section 5: Additional Notice & Reporting Requirements (Section 7.3 of Due Diligence)

Other: Wage rate reporting requirements; Use of American Iron and Steel requirements.

Loan Agreement

Water Infrastructure Finance Authority of Arizona
(the "Authority")

and

Town of Marana
(the "Local Borrower")

Evidencing a Loan from the
Authority to the Local Borrower

Dated as of **TBD**, 2020

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Section 1.2 Authorized Officer(s) of Local Borrower 1
Section 1.3 Notices 1
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Article 2 Description of the Project

Section 2.1 Description of Project 2
Section 2.2 Description of System 2

Article 3 Loan to Local Borrower; Amounts Payable

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Section 3.4 Tax Covenants 3

Exhibit A Financial Assistance Terms and Conditions; Borrower Payment Instructions; and Loan Repayment Schedule

Exhibit B Technical Assistance Terms and Conditions

Exhibit C Reporting Requirements

Exhibit D Source of Repayment

Exhibit E Debt Service Reserve Requirements

Exhibit F Replacement Reserve Requirements

Exhibit G Form of Opinion of Counsel to Borrower

Exhibit H Tax Compliance Certificate of Local Borrower

Loan Agreement

This Loan Agreement (this "*Loan Agreement*") is made and entered into as of **TBD** by and between the Water Infrastructure Finance Authority of Arizona (the "*Authority*"), and Town of Marana (the "*Local Borrower*"), a political subdivision of the State of Arizona.

This Loan Agreement includes the attached Exhibits and the attached Standard Terms and Conditions. Any capitalized terms used and not defined herein shall have the meanings ascribed to such terms in the Exhibits and the Standard Terms and Conditions.

The Authority and the Local Borrower agree as follows:

Article 1 Description of the Loan

Section 1.1 Name and Address of Local Borrower.

Town of Marana
Attention: Yiannis Kalaitzidis, Finance Director
11555 W Civic Center Drive
Marana, Arizona 85653
Telephone: (520) 382-3493
Fax: (520) 382-1945

Section 1.2 Authorized Officer(s) of Local Borrower.

Town of Marana
Attention: Jamsheed Mehta, Town Manager
11555 W Civic Center Drive
Marana, Arizona 85653
Telephone: (520) 382-1906
Fax: (520) 382-1902

Section 1.3 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid, to the Local Borrower at the address specified in Section 1.1 and to the Authority at the following address:

Executive Director
Water Infrastructure Finance Authority of Arizona
100 North 7th Avenue, Suite 130
Phoenix, Arizona 85007
Telephone: (602) 364-1310
Fax: (602) 364-1327

Any of the parties may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent, by notice in writing given to the others.

Section 1.4 Loan Information. The terms of the Loan include the terms set forth in the Exhibits, which are part of this Loan Agreement:

Exhibit A Financial Assistance Terms and Conditions; Borrower Payment Instructions; and Loan Repayment Schedule

Exhibit B Technical Assistance Terms and Conditions

Exhibit C Reporting Requirements

Exhibit D Source of Repayment

Exhibit E Debt Service Reserve Requirements

Exhibit F Replacement Reserve Requirements

Exhibit G Form of Opinion of Counsel to Borrower

Exhibit H Tax Compliance Certificate of Local Borrower

Prior to Loan Closing, the Local Borrower must deliver to the Authority the Opinion of Local Borrower Counsel in the form of Exhibit G and the Tax Compliance Certificate of Local Borrower in the form of Exhibit H, signed and dated the date of Loan Closing.

Article 2 Description Of The Project

Section 2.1 Description of Project. The Project is described in Project Summary attached to the Loan Resolution of the Authority, and in Exhibit B of this Loan Agreement.

Section 2.2 Description of System. The term "System" means and includes all of the properties and facilities of the complete Sewer plant and system of the Local Borrower, whether lying within or without the boundaries of the Local Borrower, as now existing and as they may hereafter be improved or extended, all improvements, additions and extensions thereto or replacements thereof hereafter constructed or acquired by purchase, contract or otherwise and all contracts, rights, agreements, leases and franchises of every nature owned by the Local Borrower and used or useful or held for use in the operation of said plant and system or any part or portion thereof.

Article 3 Loan to Local Borrower; Amounts Payable

Section 3.1 The Loan. The Authority shall loan and disburse to the Local Borrower in accordance with this Article 3 an amount listed in Exhibit A (the "Loan"), and the Local Borrower shall borrow and accept from the Authority, the Loan in the principal amount determined pursuant to this Article 3; provided, however, that (i) the Authority shall be under no obligation to disburse any amount of the Loan if an Event of Default has occurred and is continuing under this Loan Agreement, and (ii) the amount to be disbursed shall be lawfully

available for disbursement. The Local Borrower shall use the proceeds of the Loan strictly in accordance with the requirements of this Loan Agreement.

Section 3.2 Disbursements of Loan Proceeds. The Authority may disburse funds by check, by electronic means or by means of magnetic tape or other transfer medium. Except as hereinafter provided, disbursements shall be made only when (i) the request for disbursements is in substantially the form provided by the Authority and is accompanied by the necessary certifications and documentation and (ii) an Authorized Officer of the Authority has determined that such disbursement is proper. An Authorized Officer of the Authority shall approve disbursements directly to the persons or entities entitled to payment or to the Local Borrower in the case of reimbursement for costs of services already paid, and shall provide the Local Borrower with a copy of the approval and the date approved. Disbursements may be made only for Eligible Project Costs.

Section 3.3 Amounts Payable. The Local Borrower shall pay to the Authority the amounts shown in Exhibit A on or before the dates shown in Exhibit A, as the same may be adjusted as provided in the Standard Terms and Conditions, to reflect any revisions to the principal repayment schedule of the Loan. Such payments shall be made by electronic funds transfer or by direct debit to the Authority.

Section 3.4 Tax Covenants.

(a) General. The Local Borrower acknowledges that, in connection with its state revolving fund programs, the Authority issues its bonds ("Authority Bonds") from time to time to finance loans and the Authority also pledges certain loans to secure and to serve as the source of payment for the Authority Bonds. As a result, and under the provisions of federal tax law applicable to the Authority Bonds, it is in the Authority's interest for the Loan to qualify and be an obligation that bears interest that is excludable from gross income for federal income tax purposes and is not an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code. Therefore, the Local Borrower represents and covenants as follows with respect to the Loan and the Authority Bonds. The Local Borrower covenants that it will not take any action, or fail to take any action, if any such action or failure to take such action would adversely affect the exclusion from gross income of the interest on the Loan or the Authority Bonds under Section 103(a) of the Internal Revenue Code or cause the interest on the Loan or the Authority Bonds to become an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code, and in the event of such action or omission, it will, promptly upon having such brought to its attention, take such reasonable actions based upon a bond counsel opinion as may rescind or otherwise negate such action or omission. The Local Borrower will not directly or indirectly use or permit the use of any proceeds of the Loan or any other funds of the Local Borrower or take or omit to take any action that would cause the Loan or the Authority Bonds to be or become "arbitrage bonds" within the meaning of Section 148(a) of the Internal Revenue Code or to fail to meet any other applicable requirement of Sections 103, 141, 148, 149 and 150 of the Internal Revenue Code or cause the interest on the Loan or the Authority Bonds to become an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code. To that

end, the Local Borrower will comply with all applicable requirements of Sections 103, 141, 148, 149 and 150 of the Code to the extent applicable to the Loan.

(b) Modification Based on Bond Counsel Opinion. Notwithstanding any provision of this Section, if the Local Borrower provides to the Authority a bond counsel opinion to the effect that any action required under this Section is no longer required, or to the effect that some further action is required, to maintain the exclusion from gross income of interest on the Loan or the Authority Bonds pursuant to Section 103(a) of the Internal Revenue Code, the provisions of this Section and the covenants in this Section shall be deemed to be modified to that extent.

(c) Bond Counsel Opinion. For purposes of this Section, "bond counsel opinion" means an opinion letter of a firm of attorneys of national reputation experienced in the field of municipal bonds whose opinions are generally accepted by purchasers of municipal bonds, and who is acceptable to the Authority.

IN WITNESS WHEREOF, the Authority and the Local Borrower have caused this Loan Agreement to be executed and delivered as of the date of execution hereof.

Water Infrastructure Finance Authority of Arizona

By: _____
Dan Dialessi, Executive Director

Town of Marana

By:_____
Jamsheed Mehta, Town Manager

Attest:

By: _____
Clerk

LOAN AGREEMENT ADDENDUM

Wage Rate and Forgivable Principal Requirements for Compliance with P.L. 111-88

Water Infrastructure Finance Authority of Arizona

This document (this "Wage Rate and Forgivable Principal Addendum") sets forth additional requirements applicable to state revolving fund Loans made by the Water Infrastructure Finance Authority of Arizona ("WIFA") that are subject to the requirements of Public Law 111-88, "Making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes," enacted October 30, 2009 ("P.L. 111-88"). The provisions in this Wage Rate and Forgivable Principal Addendum are a part of the Loan Agreement. Capitalized terms not otherwise defined herein shall have the meanings given them in the Loan Agreement.

The parties acknowledge and agree that funds disbursed by WIFA to the Local Borrower will include funds made available to WIFA by the federal government under P.L. 111-88, and that the requirements of P.L. 111-88 include those set forth in this Wage Rate and Forgivable Principal Addendum. The Local Borrower agrees to comply with all of those requirements and agrees that failure to do so is a breach of the provisions of the Loan Agreement which may result in a default under the Loan Agreement, termination of WIFA's obligation to make disbursements on the Loan and the Local Borrower being required to repay all amounts that have been disbursed by WIFA on the Loan, together with interest and fees as provided in the Loan Agreement (including interest and fees at rates adjusted from those originally in effect as described herein).

Additional Requirement for Subrecipients that are not Governmental Entities:

Obtaining Wage Determinations - Under this Wage Rate and Forgivable Principal Addendum, the non-governmental borrower must submit its proposed Davis Bacon wage determinations to WIFA for approval prior to including the wage determination in any solicitation, contract task orders, work assignments, or similar instruments to existing contractors. **THIS PARAGRAPH DOES NOT APPLY TO GOVERNMENTAL ENTITIES.**

Section 1. P.L. 111-88 Compliance - Forgivable Principal Portion.

(a) Section 1 of Exhibit A to the Loan Agreement specifies the Total Financial Assistance Amount, the amount, if any, designated as the Forgivable Principal Portion, the Intended Repayment Amount, and the required amount of reserves to be established based upon the Intended Repayment Amount. Section 2 of Exhibit A to the Loan Agreement specifics a schedule of interest and principal payments based on the Intended Repayment Amount. If the Local Borrower fails to comply with the requirements of P.L. 111-88, including those set forth in this Wage Rate and Forgivable Principal Addendum:

(i) WIFA will provide a revised Exhibit A for the Loan Agreement to amortize the entire Total Financial Assistance Amount with the Forgivable Principal Portion set to $237,500.00, adjusted, as necessary, to incorporate, previous principal payments.

(ii) The Local Borrower will repay the Total Financial Assistance Amount.

Section 2. P.L. 111-88 Compliance - Wage Rate Requirements.

This language must be included in all Davis Bacon covered construction contracts and subcontracts. (29 CFR Part 5.5)

(a) The Local Borrower shall insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in Sec. 5.1, or the FFY 2010 appropriation, the following clauses:

(1) **Minimum wages**. (i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in Sec. 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. Local Borrowers may obtain wage determinations from the U. S. Department of Labor's web site, www.wdol.gov.

(ii)(A) The Local Borrower, on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The WIFA award official shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
(2) The classification is utilized in the area by the construction industry; and
(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Local Borrower agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Local Borrower to the WIFA award official. The WIFA award official will transmit the report, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA Davis Bacon Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the WIFA award official or will notify the WIFA award official within the 30-day period that additional time is necessary.
(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the Local Borrower do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the questions, including the views of all interested parties and the recommendation of the WIFA award official, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) **Withholding**. The Local Borrower shall upon its own action or upon written request of WIFA, EPA award official or an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics,

including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) **Payrolls and basic records**. (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Local Borrower. Such documentation shall be available on request of WIFA or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5 (a)(1) based on the most recent payroll copies for the specified week. **The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number).** The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/whd/forms/wh347.pdf or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Local Borrower for transmission to WIFA or EPA, if requested by EPA, WIFA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a

subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the Local Borrower.
(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
(1) That the payroll for the payroll period contains the information required to be provided under Sec. 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under Sec. 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.
(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.
(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of WIFA. EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or WIFA may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) **Apprentices and trainees** - (i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above,

shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) **Compliance with Copeland Act requirements**. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) **Subcontracts**. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may by appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) **Contract termination: debarment**. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) **Compliance with Davis-Bacon and Related Act requirements**. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) **Disputes concerning labor standards**. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the Local Borrower, WIFA, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) **Certification of eligibility**. (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(b) **Contract Work Hours and Safety Standards Act**. The Local Borrower shall insert the following clauses set forth in paragraphs (b)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Sec. 5.5(a) or 4.6 of part 4 of this title. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.
(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.
(3) Withholding for unpaid wages and liquidated damages. The Local Borrower, upon its own action or upon written request of the EPA Award Official or an authorized representative of the Department of Labor shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.
(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.
(c) In addition to the clauses contained in paragraph (b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR Sec. 5.1, the Local Borrower shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Local Borrower shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of WIFA, EPA and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

Section 3. General Provisions.

(a) Binding Effect. This Wage Rate and Forgivable Principal Addendum shall inure to the benefit of and shall be binding upon WIFA and the Local Borrower and their respective successors and assigns.

(b) Severability. In the event any provision of this Wage Rate and Forgivable Principal Addendum shall be held illegal, invalid or unenforceable by any court of competent

jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

(c) Amendments, Supplements and Modifications. This Wage Rate and Forgivable Principal Addendum may not be amended, supplemented or modified without the prior written consent of WIFA and the Local Borrower.

(d) Execution in Counterparts. This Wage Rate and Forgivable Principal Addendum may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

(e) Applicable Law. This Wage Rate and Forgivable Principal Addendum shall be governed by and construed in accordance with the laws of the State of Arizona.

(f) Captions. The captions or headings in this Wage Rate and Forgivable Principal Addendum are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions of this Wage Rate and Forgivable Principal Addendum.

(g) Further Assurances. The Local Borrower shall, at the request of WIFA , authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights and agreements granted or intended to be granted by this Wage Rate and Forgivable Principal Addendum.

(h) Arbitration. The parties hereto agree to use arbitration to the extent required by Section 12-1518 of the Arizona Revised Statutes.

(i) Notice Regarding A.R.S. § 38 511. To the extent applicable by provision of law, the parties acknowledge that this Wage Rate and Forgivable Principal Addendum is subject to cancellation pursuant to A.R.S. § 38-511, the provisions of which are hereby incorporated herein.

[SIGNATURE PAGE FOLLOWS]

WIFA and the Local Borrower are signing this Wage Rate and Forgivable Principal Addendum to be effective as part of the Loan Agreement.

Water Infrastructure Finance Authority of Arizona

By: _____

Dan Dialessi, Executive Director

Town of Marana

By: _____

Jamsheed Mehta, Town Manager

[Signature page to Wage Rate and Forgivable Principal Addendum to Loan Agreement]

LOAN AGREEMENT ADDENDUM

American Iron and Steel Requirements for Compliance with Federal Law

Water Infrastructure Finance Authority of Arizona

This document (this "American Iron and Steel Addendum") sets forth additional requirements made applicable to state revolving fund Loans made by the Water Infrastructure Finance Authority of Arizona ("WIFA") by federal law. The provisions in this American Iron and Steel Addendum are a part of the Loan Agreement. Capitalized terms not otherwise defined herein shall have the meanings given them in the Loan Agreement.

The parties acknowledge and agree that funds disbursed by WIFA to the Local Borrower will include funds made available to WIFA by the federal government under federal law, and that the requirements of federal law include those set forth in this American Iron and Steel Addendum. The Local Borrower agrees to comply with all of those requirements and agrees that failure to do so is a breach of the provisions of the Loan Agreement which may result in a default under the Loan Agreement, termination of WIFA's obligation to make disbursements on the Loan and the Local Borrower being required to repay all amounts that have been disbursed by WIFA on the Loan, together with interest and fees as provided in the Loan Agreement.

Federal law requires that WIFA include in all assistance agreements, including the Loan Agreement, for the construction, alteration, maintenance, or repair of treatment works under the Clean Water State Revolving Fund and for the construction, alteration, maintenance, or repair of a public water system under the Drinking Water State Revolving Fund, a provision requiring the application of American Iron and Steel requirements for the entirety of the construction activities financed by the assistance agreement through completion of construction, no matter when construction commences. Whether or not the project has multiple sources of funding, the American Iron and Steel requirements apply to the entire project and not just to the activities funded by the money made available to WIFA by the federal government.

Section 1. **American Iron and Steel Requirements.** In accordance with federal law:

(a)(1) None of the funds made available to WIFA as authorized by title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) or as authorized by section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12) shall be used for a project for the construction, alteration, maintenance, or repair of a public water system or treatment works unless all of the iron and steel products used in the project are produced in the United States.

(2) In this section, the term "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(b) Subsection (a) shall not apply in any case or category of cases in which the Administrator of the Environmental Protection Agency (in this section referred to as the "Administrator") finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

(2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the Administrator receives a request for a waiver under this section, the Administrator shall make available to the public on an informal basis a copy of the request and information available to the Administrator concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Administrator shall make the request and accompanying information available by electronic means, including on the official public Internet Web site of the Environmental Protection Agency.

Section 2. General Provisions.

(a) Binding Effect. This American Iron and Steel Addendum shall inure to the benefit of and shall be binding upon WIFA and the Local Borrower and their respective successors and assigns.

(b) Severability. In the event any provision of this American Iron and Steel Addendum shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

(c) Amendments, Supplements and Modifications. This American Iron and Steel Addendum may not be amended, supplemented or modified without the prior written consent of WIFA and the Local Borrower.

(d) Execution in Counterparts. This American Iron and Steel Addendum may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

(e) Applicable Law. This American Iron and Steel Addendum shall be governed by and construed in accordance with the laws of the State of Arizona and applicable federal law.

(f) Captions. The captions or headings in this American Iron and Steel Addendum are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions of this American Iron and Steel Addendum.

(g) Further Assurances. The Local Borrower shall, at the request of WIFA , authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights and agreements granted or intended to be granted by this American Iron and Steel Addendum.

(h) Prohibition Against Discrimination. In the event that it applies, the parties agree to comply with the Arizona Governor's Executive Order 2009-9, entitled "Prohibition of Discrimination in State Contracts Non-Discrimination in Employment by Government Contractors and Subcontractors," which mandates that all persons, regardless of race, color, religion, sex, age, or national origin shall have equal access to employment opportunities, and all other applicable state and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. The Local Borrower shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.

(i) Arbitration. In the event of a dispute, the parties agree to use arbitration, after exhausting applicable administrative review, to the extent required by Arizona Revised Statutes Section 12-1518, and the prevailing party shall be entitled to attorney's fees and costs with respect thereto.

(j) Notice of Arizona Revised Statutes Section 38-511 - Cancellation. Notice is hereby given of the provisions of Arizona Revised Statutes Section 38-511, as amended. By this reference, the provisions of said statute are incorporated herein to the extent of their applicability to this American Iron and Steel Addendum under the law of the State of Arizona.

[SIGNATURE PAGE FOLLOWS]

WIFA and the Local Borrower are signing this American Iron and Steel Addendum to be effective as part of the Loan Agreement.

Water Infrastructure Finance Authority of Arizona

By: _____

Dan Dialessi, Executive Director

Town of Marana

By: _____

Jamsheed Mehta, Town Manager

[Signature page to American Iron and Steel Addendum to Loan Agreement]

Exhibit A of Loan Agreement

Section 1: Financial Assistance Terms and Conditions
Town of Marana
21-Apr-20

Loan Number		910183-20
Closing Date		05/15/20
First Payment Period		01/01/21

Financial Assistance Terms and Conditions

Original Loan Amount as of the Closing Date	$	475,000.00
Forgivable Principal Amount	$	237,500.00
Intended Repayment Amount	$	237,500.00
Loan Term		20
Combined Interest & Fee Rate		3.400%
Total # of Payment Periods within Loan Term		40

** Combined Interest and Fee Rate (CIFR) allocation: Fee = 1.5% (150 basis points); Interest = CIFR minus Fee.*

Principal Repayments

Period Principal Repayments Begin	2
First Principal Repayment Date	07/01/20
Final Principal Repayment Date	07/01/40

Combined Interest and Fee Payment Dates

First Combined Interest and Fee Payment Date*	01/01/21
Final Combined Interest and Fee Payment Date	07/01/40

* *Actual initial Combined Interest and Fee payment calculated only on dollar amount drawn against loan as of initial payment date*

Debt Service Reserve Fund Requirements

Total Reserve Amount	None
Annual Amount	None
Reserve Funded by (Date)	Not Applicable

Replacement Reserve Fund Requirement

Begin Funding on (Date)	Not Applicable
Annual Amount	None
Semi-Annual Deposit	None

Annual Payment

Years 1 through 5	$	16,006.85
Years 6 through 10	$	16,006.85
Years 11 through 15	$	16,006.85
Years 16 through 20	$	16,006.85
Years 21 through 25	$	-
Years 26 through 30	$	-

Section 2: Loan Repayment Schedule
Town of Marana
21-Apr-20

Year	Period	Semi-Annual Payment Dates	Combined Interest and Fee Rate	Semi-Annual Combined Interest and Fee Payment	Annual Principal Repayment	Total Annual Payment
1	1	01/01/21	3.400%	0.00		
1	2	07/01/21	3.400%	5,069.31	7,931.85	13,001.16
2	3	01/01/22	3.400%	3,902.66		
2	4	07/01/22	3.400%	3,902.66	8,201.53	16,006.85
3	5	01/01/23	3.400%	3,763.23		
3	6	07/01/23	3.400%	3,763.23	8,480.39	16,006.85
4	7	01/01/24	3.400%	3,619.07		
4	8	07/01/24	3.400%	3,619.07	8,768.71	16,006.85
5	9	01/01/25	3.400%	3,470.00		
5	10	07/01/25	3.400%	3,470.00	9,066.85	16,006.85
6	11	01/01/26	3.400%	3,315.86		
6	12	07/01/26	3.400%	3,315.86	9,375.13	16,006.85
7	13	01/01/27	3.400%	3,156.49		
7	14	07/01/27	3.400%	3,156.49	9,693.87	16,006.85
8	15	01/01/28	3.400%	2,991.69		
8	16	07/01/28	3.400%	2,991.69	10,023.47	16,006.85
9	17	01/01/29	3.400%	2,821.29		
9	18	07/01/29	3.400%	2,821.29	10,364.27	16,006.85
10	19	01/01/30	3.400%	2,645.09		
10	20	07/01/30	3.400%	2,645.09	10,716.67	16,006.85
11	21	01/01/31	3.400%	2,462.91		
11	22	07/01/31	3.400%	2,462.91	11,081.03	16,006.85
12	23	01/01/32	3.400%	2,274.53		
12	24	07/01/32	3.400%	2,274.53	11,457.79	16,006.85
13	25	01/01/33	3.400%	2,079.76		
13	26	07/01/33	3.400%	2,079.76	11,847.33	16,006.85
14	27	01/01/34	3.400%	1,878.35		
14	28	07/01/34	3.400%	1,878.35	12,250.15	16,006.85
15	29	01/01/35	3.400%	1,670.10		
15	30	07/01/35	3.400%	1,670.10	12,666.65	16,006.85
16	31	01/01/36	3.400%	1,454.77		
16	32	07/01/36	3.400%	1,454.77	13,097.31	16,006.85
17	33	01/01/37	3.400%	1,232.11		
17	34	07/01/37	3.400%	1,232.11	13,542.63	16,006.85
18	35	01/01/38	3.400%	1,001.89		
18	36	07/01/38	3.400%	1,001.89	14,003.07	16,006.85
19	37	01/01/39	3.400%	763.83		
19	38	07/01/39	3.400%	763.83	14,479.19	16,006.85
20	39	01/01/40	3.400%	517.69		
20	40	07/01/40	3.400%	517.69	30,452.11	31,487.49
				95,111.95	237,500.00	332,611.95

Exhibit B

Technical Terms and Conditions

Section 1
Budget

Uses by Budget Item	**Amount Budgeted**
Planning……...	$0.00
Design & Engineering…….	$0.00
Legal/Debt Authorization……	$0.00
Financial Advisor……	$0.00
Land/System Acquisition……	$0.00
Equipment/Materials……...	$0.00
Construction/Installation/Improvement……...	$475,000.00
Inspection & Construction Management…….	$0.00
Project Officer…….	$0.00
Administration…….	$0.00
Staff Training……..	$0.00
Capitalized Interest……..	$0.00
Refinance Loan……..	$0.00
Other……	$0.00
Total Budget……...	$475,000.00

Section 2
Project Description

The Town of Marana will design and construct a new lift station and force main to convey flow from the Adonis collection system to the existing Town of Marana municipal system. The Town will use the funding from the previous loan to assess the condition of the existing collection system and to reimburse the cost of the impact fees. The previous loan included $700,000 to construct a new lift station and construct 2,900 linear feet of force main. Three bids for this work were received on September 26, 2019, with the low bid being $1,045,673.10 (See Attachment F - Bid Tabulation). This loan will provide an additional $475,000 to complete construction of the sewer lines and lift station.

Section 3
Estimated Observation and Disbursement Schedule

Observation Schedule B:

Observation 1: Upon borrower notification of construction commencement

Additional Observations: at least one site observation within each 12 month period

Final Observation: 80% construction budget disbursement

Additional Observations – A WIFA representative may perform additional observations based on information provided in the projects status reports included in each Local Borrower disbursement requisition form.

Withholding Percentage: 10% (released after deliverables received)

Section 4
Requirements Prior To Construction

Section 4.1 **Construction Bids.** The Local Borrower shall submit to the Authority for review and approval prior to execution:

(a) engineering contracts related to the Project,

(b) bid documents related to the Project,

(c) construction contracts related to the Project, and

(d) certification of positive effort for disadvantaged business enterprise participation.

Section 4.2 **User Charges**. The Local Borrower has established (or, if the System is not yet in operation, the Local Borrower will, at or before the time the System commences operation, establish) a system of user charges which, with other funds lawfully available, will at all times be sufficient to pay the costs of operation and maintenance of the System, including renewals and replacements of the System. The Local Borrower also agrees that such system of user charges will be established and maintained in compliance with any applicable requirements of state and federal law as long as the Local Borrower owes amounts under this Loan Agreement. The Local Borrower at its sole option may pay the costs of operation, maintenance, repair, replacement, extensions and additions to the System from any funds lawfully available to it for such purpose.

Section 4.3 **Interest in Project Site**. As a condition of the Loan, the Local Borrower will demonstrate to the satisfaction of the Authority that the Local Borrower has or will have a fee simple or such other estate or interest in the site of the Project, including necessary easements

and rights-of-way, as the Authority finds sufficient to assure undisturbed use and possession for the purpose of construction and operation of the Project for the estimated life of the Project.

Section 4.4 **Federal Clean Water Act**. The Local Borrower covenants that, to the extent legally applicable, the Project will meet the requirements of the Federal Clean Water Act in effect on the date of Loan Closing and any amendments thereto that may retroactively apply to the Loan, and the Local Borrower agrees that the Project will comply with applicable provisions of those federal laws and authorities listed in Article 9 of the Standard Terms and Conditions.

Section 4.5 **Federal Safe Drinking Water Act**. The Local Borrower covenants that, to the extent legally applicable, the Project will meet the requirements of the Federal Safe Drinking Water Act in effect on the date of Loan Closing and any amendments thereto that may retroactively apply to the Loan, and the Local Borrower agrees that the Project will comply with applicable provisions of those federal laws and authorities listed in Article 9 of the Standard Terms and Conditions.

Section 4.6 **Signs**. The Local Borrower shall erect a construction sign displaying information on the Project and the funding sources. The Authority shall provide specifications for such construction signs.

Section 5
Requirements During Construction

Section 5.1 **Changes in Project Scope.** The Local Borrower shall submit to the Authority, for review and approval prior to execution, any change to the plans and specifications, construction contracts, Eligible Project Costs, or any other change which will effect the performance standards or purpose of the Project.

Section 5.2 **Completion of Project and Provision of Moneys Therefor**. The Local Borrower covenants and agrees (a) to exercise its best efforts in accordance with prudent utility construction practice to complete the Project and (b) to the extent permitted by law, to provide from its own fiscal resources all moneys, in excess of the total amount of loan proceeds it receives hereunder and under any subsequent loan from the Authority, required to complete the Project.

Section 5.3 **Inspections; Information**. The Local Borrower shall permit the Authority and any party designated by the Authority to examine, visit and inspect, at any and all reasonable times, the property, if any, constituting the Project, and to inspect and make copies of any accounts, books and records, including (without limitation) its records regarding receipts, disbursements, contracts, investments and any other matters relating thereto and to its financial standing, and shall supply such reports and information as the Authority may reasonably require in connection therewith.

Section 5.4 **Adjustments for Ineligible Costs**. The Local Borrower shall promptly reimburse the Authority for any portion of the Loan which is determined to have been used for costs that are not eligible for funding under the Authority Act, the Federal Clean Water Act, as amended,

or the Federal Safe Drinking Water Act, as amended, unless such matter is curable in some other manner by the Local Borrower to the satisfaction of the Authority. Such reimbursement shall be promptly repaid to the Authority upon written request of the Authority. Any such reimbursed principal amount will be applied to reduce the outstanding principal amount of the Loan.

Section 5.5 **Archaeological Artifacts**. In the event that archaeological artifacts or historical resources are discovered during construction excavation of the Project, the Local Borrower shall stop or cause to be stopped construction activities and will notify the State Historic Preservation Office and the Authority of such discovery.

Section 6
Requirements Prior To Final Disbursements

Section 6.1 **Plan of Operation**. No Requirement.

Section 6.2 **Final Approval**. Prior to the release of the withholding, the Local Borrower will submit to the Authority (a) as-built drawings by a professional engineer that document all changes from the original plans and specifications (b) copies of all testing results performed by or under the supervision of a professional engineer as required by the specifications, and (c) Arizona Department of Environmental Quality (ADEQ) approval of construction or an engineer's Certificate of Completion certifying that all construction was completed in accordance with the plans and specifications or that any changes made are in conformance with the Arizona Revised Statutes, ADEQ and Environmental Protection Agency rules, permits and guidelines and are documented in the as-built drawings. Based on a review of the information submitted, the Authority reserves the right, prior to the release of the withholding, to request modifications to the Project, the system, or the materials submitted pursuant to this section.

Exhibit C

Reporting Requirements

Section 1. **Annual Loan Review**. The Authority's Annual Loan Review Form and annual financial statements in a format approved by the Authority, including the report of any annual audit(s) and all audit reports required by governmental auditing standards and any applicable Arizona rules, shall be provided by the Local Borrower to the Authority within one-hundred and eighty (180) days after the end of each fiscal year of the Local Borrower. The Local Borrower shall complete all audits and submit all reports required by the federal Single Audit Act within the time limits under that federal law, currently within the earlier of 30 days after receipt of the auditor's reports or nine months after the end of the audit period, unless a longer period is agreed to in advance by the federal agency that provided the funding or a different period is specified in a program-specific audit guide.

Section 2. **Records and Accounts**. The Local Borrower shall keep accurate records and accounts for the System, including records and accounts for the Project (the "*System Records*"), separate and distinct from its other records and accounts (the "*General Records*"). The Local Borrower must maintain the System Records in accordance with generally accepted accounting principles (GAAP), including standards relating to the reporting of infrastructure assets, as issued by the Governmental Accounting Standards Board (GASB) or by the Financial Accounting Standards Board (FASB), as applicable to the Local Borrower. If required by law, the Local Borrower must have the System Records audited annually by an independent accountant, which audit may be part of the annual audit of the General Records of the Local Borrower. The Local Borrower must make all System Records and General Records available for inspection by the Authority at any reasonable time.

Section 3. **Notice of Change In Key Personnel**. Promptly after becoming aware thereof, the Local Borrower shall provide notice in writing to the Authority of any change to the information in Section 1 of the Loan Agreement and any other change in key personnel connected to the Project and Loan.

Section 4. **Notice of Material Adverse Change**. The Local Borrower shall promptly notify the Authority of any material adverse change in the activities, prospects or condition (financial or otherwise), of the Local Borrower relating to the System, or in the ability of the Local Borrower to make all Loan Repayments from the Source of Repayment described in this Loan Agreement and otherwise to observe and perform its duties, covenants, obligations and agreements hereunder.

Section 5. **Disadvantaged Business Enterprise (DBE) Program.** The Local Borrower must report DBE participation to the Authority based on guidance from the Authority.

Section 6. **Notice of Default**. Promptly after becoming aware thereof, Local Borrower shall give notice to the Authority of (i) the occurrence of any Event of Default under the Loan Agreement or (ii) the occurrence of any breach, default, Event of Default, or event which with the giving of notice or lapse of time, or both, could become a material breach, default, or Event of Default (a "Future Breach") under any agreement, indenture, mortgage, or other instrument

(other than the Loan Agreement) to which the Local Borrower is a party or by which it or any of its property is bound or affected. Local Borrower shall provide written notice to the Authority if the effect of such breach, default, Event of Default or Future Breach is to accelerate, or to permit the acceleration of, the maturity of any indebtedness under such agreement, indenture, mortgage, or other instrument; provided, however, that the failure of the Local Borrower to give such notice shall not affect the right and power of the Authority to exercise any and all of the remedies specified herein.

Section 7**.** **Notice of Construction Commencement**. The Local Borrower shall promptly notify the Authority immediately upon commencement of construction activities.

Section 8**.** **Notice of Non-Environmental Litigation**. Promptly after the commencement or overt threat thereof, Local Borrower shall provide the Authority with written notice of the commencement of all actions, suits, or proceedings before any court, arbitrator, or governmental department, commission, board, bureau, agency, or instrumentality affecting Local Borrower which, if adversely determined, could have a material adverse effect on the condition (financial or otherwise), operations, properties, or business of Local Borrower, or on the ability of Local Borrower to perform its obligations under the Loan Agreement.

Section 9. **Notice of Environmental Litigation**. Without limiting the provisions of Section 8 above, promptly after receipt thereof, Local Borrower shall provide the Authority with written notice of the receipt of all pleadings, orders, complaints, indictments, or other communication alleging a condition that may require Local Borrower to undertake or to contribute to a cleanup or other response under laws relating to environmental protection, or which seek penalties, damages, injunctive relief, or criminal sanctions related to alleged violations of such laws, or which claim personal injury to any person or property damage as a result of environmental factors or conditions or which, if adversely determined, could have a material adverse effect on the condition (financial or otherwise), operations, properties, or business of Local Borrower, or on the ability of Local Borrower to perform its obligations under the Loan Agreement.

Section 10. **Regulatory and Other Notices**. Promptly after receipt or submission thereof, Local Borrower shall provide the Authority with copies of any notices or other communications received from or directed to any governmental authority with respect to any matter or proceeding which could have a material adverse effect on the condition (financial or otherwise), operations, properties, or business of Local Borrower, or the ability of Local Borrower to perform its obligations under the Loan Agreement, or which reveals a substantial non compliance with any applicable law, regulation or rule.

Section 11. **Other Information**. The Local Borrower shall submit to the Authority other information regarding the condition (financial or otherwise), or operation of the Local Borrower as the Authority may, from time to time, reasonably request.

Section 12. **Additional Reporting Requirements.** The Local Borrower shall refer to the Loan Agreement Addendum for wage rate reporting requirements.

Exhibit D Source of Repayment: Excise Taxes

Section 1 Certain Definitions[1]

As used in this Loan Agreement, the following terms shall have the meanings set forth below unless the context clearly requires otherwise:

"Additional Revenue Obligations" means any additional obligations which may hereafter be issued or incurred by the Local Borrower (or any financing conduit acting on behalf of the Local Borrower) having a lien upon and payable from Excise Tax Revenues and State Shared Revenues on a parity with, and in compliance with the terms of, the First Purchase Agreement, the Second Purchase Agreement, the Third Purchase Agreement, the First Loan Agreement, the Second Loan Agreement, the Third Loan Agreement and this Loan Agreement.

"Annual Debt Service" means the amount to be paid in any Fiscal Year with respect to the Parity Obligations for payment of principal and interest requirements.

"Excise Tax Revenues" means revenues from the Local Borrower sales taxes, license and permit fees and fines and forfeitures which the Local Borrower now collects; provided that the Mayor and Common Council of the Local Borrower may impose other transaction privilege taxes in the future, the uses of revenue from which will be restricted, at the discretion of such Council.

"First Loan Agreement" means the Loan Agreement (CW 910176-19), dated as of August 10, 2018, by and between the Local Borrower and the Authority.
"First Purchase Agreement" means the First Purchase Agreement, dated as of June 1, 2013, by and between Wells Fargo Bank, N.A., as seller, and the Local Borrower, as purchaser.

"Fiscal Year" means the fiscal year of the Local Borrower, currently the period July 1 through June 30.

"Maximum Annual Debt Service" means, for any Fiscal Year, the greatest Annual Debt Service for the then-current or any succeeding Fiscal Year.

"Parity Obligations" means the First Purchase Agreement, the Second Purchase Agreement, the Third Purchase Agreement, the First Loan Agreement, the Second Loan Agreement, the Third Loan Agreement, this Loan Agreement and any Additional Revenue Obligations.

"Second Loan Agreement" means the Loan Agreement (DW 920293-19), dated as of January 18, 2019, by and between the Local Borrower and the Authority.
"Second Purchase Agreement" means the Second Purchase Agreement, dated as of June 1, 2014, by and between Zions First National Bank, as seller, and the Local Borrower, as purchaser.

[1] By this reference, the First Loan Agreement and the Second Loan Agreement are hereby amended as follows retroactive to their dates: the definition "First Loan Agreement" is added to the Second Loan Agreement; the definition "State Shared Revenues" is added to the definitions in the First Loan Agreement and the Second Loan Agreement, and "First Loan Agreement" is added to the list of agreements in the definitions of Additional Revenue Obligations and Parity Obligations in the Second Loan Agreement.

"State" means the State of Arizona.

"State Shared Revenues" means revenues from amounts allocated or apportioned to the Local Borrower by the State, any political subdivision thereof or any other governmental unit or agency, except the share of the Local Borrower of any taxes which by State law, rule or regulation must be expended for other purposes, such as motor vehicle fuel taxes.

"Third Loan Agreement" means the Loan Agreement (DW 920303-20), dated as of even date herewith, by and between the Local Borrower and the Authority.

"Third Purchase Agreement" means the Third Purchase Agreement, dated as of April 1, 2017, by and between U.S. Bank National Association, as seller, and the Local Borrower, as purchaser.

Section 2 Source of Repayment and Rate Covenant Provisions

(a) It is understood and agreed that all payments with respect to the Loan shall be made only from the Source of Repayment, which is hereby pledged to the payment of all amounts due under the Loan. The Source of Repayment is Excise Tax Revenues and State Shared Revenues. The Excise Tax Revenues and State Shared Revenues are hereby pledged by the Local Borrower to the payment of all amounts due under the Loan and such amounts shall be secured by a paramount and first lien on and pledge of the Excise Tax Revenues and State Shared Revenues on parity with the pledge and lien granted by the Local Borrower for the payment and security of the First Purchase Agreement, the Second Purchase Agreement, the Third Purchase Agreement, the First Loan Agreement, the Second Loan Agreement, the Third Loan Agreement and any Additional Parity Obligations[2]. The amounts due under this Loan Agreement, the First Purchase Agreement, the Second Purchase Agreement, the Third Purchase Agreement, the First Loan Agreement, the Second Loan Agreement, the Third Loan Agreement and any Additional Parity Obligations[2] shall be equally and ratably secured by said pledge and lien without priority one over the other.

(b) The Local Borrower shall remit to the Authority from Excise Tax Revenues and State Shared Revenues all amounts due under this Loan Agreement in the amounts and at the times and for the purposes as required herein. The obligation of the Local Borrower to make payments of any amounts due under this Loan Agreement, including amounts due after default or termination hereof, is limited to payment from Excise Tax Revenues and State Shared Revenues and shall under no circumstances constitute a general obligation or a pledge of the full faith and credit of the Local Borrower, the State or any of its political subdivisions, or require the levy of, or be payable from the proceeds of, any *ad valorem* property taxes.

(c) The Local Borrower may, at the sole option of the Local Borrower, make payments due pursuant to Section 3.3 hereof from its other funds as permitted by law and as the Local Borrower shall determine from time to time, but the Authority acknowledges that it has no claim hereunder to such other funds. No part of the purchase price payable pursuant to this Loan Agreement shall be payable out of any *ad valorem* property taxes imposed by the Local Borrower or from bonds or

[2] By this reference, the Second Loan Agreement is hereby amended retroactive to its date, to add "First Loan Agreement" to the list of agreements here.

other obligations, the payment of which the Local Borrower's general taxing authority is pledged, unless (i) the same shall have been duly budgeted by the Local Borrower according to law, (ii) such payment or payments shall be within the budget limitations of the statutes of the State and (iii) any such bonded indebtedness or other obligation is within the debt limitations of the Constitution of the State.

(d) Excise Tax Revenues and State Shared Revenues in excess of amounts, if any, required to be deposited with or held by the Authority for payments due under this Loan Agreement shall constitute surplus revenues and may be used by the Local Borrower for any lawful purpose for the benefit of the Local Borrower, including the payment of obligations to which Excise Tax Revenues and State Shared Revenues may from time to time be pledged on a basis subordinate hereto. If at any time the moneys in the funds held for payment of amounts due under this Loan Agreement are not sufficient to make the deposits and transfers required, any such deficiency shall be made up from the first moneys thereafter received and available for such transfers under the terms of this Loan Agreement and, with respect to payment from Excise Tax Revenues and State Shared Revenues, *pro rata*, as applicable, with amounts due with respect to the First Purchase Agreement, the Second Purchase Agreement, the Third Purchase Agreement, the First Loan Agreement, the Second Loan Agreement, the Third Loan Agreement and any Additional Revenue Obligations[3], and the transfer of any such sum or sums to said fund as may be necessary to make up any such deficiency shall be in addition to the then-current transfers required to be made pursuant hereto.

(e) To the extent permitted by applicable law, Excise Tax Revenues shall be retained and maintained so that the amounts received from Excise Tax Revenues plus State Shared Revenues, when combined mathematically for such purpose only, all within and for the most recently completed Fiscal Year, shall have been equal to at least two (2) times the Annual Debt Service for the current Fiscal Year. If Excise Tax Revenues plus State Shared Revenues for any such Fiscal Year shall not have been equal to at least one and one-quarter (1.25) times the Annual Debt Service for the current Fiscal Year or if at any time it appears that Excise Tax Revenues plus State Shared Revenues will not be sufficient to meet such requirements, the Local Borrower shall, to the extent permitted by applicable law, impose new exactions of the type of the excise taxes which will be part of the excise taxes or increase the rates for the excise taxes currently imposed fully sufficient at all times, after making allowance for contingencies and errors, in each Fiscal Year in order that (i) Excise Tax Revenues plus State Shared Revenues will be sufficient to meet all current requirements hereunder and (ii) Excise Tax Revenues plus State Shared Revenues will be reasonably calculated to attain the level as required by the first sentence of this paragraph.

(f) The Excise Tax Revenue Fund established in connection with the Third Purchase Agreement is expanded to provide for the purposes of this Loan Agreement and, after paying therefrom amounts for the purposes described herein, such Fund may be reduced to zero, including by transferring any such balance to the General Fund of the Local Borrower.

Section 3 Additional Parity Obligations

[3] By this reference, the Second Loan Agreement is hereby amended retroactive to its date, to add "First Loan Agreement" to the list of agreements here.

Additional Revenue Obligations may be incurred but only if Excise Tax Revenues plus State Shared Revenues, when combined mathematically for such purpose only, in the most recently completed Fiscal Year, shall have amounted to at least two (2) times the Maximum Annual Debt Service.

Section 4 Default; Remedies Upon Default

The following shall supersede all contrary provisions herein to the extent of the subject matter hereof:

(a) (i) Upon (A) the nonpayment of the whole or any part of any of the amounts described in Section 3.3 hereof at the time when the same are to be paid as provided herein, (B) the violation by the Local Borrower of any other covenant or provision of this Loan Agreement, (C) the occurrence of an event of default with respect to the First Purchase Agreement, the Second Purchase Agreement, the Third Purchase Agreement, the First Loan Agreement, the Second Loan Agreement, the Third Loan Agreement or any Additional Revenue Obligations[4] or (D) the insolvency or bankruptcy of the Local Borrower as the same may be defined under any law of the United States of America or the State, or any voluntary or involuntary action of the Local Borrower or others to take advantage of, or to impose, as the case may be, any law for the relief of debtors or creditors, including a petition for reorganization, and

(ii) if such default has not been cured (A) in the case of nonpayment of any of the amounts described in Section 3.3 hereof as required hereunder on the due date or the nonpayment of principal or interest due with respect to the First Purchase Agreement, the Second Purchase Agreement, the Third Purchase, the First Loan Agreement, the Second Loan Agreement, the Third Loan Agreement Agreement or any Additional Revenue Obligations[4] on their due dates; (B) in the case of the breach of any other covenant or provision of this Loan Agreement not cured within sixty (60) days after notice in writing from the Authority specifying such default and (C) in the case of any other default under any of the First Purchase Agreement, the Second Purchase Agreement, the Third Purchase Agreement, the First Loan Agreement, the Second Loan Agreement, the Third Loan Agreement or any Additional Revenue Obligations[4] after any notice and passage of time provided for under the proceedings under which such obligations were issued then,

(iii) the Authority may take whatever action at law or in equity, including the remedy of specific performance, may appear necessary or desirable to collect any amounts payable by the Local Borrower under this Loan Agreement then due (but not such amounts accruing), or to enforce performance and observance of any pledge, obligation, agreement or covenant of the Local Borrower under this Loan Agreement, and with respect to Excise Tax Revenues and State-Shared Revenues, without notice and without giving any bond or surety to the Local Borrower or anyone claiming under the Local Borrower, have a receiver appointed of Excise Tax Revenues and State Shared Revenues which are pledged to the payment of amounts due hereunder, with such powers as the court making such

[4] By this reference, the Second Loan Agreement is hereby amended retroactive to its date, to add "First Loan Agreement" to the list of agreements here.

appointment shall confer (and the Local Borrower does hereby irrevocably consent to such appointment); provided, however, that under no circumstances may such amounts due hereunder be accelerated.

Each right, power and remedy of the Authority provided for in this Loan Agreement shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for herein, or, unless prohibited by the terms hereof, now or hereafter existing at law or in equity or by statute or otherwise, in any jurisdiction where such rights, powers and remedies are sought to be enforced, and the exercise or beginning of the exercise by the Authority of any one or more of the rights, powers or remedies provided for herein or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by either party of any or all of such other rights, powers or remedies. The failure to insist upon strict performance of any of the covenants or agreements herein set forth shall not be considered or taken as a waiver or relinquishment for the future of the rights of the Authority to insist upon a strict compliance by the Authority with all the covenants and conditions hereof. The Local Borrower shall, upon not less than 10 days' prior request by the Authority, execute, acknowledge and deliver to the Authority a statement in writing certifying that this Loan Agreement is unmodified and in full force and effect (or, if this Loan Agreement has been modified, that it is in full force and effect except as modified, and stating the modification), and the dates to which the amounts payable hereunder have been paid in advance, if any.

(b) The Authority shall in no event be in default in the performance of any of its obligations hereunder unless and until the Authority shall have failed to perform such obligation within 30 days or such additional time as is reasonably required to correct any such default after notice by the Local Borrower properly specifying wherein the Authority has failed to perform any such obligation.

Exhibit E Debt Service Reserve Requirement

No Debt Service Reserve Required

The Local Borrower shall not be required to either (i) provide a Reserve Fund Surety or (ii) fund a Reserve Fund in cash in connection with this Agreement.

Exhibit F Replacement Reserve Requirements

No Replacement Reserve Required

The Local Borrower shall not be required to maintain a Replacement Reserve in connection with the Loan.

Exhibit G Form of Opinion of Local Borrower Counsel

Enter Date of Opinion

Water Infrastructure Finance Authority of Arizona
Phoenix, Arizona

Ladies and Gentlemen:

I am an attorney admitted to practice in the State of Arizona and I have acted as counsel to the Town of Marana (the "*Local Borrower*"), which has entered into a Loan Agreement (as hereinafter defined) with the Water Infrastructure Finance Authority of Arizona (the "*Authority*"), and have acted as such in connection with the authorization, execution and delivery by the Local Borrower of the Loan Agreement (as hereinafter defined). Terms used and not otherwise defined herein have the meanings given to them in the Loan Agreement.

In so acting I have examined the Constitution and laws of the State of Arizona. I have also examined originals, or copies certified or otherwise identified to my satisfaction, of the following:

(a) the Loan Agreement, dated as of **TBD**, 2020 (the "*Loan Agreement*") by and between the Authority and the Local Borrower; and

(b) proceedings of the governing board of the Local Borrower relating to the approval of the Loan Agreement and the Local Borrower Bond and the execution, issuance and delivery thereof on behalf of the Local Borrower, and the authorization of the undertaking and completion of the Project, including the proceedings relating to the election held on Enter Election Date on the question of authorizing the Local Borrower to enter into loan agreements with the Authority and/or issue the Local Borrower Bond, of which there is authorized but unissued capacity at least equal to the principal amount of the Loan.

I have also examined and relied upon originals, or copies certified or otherwise authenticated to my satisfaction, of such other records, documents, certificates and other instruments, and made such investigation of law as in my judgment I have deemed necessary or appropriate to enable me to render the opinions expressed below.

Based upon the foregoing, I am of the opinion that:

1. The Local Borrower is a political subdivison of the State of Arizona with the legal right to carry on the business of the System as currently being conducted and as proposed to be conducted.

2. The Local Borrower has full legal right and authority to pledge the Source of Repayment for the Loan Repayments and to execute and deliver the Loan Agreement, and to observe and perform its duties, covenants, obligations and agreements thereunder and to undertake and complete the Project; subject, however, to the effect of restrictions and limitations imposed by or

resulting from, bankruptcy, insolvency, moratorium, reorganization, debt adjustment or other similar laws affecting creditors rights generally ("*Creditor's Rights Limitations*") heretofore or hereafter enacted.

3. The Local Borrower has duly and validly pledged the Source of Repayment for the punctual payment of the principal of and interest on the Loan and all other amounts due under the Loan Agreement and the Local Borrower Bond according to their respective terms.

4. All additional debt tests and reserve and other requirements applicable to the Local Borrower with respect to the pledge of the Source of Repayment have been satisfied.

5. The authorizing proceedings of the Local Borrower's governing body approving the Loan Agreement and authorizing its execution, issuance and delivery on behalf of the Local Borrower, and authorizing the Local Borrower to undertake and complete the Project (hereinafter collectively called the "*Authorizing Resolutions*") have been duly and lawfully adopted and authorized in accordance with applicable Arizona law, at a meeting or meetings which were duly called pursuant to necessary public notice and held in accordance with applicable Arizona law, and at which quorums were present and acting throughout.

6. The Loan Agreement has been duly authorized, executed and delivered by the authorized officers of the Local Borrower; and, assuming that the Authority has all the requisite power and authority to authorize, execute and deliver, and has duly authorized, executed and delivered the Loan Agreement, the Loan Agreement constitutes the legal, valid and binding obligation of the Local Borrower enforceable in accordance with its terms; subject, however, to the effect of and to restrictions and limitations imposed by or resulting from Creditor's Rights Limitations or other laws, judicial decisions and principles of equity relating to the enforcement of contractual obligations generally.

7. To the best of my knowledge, after such investigation as I have deemed appropriate, the authorization, execution and delivery of the Loan Agreement by the Local Borrower, the observance and performance by the Local Borrower of its duties, covenants, obligations and agreements thereunder and the consummation of the transactions contemplated therein and the undertaking and completion of the Project do not and will not contravene any existing law or any existing order, injunction, judgment, decree, rule or regulation of any court or governmental or administrative agency, authority or person having jurisdiction over the Local Borrower or its property or assets or result in a breach or violation of any of the terms and provisions of, or constitute a default under, any existing bond resolution, trust agreement, indenture, mortgage, deed of trust or other agreement to which the Local Borrower is a party or by which it, the System or its property or assets is bound.

8. To the best of my knowledge, after such investigation as I have deemed appropriate, all approvals, consents or authorizations of, or registrations of or filings with, any governmental or public agency, authority or person required to date on the part of the Local Borrower in connection with the authorization, execution, delivery and performance of the Loan Agreement, and the undertaking and completion of the Project have been obtained or made.

9. To the best of my knowledge, after such investigation as I have deemed appropriate, there is no litigation or other proceeding pending or threatened in any Court or other tribunal of competent jurisdiction (either State or Federal) questioning the creation, organization or existence of the Local Borrower or the validity, legality or enforceability of the Loan Agreement, or the undertaking or completion of the Project.

This opinion is rendered on the basis of Federal law and the laws of the State of Arizona as enacted and construed on the date hereof. I express no opinion as to any matter not set forth in the numbered paragraphs herein.

Very truly yours,

Exhibit H Form of Tax Compliance Certificate of Local Borrower

Water Infrastructure Finance Authority of Arizona

$475,000.00 Loan to Town of Marana

The Water Infrastructure Finance Authority of Arizona (the "Authority") and Town of Marana (the "Local Borrower") are entering into a Loan Agreement (the "Loan Agreement") in the maximum principal amount stated above pursuant to which the Authority will make a loan (the "Loan") to the Local Borrower. In connection with its state revolving fund programs, the Authority issues its bonds ("Authority Bonds") from time to time to finance loans and the Authority also pledges certain loans to secure and to serve as the source of payment for the Authority Bonds. As a result, and under the provisions of federal tax law applicable to the Authority Bonds, it is in the Authority's interest for the Loan to qualify and be a Tax-Exempt Obligation that is not an AMT Obligation. Therefore, in order to establish certain facts necessary for the Loan to qualify and be treated as a Tax-Exempt Obligation that is not an AMT Obligation, and as required by the provisions of the Loan Agreement, the Local Borrower by its officer signing this Certificate, certifies, represents, and covenants as follows with respect to the Loan. All statements in this Certificate are of facts or, as to events to occur in the future, reasonable expectations.

I. DEFINITIONS

1.10. Attachment A. The definitions and cross-references set forth in Attachment A apply to this Certificate and its Attachments. All terms relating to a particular issue, such as Sale Proceeds, relate to the Loan, unless indicated otherwise. (For example, "Sale Proceeds" refers to Sale Proceeds of the Loan, unless indicated otherwise.)

1.20. Special Definitions. Terms used herein, to the extent not defined in Attachment A or below, have the same meaning as defined in the Loan Agreement. In addition, the following definitions apply to this Certificate and its Attachments:

"Instructions" means the Rebate Instructions attached hereto as Attachment A-1.

"Issue" means the Loan.

"Issuer" means the Local Borrower.

"Project" means the financing of a portion of the costs of acquisition, construction and improvement of facilities to be financed by the Loan and includes Issuance Costs and interest on the Loan for up to three years from the Issuance Date or, if later, one year after the date the Project is placed in service, all of which are governmental purposes for purposes of the Code.

"Reserve Fund" is defined in 3.40(a).

1.30. References. Reference to a Section means a section of the Code. Reference by number only (for example, "2.10") means that numbered paragraph of this Certificate. Reference to an Attachment means an attachment to this Certificate.

II. ISSUE DATA

2.10. Issuer. The Issuer is a Governmental Unit.

2.20. Purpose of Issue. The Issue is being issued to provide funds to pay costs of the Project.

2.30. Dates. The Sale Date of the Issue is the date on which the Loan Agreement is executed and delivered by the Authority and the Local Borrower, and the Issuance Date of the Issue is the first date on which the aggregate draws under the Loan exceed the lesser of $50,000 or 5% of the principal amount of the Loan.

2.40. Issue Price. The Issue Price of the Issue is the principal amount actually advanced by the Authority to the Issuer as the Loan.

2.50. Sale Proceeds, Net Proceeds, and Net Sale Proceeds. The amount of Sale Proceeds equals the Issue Price. The amount of Net Proceeds equals the Issue Price minus the amount of Proceeds (if any) deposited in the Reserve Fund (if any). The amount of Net Sale Proceeds equals the amount of Net Proceeds minus the Minor Portion.

2.60. Disposition of Sale Proceeds. There will be no Pre-Issuance Accrued Interest with respect to the Issue. The Sale Proceeds will be used to pay costs of the Project and, if applicable, to fund the Reserve Fund (if any).

2.70. Higher Yielding Investments. Gross Proceeds will not be invested in Higher Yielding Investments except for (A) the Minor Portion to the extent provided in 3.80, (B) those Gross Proceeds identified in 3.10, 3.20, and 3.30, but only during the applicable Temporary Periods there described for those Gross Proceeds, and (C) Gross Proceeds held in the Reserve Fund (if any) to the extent set forth in 3.40(a).

2.80. Single Issue. No other obligations have been or will be sold less than 15 days before or after the Sale Date pursuant to the same plan of financing with the Issue that are expected to be paid from substantially the same source of funds as the Issue, determined without regard to guarantees from a person who is not a Related Party to the Issuer. Accordingly, no obligations other than those of the Issue are a part of a single issue with the Issue.

III. ARBITRAGE (NONREBATE) MATTERS

3.10. Use of Net Sale Proceeds and Pre-Issuance Accrued Interest; Temporary Periods.

(A) Pre-Issuance Accrued Interest. There will be no Pre-Issuance Accrued Interest with respect to the Issue.

(B) Payment of Costs of the Project.

(1) All of the Net Sale Proceeds will be used to pay costs of the Project. Such Sale Proceeds may be used to acquire or hold Higher Yielding Investments for a period ending on the third anniversary of the Issuance Date (such period being the Temporary Period for such amount) because the following three tests are reasonably expected to be satisfied:

(i) At least 85% of the Net Sale Proceeds will be allocated to expenditures on the Project by the end of the Temporary Period;

(ii) Within 6 months of the Issuance Date, the Issuer will incur substantial binding obligations to third parties to expend at least 5% of the Net Sale Proceeds on the Project; and

(iii) Completion of the Project and allocation of the Net Sale Proceeds to expenditures will proceed with due diligence.

Any Sale Proceeds that remain unspent on the third anniversary of the Issuance Date, which is the expiration date of the Temporary Period for such Proceeds, shall not be invested in Higher Yielding Investments with respect to the Issue after that date except as part of the Minor Portion. In complying with the foregoing sentence, the Issuer may take into account "yield reduction payments" (within the meaning of Regulations §1.148-5(c)) paid to the United States.

(2) Any Reimbursement Allocation will qualify as a Reimbursement of Prior Capital Expenditures and will be made by an entry in the financial records of the Issuer kept with respect to the Issue showing that Sale Proceeds of the Issue have been returned to the fund or account of the Issuer from which such amount was originally and temporarily advanced to finance Capital Expenditures paid before this date by not more than (A) 18 months after the later of the date such Capital Expenditures were paid or the date on which the property resulting from such Capital Expenditures and comprising part of the Project was placed in service or (B) three years after the original expenditures were paid.

3.20. Investment Proceeds. Any Investment Proceeds will be used to pay costs of the Project and may be invested in Higher Yielding Investments during the Temporary Period identified in 3.10(B)(1) or, if longer, one year from the date of receipt, such period being the Temporary Period for such Proceeds.

3.30. Payment Fund. Amounts deposited from time to time in the fund of the Issuer from which payments will be made on the Issue, which is a Bona Fide Debt Service Fund, will be used to pay Debt Service on the Issue within 13 months after the amounts are so deposited, such period being the Temporary Period for such amounts.

3.40. Reserve Funds.

(A) Debt Service Reserve Fund. If (and only if) the Loan Agreement requires the funding of a debt service reserve fund ("Reserve Fund") in cash: The amount of Proceeds of the Loan deposited in the Reserve Fund shall not exceed

10% of the stated principal amount of the Loan. Amounts in the portion of the Reserve Fund allocable to the Issue may be invested in Higher Yielding Investments with respect to the Issue to the extent that such amounts do not exceed the least of (i) 10% of the principal amount of the Issue; (ii) maximum annual Debt Service; and (iii) 125% of average annual Debt Service. Any amounts in the portion of the Reserve Fund allocable to the Issue in excess of the least of these amounts will not be invested in Higher Yielding Investments with respect to the Issue. In complying with the yield restriction set forth in this Section, the Issuer may take into account "yield reduction payments" (within the meaning of Regulations § 1.148-5(c)) timely paid or to be timely paid to the United States because amounts in the Reserve Fund (other than investment earnings) are not reasonably expected to be used to pay Debt Service other than in connection with reductions in the amount required to be in the Reserve Account. The establishing and funding of the Reserve Fund was reasonably required by the Authority as a condition of making the Loan.

(B) Replacement Reserve Fund. If (and only if) the Loan Agreement requires the funding of a replacement reserve fund ("Replacement Reserve Fund") in cash: The Replacement Reserve Fund may be used for one or more of the following purposes: (i) the acquisition of new, or the replacement of obsolete or worn out, machinery, equipment, furniture, fixtures or other personal property for the Issuer's utility system, provided that the property is depreciable; (ii) the performance of repairs with respect to the Issuer's utility system that are of an extraordinary and non-recurring nature, provided that the property is depreciable; (iii) the acquisition or construction of additions to or improvements, extensions or enlargements to, or remodeling of, the Issuer's utility system, provided that the property is depreciable; and/or (iv) to make Debt Service payments to the Authority on the Issue (collectively, the "Permitted Uses"). The Issuer reasonably expects to use amounts in the Replacement Reserve Fund for Permitted Uses other than to make Debt Service payments to the Authority on the Issue, and therefore there is no reasonable assurance of the availability of those amounts to make Debt Service payments to the Authority on the Issue if the Issuer encounters financial difficulties

3.50. No Other Replacement Fund or Assured Available Funds. Except as described in 3.30 and, if and to the extent applicable, 3.40(A), , the Issuer has not established and does not expect to establish or use any sinking fund, debt service fund, redemption fund, reserve or replacement fund, or similar fund, or any other fund to pay Debt Service on the Issue. Except for money referred to in 3.30 and Proceeds of a Refunding Issue, if any, no other money or Investment Property is or will be pledged as collateral or used for the payment of Debt Service on the Issue (or for the reimbursement of any others who may provide money to pay that Debt Service), or is or will be restricted, dedicated, encumbered, or set aside in any way as to afford the holders of the Issue reasonable assurance of the availability of such money or Investment Property to pay Debt Service on the Issue.

3.60. No Overissuance. The Proceeds of the Issue are not reasonably expected to exceed the amount needed for the governmental purposes of the Issue as set forth in 2.20.

3.70. Other Uses of Proceeds Negated. Except as stated otherwise in this Certificate, none of the Proceeds of the Issue will be used:

(A) to pay principal of or interest on, refund, renew, roll over, retire, or replace any other obligations issued by or on behalf of the Issuer or any other Governmental Unit,

(B) to replace any Proceeds of another issue that were not expended on the project for which such other issue was issued,

(C) to replace any money that was or will be used directly or indirectly to acquire Higher Yielding Investments,

(D) to make a loan to any person or other Governmental Unit,

(E) to pay any Working Capital Expenditure other than expenditures identified in Regulations §1.148-6(d)(3)(ii)(A) and (B) (i.e., Issuance Costs of the Issue, Qualified Administrative Costs, reasonable charges for a Qualified Guarantee or for a Qualified Hedge, interest on the Issue for a period commencing on the Issuance Date of the Issue and ending on the date that is the later of three years from such Issuance Date or one year after the date on which the project financed or refinanced by the Issue was or will be placed in service, payments of the Rebate Amount, and costs, other than those already described, that do not exceed 5% of the Sale Proceeds and that are directly related to Capital Expenditures financed or deemed financed by the Issue, principal or interest on an issue paid from unexpected excess Sale Proceeds or Investment Proceeds, and principal or interest on an issue paid from investment earnings on a reserve or replacement fund that are deposited in a Bona Fide Debt Service Fund), or

(F) to reimburse any expenditures made prior to the Issuance Date except those that qualify as a Reimbursement of Prior Capital Expenditures.

No portion of the Issue is being issued solely for the purpose of investing Proceeds in Higher Yielding Investments.

3.80. Minor Portion. The Minor Portion is equal to the lesser of 5% of the Sale Proceeds of the Issue and $100,000. Such Minor Portion may be invested in Higher Yielding Investments with respect to the Issue.

3.90. No Other Replacement Proceeds. That portion of the Issue that is to be used to finance Capital Expenditures has a weighted average maturity that does not exceed 120% of the weighted average reasonably expected economic life of the property resulting from such Capital Expenditures.

IV. REBATE MATTERS

4.10. Issuer Obligation Regarding Rebate. Consistently with its covenants contained in the Loan Agreement, the Issuer will calculate and make, or cause to be calculated and made,

payments of the Rebate Amount in the amounts and at the times and in the manner provided in Section 148(f) with respect to Gross Proceeds to the extent not exempted under Section 148(f)(4) and the Instructions.

4.20. No Avoidance of Rebate Amount. No amounts that are required to be paid to the United States will be used to make any payment to a party other than the United States through a transaction or a series of transactions that reduces the amount earned on any Investment Property or that results in a smaller profit or a larger loss on any Investment Property than would have resulted in an arm's length transaction in which the Yield on the Issue was not relevant to either party to the transaction.

4.30. Exceptions.

(A) Small Issuer Exception. The Issue is exempt under Section 148(f)(4)(D) from the rebate requirement **if all** of the following requirements are satisfied:

(1) The Issuer is a Governmental Unit with general taxing powers within the meaning of Section 148(f)(4)(D), and

(2) No part of the Issue is a Private Activity Bond, and

(3) All of the Net Proceeds will be used for "local governmental activities" of the Issuer within the meaning of Section 148(f)(4)(D) and none of the Net Proceeds will be used for any Private Business Use, and

(4) The aggregate principal amount of all Tax-Exempt Obligations, including the Issue, issued or to be issued by the Issuer, its subordinate entities and entities that issue any such obligations on behalf of the Issuer, or on behalf of which the Issuer issues any such obligations, during the current calendar year does not, and is not reasonably expected to, exceed $5,000,000. The Tax-Exempt Obligations taken into account for this purpose exclude any Private Activity Bonds and any Current Refunding Portion and Current Refunding Issue to the extent that the amount of such Current Refunding Portion or Current Refunding Issue does not exceed the outstanding amount of the obligations refunded by such Current Refunding Portion or Current Refunding Issue. No entity has been or will be formed or availed of to avoid the purposes of Section 148(f)(4)(D)(i)(IV).

If, but only if, all of the above requirements are satisfied, check here: [____]

and sign here: _____

(B) General Exception. Notwithstanding the foregoing, the computations and payments of amounts to the United States referred to in IV need not be made to the extent that the Issuer will not thereby fail to comply with any requirements of Section 148(f) and the Instructions based on an opinion of bond counsel.

4.40. Election. The Issue is a Construction Issue. The Issuer hereby elects to apply the 2-year spending exception to the rebate requirements on the basis of actual facts instead of the Issuer's reasonable expectations.

V. OTHER TAX MATTERS

5.10. Not Private Activity Bonds or Pool Bonds. No obligation of the Issue will be a Private Activity Bond or a pooled financing bond (within the meaning of Section 149(f)), based on the following:

(A) Not more than 5% of the Proceeds, if any, directly or indirectly, will be used for a Private Business Use and not more than 5%, if any, of the Debt Service on the Issue, directly or indirectly, will be secured by any interest in property used or to be used for a Private Business Use or payments in respect of such property, or will be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a Private Business Use.

(B) Less than 5% of the Proceeds, if any, will be used to make or finance loans to any Private Person or Governmental Unit other than the Issuer.

(C) The lesser of the Proceeds that are being or will be used for any Private Business Use or the Proceeds with respect to which there are payments or (borrowed money) that are being or will be used for any Private Business Use does not exceed $15,000,000 and none of the Proceeds will be used with respect to an "output facility" (other than a facility for the furnishing of water) within the meaning of Section 141(b)(4).

(D) The Issuer does not expect to sell or otherwise dispose of the Project or any portion thereof during the term of the Issue except for dispositions of property in the normal course at the end of such property's useful life to the Issuer. With respect to tangible personal property, if any, that is part of the Project, the Issuer reasonably expects that:

(1) Dispositions of such tangible personal property, if any, will be in the ordinary course of an established governmental program;

(2) The weighted average maturity of the obligations of the Issue financing such property (treating the obligations of the Issue properly allocable to such personal property as a separate issue for this purpose) will not be greater than 120% of the reasonably expected actual use of such property for governmental purposes;

(3) The fair market value of such property on the date of disposition will not be greater than 25% of its cost;

(4) The property will no longer be suitable for its governmental purposes on the date of disposition; and

(5) The amounts received from any disposition of such property are required to be, and will be, commingled with substantial tax or other governmental revenues and will be spent on governmental programs within 6 months from the date of such deposit and commingling.

5.20. Issue Not Federally Guaranteed. The Issue is not Federally Guaranteed.

5.30. Not Hedge Bonds. At least 85% of the Spendable Proceeds will be used to carry out the governmental purposes of the Issue within three years from the Issuance Date. Not more than 50%, if any, of the Proceeds will be invested in Nonpurpose Investments having a substantially guaranteed Yield for four years or more (including but not limited to any investment contract or fixed yield investment having a maturity of four years or more). The reasonable expectations stated above are not based on and do not take into account (A) any expectations or assumptions as to the occurrence of changes in market interest rates or changes of federal tax law or regulations or rulings thereunder or (B) any prepayments of items other than items that are customarily prepaid.

5.40. Hedge Contracts. The Issuer has not entered into, and does not reasonably expect to enter into, any Hedge with respect to the Issue, or any portion thereof. The Issuer acknowledges that entering into a Hedge with respect to the Issue, or any portion thereof, may change the Yield and that Bond Counsel should be contacted prior to entering into any Hedge with respect to the Issue in order to determine whether payments/receipts pursuant to the Hedge will be taken into account in computing the Yield.

5.50. Internal Revenue Service Information Return. Within the time and on the form prescribed by the Internal Revenue Service under Section 149(e), the Issuer will file with the Internal Revenue Service an Information Return setting forth the required information relating to the Issue. The information reported on that Information Return will be true, correct, and complete to the best of the knowledge and belief of the undersigned.

5.60. Responsibility of Officer.

(A) The officer signing this Certificate is one of the officers of the Issuer responsible for issuing the Issue.

(B) To the best of the knowledge, information, and belief of the undersigned, all expectations stated in this Certificate are the expectations of the Issuer and are reasonable, all facts stated are true, and there are no other existing facts, estimates, or circumstances that would or could materially change the statements made in this Certificate. The certifications and representations made in this Certificate are intended to be relied upon as certifications described in Regulations § 1.148-2(b). The Issuer acknowledges that any change in the facts or expectations from those set forth in this Certificate may result in different requirements or a change in status of the Issue or interest thereon under the Code, and that bond counsel should be contacted if such changes are to occur or have occurred.

Town of Marana

By:_____

Name:_____

Title:_____

List of Attachments

Attachment A -- Definitions for Tax Compliance Certificate

Attachment A-1 -- Rebate Instructions

Attachment A

Definitions for Tax Compliance Certificate of Local Borrower

The following terms, as used in Attachment A and in the Tax Compliance Certificate to which it is attached and in the other Attachments to the Tax Compliance Certificate, have the following meanings unless therein otherwise defined or unless a different meaning is indicated by the context in which the term is used. Capitalized terms used within these definitions that are not defined in Attachment A have the meanings ascribed to them in the Tax Compliance Certificate to which this Attachment A is attached. The word "Issue," in lower case, refers either to the Issue or to another issue of obligations or portion thereof treated as a separate issue for the applicable purposes of Section 148, as the context requires. The word "obligation" or "obligations," in lower case, includes any obligation, whether in the form of bonds, notes, certificates, or any other obligation that is a "bond" within the meaning of Section 150(a)(1). All capitalized terms used in this Certificate include either the singular or the plural. All terms used in this Attachment A or in the Tax Compliance Certificate to which this Attachment A is attached, including terms specifically defined, shall be interpreted in a manner consistent with Sections 103 and 141-150 and the applicable Regulations thereunder except as otherwise specified. All references to Section, unless otherwise noted, refer to the Code.

"Advance Refunding Issue" means any Refunding Issue that is not a Current Refunding Issue.

"Advance Refunding Portion" means that portion of a Multipurpose Issue that constitutes a separate governmental purpose and that would be treated as an Advance Refunding Issue if it had been issued as a separate issue.

"AMT Obligation" means a Tax-Exempt Obligation the interest on which is an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code.

"Available Construction Proceeds" means an amount equal to (a) the sum of (i) the Issue Price of an issue, (ii) Investment Proceeds on that Issue Price, (iii) earnings on any reasonably required reserve or replacement fund allocable to the issue not funded from the Issue Price, and (iv) Investment Proceeds and earnings on (ii) and (iii), (b) reduced by the portions, if any, of the Issue Price of the issue (i) attributable to Pre-Issuance Accrued Interest and earnings thereon, (ii) allocable to the underwriter's discount, (iii) used to pay other Issuance Costs of the issue, and (iv) deposited in a reasonably required reserve or replacement fund allocable to the issue. "Available Construction Proceeds" does not include Investment Proceeds or earnings on a reasonably required reserve or replacement fund allocable to the issue for any period after the earlier of (a) the close of the 2-year period that begins on the Issuance Date or (b) the date the construction of the project financed by the issue is substantially completed, provided, however, that such Investment Proceeds or earnings shall be excluded from "Available Construction Proceeds" if the Issuer has timely elected such exclusion. If an issue is a Multipurpose Issue that includes a New Money Portion that is a Construction Issue, this definition shall be applied by substituting "New Money Portion" for "issue" each place the latter term appears. If an issue or the New Money Portion of a Multipurpose Issue, as applicable, is

not a Construction Issue, and the Issuer makes the bifurcation election under Regulations §1.148-7(j)(1) and Section 148(f)(4)(C)(v) to treat the issue or the New Money Portion as two separate issues consisting of the Construction Portion and the Nonconstruction Portion, this definition shall be applied by substituting "Construction Portion" for "issue" each place the latter term appears.

"Bona Fide Debt Service Fund" means a fund, including a portion of or an account in that fund (or in the case of a fund established for two or more issues, the portion of that fund properly allocable to an issue), or a combination of such funds, accounts or portions that is used primarily to achieve a proper matching of revenues with Debt Service on an issue within each Bond Year and that is depleted at least once each year except for a reasonable carryover amount not to exceed the greater of the earnings thereon for the immediately preceding Bond Year or one-twelfth of the annual Debt Service on the issue for the immediately preceding Bond Year.

"Bond Year" means the annual period relevant to the application of Section 148(f) to an issue, except that the first and last Bond Years may be less than 12 months long. The last day of a Bond Year shall be the close of business on the day preceding the anniversary of the Issuance Date of an issue unless the Issuer selects another date on which to end a Bond Year in the manner permitted by the Code.

"Capital Expenditures" means costs of a type that are properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of Placed in Service) under general federal income tax principles.

"Code" means the Internal Revenue Code of 1986, the Regulations (whether temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section includes any applicable successor section or provision and such applicable Regulations, rulings, announcements, notices, procedures and determinations pertinent to that Section.

"Commingled Fund" means any fund or account of the Issuer that contains both Gross Proceeds of an issue and amounts in excess of $25,000 that are not Gross Proceeds of the issue if the amounts in the fund or account are invested and accounted for collectively, without regard to the source of funds deposited in the fund or account.

"Commingled Investment Proceeds" means Investment Proceeds of an issue (other than Investment Proceeds held in a Refunding Escrow) that are deposited in a Commingled Fund with substantial tax or other revenues from governmental operations of the Issuer and that are reasonably expected to be spent for governmental purposes within 6 months from the date of deposit in the Commingled Fund, using any reasonable accounting assumptions.

"Conduit Borrower" means the obligor on a purpose investment.

"Conduit Financing Issue" means an issue the Proceeds of which are reasonably expected to be used to finance one or more Conduit Loans.

"Conduit Loan" means a purpose investment acquired by the Issuer with Proceeds of a Conduit Financing Issue, thereby effecting a loan to the Conduit Borrower.

"Construction Expenditures" means Capital Expenditures allocable to the cost of real property (including the construction or making of improvements to real property, but excluding acquisitions of interests in land or other existing real property) or constructed personal property within the meaning of Regulations §1.148-7(g).

"Construction Issue" means an issue at least 75% of the Available Construction Proceeds of which are to be used for Construction Expenditures with respect to property that is, or upon completion will be, owned by a Governmental Unit or a 501(c)(3) Organization. If an issue is a Multipurpose Issue that includes a New Money Portion, this definition shall be applied by substituting "New Money Portion" for "Construction Issue" each place the latter term appears. If an election under Section 148(f)(4)(C)(v) and Regulations §1.148-7(j) is made to bifurcate an issue or the New Money Portion of a Multipurpose Issue, this definition shall be applied by substituting "Construction Portion" for "Construction Issue" each place the latter term appears.

"Construction Portion" means that portion of an issue or the New Money Portion of a Multipurpose Issue at least 75% of the Available Construction Proceeds of which are to be used for Construction Expenditures with respect to property that is, or upon completion will be, owned by a Governmental Unit or a 501(c)(3) Organization and that finances 100% of the Construction Expenditures.

"Controlled Group" means a group of entities controlled directly or indirectly by the same entity or group of entities within the meaning of Regulations §1.150-1(e).

"Current Refunding Issue" means a Refunding Issue that is issued not more than 90 days before the last expenditure of any Proceeds of the Refunding Issue for the payment of Debt Service on the Refunded Bonds.

"Current Refunding Portion" means that portion of a Multipurpose Issue that constitutes a separate governmental purpose and that would be treated as a Current Refunding Issue if it had been issued as a separate issue.

"Debt Service" means principal of and interest and any redemption premium on an issue.

"Excess Gross Proceeds" means all Gross Proceeds of an Advance Refunding Issue that exceed an amount equal to 1% of the Sale Proceeds of such Advance Refunding Issue, other than Gross Proceeds allocable to: (a) payment of Debt Service on the Refunded Bonds; (b) payment of Pre-Issuance Accrued Interest on the Advance Refunding Issue and interest on the Advance Refunding Issue that accrues for a period up to the completion date of any capital project financed by the Prior Issue, plus one year; (c) a reasonably required reserve or replacement fund for the

Advance Refunding Issue or Investment Proceeds of such fund; (d) payment of Issuance Costs of the Advance Refunding Issue; (e) payment of administrative costs allocable to repaying the Refunded Bonds, carrying and repaying the Advance Refunding Issue, or investments of the Advance Refunding Issue; (f) Transferred Proceeds allocable to expenditures for the governmental purpose of the Prior Issue (treating for this purpose all unspent Proceeds of the Prior Issue properly allocable to the Refunded Bonds as of the Issuance Date of the Advance Refunding Issue as Transferred Proceeds); (g) interest on purpose investments; (h) Replacement Proceeds in a sinking fund for the Advance Refunding Issue; and (i) fees for a Qualified Guarantee for the Advance Refunding Issue or the Prior Issue. If an Issue is a Multipurpose Issue that includes an Advance Refunding Portion, this definition shall be applied by substituting "Advance Refunding Portion" for "Advance Refunding Issue" each place the latter term appears.

"Federally Guaranteed" means that (a) the payment of Debt Service on an issue, or the payment of principal or interest with respect to any loans made from the Proceeds of the issue, is directly or indirectly guaranteed in whole or in part by the United States or by an agency or instrumentality of the United States, within the meaning of Section 149(b) of the Code, or (b) more than 5% of the Proceeds of an issue will be invested directly or indirectly in federally insured deposits or accounts. The preceding sentence does not apply to (a) Proceeds invested during an initial Temporary Period until such Proceeds are needed to pay costs of the project, (b) investments of a Bona Fide Debt Service Fund, (c) direct purchases from the United States of obligations issued by the United States Treasury, or (d) other investments permitted by Section 149(b) or Regulations §1.149(b)-1(b).

"501(c)(3) Organization" means an organization described in Section 501(c)(3) and exempt from tax under Section 501(a).

"Fixed Yield Issue" means an issue of obligations the Yield on which is fixed and determinable on the Issuance Date.

"Governmental Unit" means a state, territory or possession of the United States, the District of Columbia, or any political subdivision thereof referred to as a "State or local governmental unit" in Regulations §1.103-1(a). "Governmental Unit" does not include the United States or any agency or instrumentality of the United States.

"Gross Proceeds" means Proceeds and Replacement Proceeds of an issue.

"Hedge" means a contract entered into by the Issuer or the Conduit Borrower primarily to modify the Issuer's or the Conduit Borrower's risk of interest rate changes with respect to an obligation (e.g., an interest rate swap, an interest rate cap, a futures contract, a forward contract or an option).

"Higher Yielding Investments" means any Investment Property that produces a Yield that (a) in the case of Investment Property allocable to Replacement Proceeds of an issue and Investment Property in a Refunding Escrow, is more than one thousandth of one percentage point (.00001) higher than the Yield on the applicable issue, and (b) for all other purposes is more than one-eighth of one percentage point (.00125) higher than the Yield on the issue.

"Investment Proceeds" means any amounts actually or constructively received from investing Proceeds of an issue in Investment Property.

"Investment Property" means investment property within the meaning of Sections 148(b)(2) and 148(b)(3), including any security (within the meaning of Section 165(g)(2)(A) or (B)), any obligation, any annuity contract and any other investment-type property (including certain residential rental property for family units as described in Section 148(b)(2)(E) in the case of any bond other than a Private Activity Bond). Investment Property includes a Tax-Exempt Obligation that is a "specified private activity bond" as defined in Section 57(a)(5)(C), but does not include other Tax-Exempt Obligations.

"Issuance Costs" means costs to the extent incurred in connection with, and allocable to, the issuance of an issue, and includes underwriter's compensation withheld from the Issue Price, counsel fees, financial advisory fees, rating agency fees, trustee fees, paying agent fees, bond registrar, certification and authentication fees, accounting fees, printing costs for bonds and offering documents, public approval process costs, engineering and feasibility study costs, guarantee fees other than for a Qualified Guarantee and similar costs, but does not include fees charged by the Issuer.

"Issuance Date" means the date of physical delivery of an issue by the Issuer in exchange for the purchase price of the issue.

"Issue Price" means in the circumstances applicable to an issue:

(1) Public Offering. In the case of obligations actually offered to the general public in a bona fide public offering at the initial offering price for each maturity set forth in the certificate of the underwriter or placement agent attached to the Tax Compliance Certificate of the Issuer, the aggregate of the initial offering price for each maturity (including any Pre-Issuance Accrued Interest and original issue premium, but excluding any original issue discount), which price is not more than the fair market value thereof as of the Sale Date, and at which initial offering price not less than 10% of the principal amount of each maturity, as of the Sale Date, was sold or reasonably expected to be sold (other than to bond houses, brokers or other intermediaries). In the case of publicly offered obligations that are not described in the preceding sentence, Issue Price means the aggregate of the initial offering price to the public of each maturity set forth in the certificate of the underwriter or placement agent attached to the Tax Compliance Certificate of the Issuer, which price is not more than the fair market value thereof as of the Sale Date, and at which initial offering price not less than 10% of the principal amount of each maturity was sold to the public.

(2) Private Placement. In the case of obligations sold by private placement, the aggregate of the prices (including any Pre-Issuance Accrued Interest and original issue premium, but excluding any original issue discount) paid to the

Issuer by the first purchaser(s) (other than bond houses, brokers or other intermediaries).

"Minor Portion" means an amount equal to the lesser of $100,000 or 5% of the Sale Proceeds of an issue.

"Multipurpose Issue" means an issue the bonds of which are allocable to two or more separate governmental purposes within the meaning of Regulations §1.148-9(h).

"Net Proceeds" means the Sale Proceeds of an issue less the portion thereof, if any, deposited in a reasonably required reserve or replacement fund for the issue.

"Net Sale Proceeds" means the Sale Proceeds of an issue less the portion thereof, if any, deposited in a reasonably required reserve or replacement fund for the issue and the portion invested as a part of a Minor Portion for the issue.

"New Money Issue" means an issue that is not a Refunding Issue.

"New Money Portion" means that portion of a Multipurpose Issue other than the Refunding Portion.

"Nonpurpose Investments" means any Investment Property that is acquired with Gross Proceeds as an investment and not in carrying out any governmental purpose of an issue. "Nonpurpose Investments" does not include any investment that is not regarded as "investment property" or a "nonpurpose investment" for the particular purposes of Section 148 (such as certain investments in U.S. Treasury obligations in the State and Local Government Series and certain temporary investments), but does include any other investment that is a "nonpurpose investment" within the applicable meaning of Section 148.

"Placed in Service" means the date on which, based on all the facts and circumstances, a facility has reached a degree of completion that would permit its operation at substantially its design level and the facility is, in fact, in operation at such level.

"Pre-Issuance Accrued Interest" means interest on an obligation that accrued for a period not greater than one year before its Issuance Date and that will be paid within one year after such Issuance Date.

"Preliminary Expenditures" means any Capital Expenditures that are "preliminary expenditures" within the meaning of Regulations §1.150-2(f)(2), i.e., architectural, engineering, surveying, soil testing, reimbursement bond issuance, and similar costs that are incurred prior to commencement of acquisition, construction, or rehabilitation of a project other than land acquisition, site preparation, and similar costs incident to commencement of construction. The aggregate amount of Preliminary Expenditures may not exceed 20% of the aggregate Issue Price of the issue or issues that financed or are reasonably expected to finance the project for which such Preliminary Expenditures are or were incurred.

"Prior Issue" means an issue of obligations all or a portion of the Debt Service on which is paid or provided for with Proceeds of a Refunding Issue. The Prior Issue may be a Refunding Issue.

"Private Activity Bond" means (a) obligations of an issue more than 10% of the Proceeds of which, directly or indirectly, are or are to be used for a Private Business Use and more than 10% of the Debt Service on which, directly or indirectly, is or is to be paid from or secured by payments with respect to property, or secured by property, used for a Private Business Use, or (b) obligations of an issue, the Proceeds of which are or are to be used to make or finance loans to any Private Person that, in the aggregate, exceed the lesser of 5% of such Proceeds or $5,000,000. In the event of Unrelated or Disproportionate Use, the tests in (a) shall be applied by substituting 5% for 10% each place the latter term is used.

"Private Business Use" means use (directly or indirectly) in a trade or business carried on by any Private Person other than use as a member of, and on the same basis as, the general public. Any activity carried on by a Private Person (other than a natural person) shall be treated as a trade or business. In the case of a Qualified 501(c)(3) Bond, Private Business Use excludes use by a 501(c)(3) Organization that is not an unrelated trade or business activity by such 501(c)(3) Organization within the meaning of Section 513(a).

"Private Person" means any natural person or any artificial person, including a corporation, partnership, trust or other entity, other than a Governmental Unit. "Private Person" includes the United States and any agency or instrumentality of the United States.

"Proceeds" means any Sale Proceeds, Investment Proceeds, and Transferred Proceeds of an issue. "Proceeds" does not include Replacement Proceeds.

"Qualified Administrative Costs" means reasonable direct administrative costs (other than carrying costs) such as separately stated brokerage or selling commissions, but not legal and accounting fees, recordkeeping, custody and similar costs. General overhead costs and similar indirect costs of the Issuer such as employee salaries and office expenses and costs associated with computing the Rebate Amount are not Qualified Administrative Costs.

"Qualified 501(c)(3) Bonds" means an issue of obligations that satisfies the requirements of Section 145(a).

"Qualified Guarantee" means any guarantee of an obligation that constitutes a "qualified guarantee" within the meaning of Regulations §1.148-4(f).

"Qualified Hedge" means a Hedge that is a "qualified hedge" within the meaning of Regulations §1.148-4(h)(2).

"Rebate Amount" means the excess of the future value, as of any date, of all receipts on Nonpurpose Investments acquired with Gross Proceeds of an issue over the future value, as of that date, of all payments on those Nonpurpose Investments, computed in accordance with Section 148(f) and Regulations §1.148-3.

"Refunded Bonds" means obligations of a Prior Issue the Debt Service on which is or is to be paid from Proceeds of a Refunding Issue.

"Refunding Bonds" means obligations of a Refunding Issue.

"Refunding Issue" means an issue the Proceeds of which are or are to be used to pay Debt Service on Refunded Bonds and includes Issuance Costs, Pre-Issuance Accrued Interest or permitted capitalized interest, a reasonably required reserve or replacement fund and similar costs of the Refunding Issue.

"Refunding Escrow" means one or more funds established as part of a single transaction, or a series of related transactions, containing Proceeds of a Refunding Issue and any other amounts to be used to pay Debt Service on Refunded Bonds of one or more issues.

"Refunding Portion" means that portion of a Multipurpose Issue the Proceeds of which are, or are to be, used to pay Debt Service on Refunded Bonds and includes Issuance Costs, Pre-Issuance Accrued Interest or permitted capitalized interest, a reasonably required reserve or replacement fund and similar costs properly allocable to the Refunding Portion.

"Regulations" or "Reg." means Treasury Regulations.

"Reimbursement Allocation" means an allocation of the Proceeds of an issue for the Reimbursement of Prior Capital Expenditures, other than Preliminary Expenditures, that meets each of the following requirements: (a) is evidenced on the books or records of the Issuer maintained with respect to the issue, (b) the allocation entry identifies either actual prior Capital Expenditures, or the fund or account from which the prior Capital Expenditures were paid, and (c) evidences the Issuer's use of Proceeds of the issue to reimburse a Capital Expenditure for a governmental purpose that was originally paid from a source other than the Proceeds of the issue.

"Reimbursement of Prior Capital Expenditures" means a Reimbursement Allocation of Proceeds of the Issue to a Capital Expenditure paid prior to the Issuance Date of such Issue, that satisfies the following requirements: (a) the Capital Expenditure was paid after March 1, 1992; (b) prior to, or within 60 days after, payment of the Capital Expenditure (except Preliminary Expenditures), the Issuer adopted an official intent for the Capital Expenditure that satisfies Regulations §1.150-2(e); and (c) except for Preliminary Expenditures, the Reimbursement Allocation occurs or will occur within 18 months after the later of the date the Capital Expenditure was paid or the date the project resulting from such Capital Expenditure was Placed in Service or abandoned, but in no event more than 3 years after the Capital Expenditure was paid.

"Related Party" means, in reference to a Governmental Unit or 501(c)(3) Organization, any member of the same Controlled Group and, in reference to any person that is not a Governmental Unit or 501(c)(3) Organization, a "related person" as defined in Section 144(a)(3) of the Code.

"Replacement Proceeds" means, with respect to an issue, amounts (including any investment income, but excluding any Proceeds of any issue) replaced by Proceeds of that issue within the meaning of Section 148(a)(2). "Replacement Proceeds" includes amounts, other than Proceeds, held in a sinking fund, pledged fund or reserve or replacement fund for an issue.

"Sale Date" means, with respect to an issue, the first date on which there is a binding contract in writing with the Issuer for the sale and purchase of an issue (or of respective obligations of the issue if sold by the Issuer on different dates) on specific terms that are not later modified or adjusted in any material respect.

"Sale Proceeds" means that portion of the Issue Price actually or constructively received by the Issuer upon the sale or other disposition of an issue, including any underwriter's compensation withheld from the Issue Price, but excluding Pre-Issuance Accrued Interest.

"Spendable Proceeds" means the Net Sale Proceeds of an issue.

"Tax-Exempt Obligation" means any obligation or issue of obligations (including bonds, notes and lease obligations treated for federal income tax purposes as evidences of indebtedness) the interest on which is excluded from gross income for federal income tax purposes within the meaning of Section 150, and includes any obligation or any investment treated as a "tax-exempt bond" for the applicable purpose of Section 148.

"Tax-Exempt Organization" means a Governmental Unit or a 501(c)(3) Organization.

"Temporary Period" means the period of time, as set forth in the Tax Compliance Certificate, applicable to particular categories of Proceeds of an issue during which such category of Proceeds may be invested in Higher Yielding Investments without the issue being treated as arbitrage bonds under Section 148.

"Transferred Proceeds" means that portion of the Proceeds of an issue (including any Transferred Proceeds of that issue) that remains unexpended at the time that any portion of the principal of the Refunded Bonds of that issue is discharged with the Proceeds of a Refunding Issue and that thereupon becomes Proceeds of the Refunding Issue as provided in Regulations §1.148-9(b). "Transferred Proceeds" does not include any Replacement Proceeds.

"Unrelated or Disproportionate Use" means Private Business Use that is not related to or is disproportionate to use by a Governmental Unit within the meaning of Section 141(b)(3) and Regulations §1.141-9.

"Variable Yield Issue" means any Issue that is not a Fixed Yield Issue.

"Working Capital Expenditures" means any costs of a type that do not constitute Capital Expenditures, including current operating expenses.

"Yield" has the meaning assigned to it for purposes of Section 148 of the Code, and means that discount rate (stated as an annual percentage) that, when used in computing the present worth of all applicable unconditionally payable payments of Debt Service, all payments for a Qualified Guarantee, if any, and all payments and receipts with respect to a Qualified Hedge, if any, paid and to be paid with respect to an obligation (paid and to be paid during and attributable to the Yield Period in the case of a Variable Yield Issue), produces an amount equal to (a) the Issue Price in the case of a Fixed Yield Issue or the present value of the Issue Price at the commencement of the applicable Yield Period in the case of a Variable Yield Issue, or (b) the purchase price for yield purposes in the case of Investment Property, all subject to the applicable methods of computation provided for under Section 148, including variations from the foregoing. The Yield on Investment Property in which Proceeds or Replacement Proceeds of an issue are invested is computed on a basis consistent with the computation of Yield on that issue, including the same compounding interval of not more than one year selected by the Issuer.

"Yield Period" means, in the case of the first Yield Period, the period that commences on the Issuance Date and ends at the close of business on the first Computation Date and, in the case of each succeeding Yield Period, the period that begins immediately after the end of the immediately preceding Yield Period and ends at the close of business on the next succeeding Computation Date.

The terms "bond", "obligation", "reasonably required reserve or replacement fund", "reserve or replacement fund", "loan", "sinking fund", "purpose investment", "same plan of financing", "other replacement proceeds", and other terms relating to Code provisions used but not defined in this Certificate shall have the meanings given to them for purposes of Sections 103 and 141 to 150 unless the context indicates another meaning.

(End of Attachment A)

ATTACHMENT A-1
to
Tax Compliance Certificate of Local Borrower

INSTRUCTIONS FOR COMPLIANCE WITH REBATE REQUIREMENTS OF SECTION 148(f) OF THE CODE.

The Issuer covenanted in the Loan Agreement and Tax Compliance Certificate to comply with the arbitrage rebate requirement of Section 148(f) of the Code. These Instructions provide guidance for that compliance, including the spending exceptions that free the Issue from all or part of the rebate requirements.

PART I: GENERAL

SECTION 1.01. REBATE GENERALLY.

The Rebate Amount[1] with respect to the Issue must be paid (rebated) to the United States to prevent the bonds of the Issue from being arbitrage bonds, the interest on which is subject to federal income tax. In general, the Rebate Amount is the amount by which the actual earnings on Nonpurpose Investments purchased (or deemed to have been purchased) with Gross Proceeds of the Issue exceed the amount of earnings that would have been received if those Nonpurpose Investments had a Yield equal to the Yield on the Issue.[2]

Stated differently, the Rebate Amount for the Issue as of any date is the excess of the Future Value, as of that date, of all Receipts on Nonpurpose Investments over the Future Value, as of that date, of all Payments on Nonpurpose Investments, computed using the Yield on the Issue as the Future Value rate.[3]

If the Issue is a Fixed Yield Issue, the Yield on the Issue generally is the Yield to maturity, taking into account mandatory redemptions prior to maturity. If the Issue is a Variable Yield Issue, the Yield on the Issue is computed separately for each Yield Period selected by the Issuer.

SECTION 1.02. SPECIAL DEFINITIONS.

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1. Capitalized terms that are not defined in these Instructions are defined in Attachment A to the Tax Compliance Certificate of the Issuer.

2. Amounts earned on the Bona Fide Debt Service Fund for the Issue are not taken into account in determining the Rebate Amount since none of the obligations of the Issue are Private Activity Bonds, the rates of interest on the Issue do not vary and the average maturity of the Issue is at least 5 years.

3. The scope of these Instructions does not permit a detailed description of the computation of the Rebate Amount with respect to the Issue. If you need assistance in computing the Rebate Amount on the Issue, please contact your bond counsel.

For purposes of these Instructions, the following terms shall have the following meanings.

"Available Construction Proceeds" means an amount equal to (a) the sum of (i) the Issue Price of the issue, (ii) Investment Proceeds on that Issue Price, (iii) earnings on any reasonably required reserve or replacement fund allocated to the issue not funded from the Issue Price, and (iv) Investment Proceeds and earnings on (ii) and (iii), (b) reduced by the portions, if any, of the Issue Price of the issue (i) attributable to Pre-Issuance Accrued Interest and earnings thereon, (ii) allocated to the Underwriter's discount, (iii) used to pay other Issuance Costs of the issue, and (iv) deposited in a reasonably required reserve or replacement fund allocated to the issue. Available Construction Proceeds do not include Investment Proceeds or earnings on a reasonably required reserve or replacement fund allocated to the issue for any period after the earlier of (a) the close of the 2-year period that begins on the Issuance Date or (b) the date the construction of the Projects financed by the issue is substantially completed. If the issue consists of a New Money Portion and a Refunding Portion and the New Money Portion is a Construction Issue, this definition shall be applied by substituting "New Money Portion" for "issue" each place the latter term appears. If the issue or the New Money Portion, as applicable, is not a Construction Issue, and the Issuer makes the election under Regulations §1.148-7(j)(1) and Section 148(f)(4)(C)(v) to treat the issue or the New Money Portion as two separate issues consisting of the Construction Portion and the Nonconstruction Portion, this definition shall be applied by substituting "Construction Portion" for "issue" each place the latter term appears.

"Bifurcated Issue" means a New Money Issue or the New Money Portion of a Multipurpose Issue that the Issuer, pursuant to Section 148(f)(4)(C)(v) and Regulations §1.148-7(j), has elected in its Tax Compliance Certificate to bifurcate into a Construction Portion and a Nonconstruction Portion.

"Bond Counsel's Opinion" means an opinion or opinions of a nationally recognized bond counsel firm whose opinion is given with respect to the Issue when issued, or its successors or other nationally recognized bond counsel appointed by the Issuer.

"Bond Year" means the annual period relevant to the application of Section 148(f) to the issue, except that the first and last Bond Years may be less than 12 months long. The last day of a Bond Year shall be the close of business on the day preceding the anniversary of the Issuance Date of the issue unless the Issuer selects another date on which to end a Bond Year in the manner permitted by the Code.

"Computation Date" means each date on which the Rebate Amount for an issue is required to be computed under Regulations §1.148-3(e). In the case of a Fixed Yield Issue, the first Computation Date shall not be later than 5 years after the Issuance Date of the issue. Subsequent Computation Dates shall be not later than 5 years after the immediately preceding Computation Date for which an installment payment of the Rebate Amount was paid. In the case of a Variable Yield Issue, the first Computation Date shall be the last day of any Bond Year irrevocably selected by the Issuer ending on or before the fifth anniversary of the Issuance Date of such issue and

subsequent Computation Dates shall be the last day of each Bond Year thereafter or each fifth Bond Year thereafter, whichever is irrevocably selected by the Issuer after the first date on which any portion of the Rebate Amount is required to be paid to the United States. The final Computation Date is the date an issue is retired.

"Construction Expenditures" means Capital Expenditures allocable to the cost of real property (including the construction or making of improvements to real property, but excluding acquisitions of interests in land or other existing real property) or constructed personal property within the meaning of Regulations §1.148-7(g).

"Construction Issue" means an issue at least 75 percent of the Available Construction Proceeds of which are to be used for Construction Expenditures with respect to property which is or is to be owned by a Governmental Unit or a 501(c)(3) Organization. If an election has been made in the Issuer's Tax Compliance Certificate to bifurcate an issue or the New Money Portion, the Construction Portion (i.e., that portion of the issue or the New Money Portion which satisfies the 75 percent test stated in the preceding sentence and which finances 100% of the Construction Expenditures) is treated as the Construction Issue and the balance of the issue or the New Money Portion is treated as the Nonconstruction Portion.

"Fixed Yield Issue" means an issue of obligations the Yield on which is fixed and determinable on the Issuance Date.

"Future Value" means the value of a Payment or Receipt at the end of a period determined using the economic accrual method as the value of that Payment or Receipt when it is paid or received (or treated as paid or received), plus interest assumed to be earned and compounded over the period at a rate equal to the Yield on the Issue, using the same compounding interval and financial conventions that were used to compute that Yield.

"Guaranteed Investment Contract" means any Nonpurpose Investment that has specifically negotiated withdrawal or retirement provisions and a specifically negotiated interest rate and any agreement to supply investments on two or more future dates (e.g., a forward supply contract).

"Multipurpose Issue" means an issue that consists of a Refunding Portion and a New Money Portion.

"Payment" means payments actually or constructively made to acquire Nonpurpose Investments, as specified in Regulations §1.148-3(d)(1)i) through (v).

"Qualified Administrative Costs" means the reasonable, direct administrative costs, other than carrying costs, of purchasing or selling Nonpurpose Investments such as separately stated brokerage or selling commissions. Qualified Administrative Costs do not include legal and accounting fees, recordkeeping, custody, and similar costs, general overhead costs and similar indirect costs of the Issuer such as employee salaries and office expenses and costs associated with computing the Rebate Amount. In general, Qualified Administrative Costs are not reasonable unless they are comparable to administrative costs that would be charged for the same investment or

a reasonably comparable investment if acquired with a source of funds other than Gross Proceeds of Tax-Exempt Obligations.

"Reasonable Retainage" means an amount, not to exceed 5% of the Net Sale Proceeds of the Issue, that is retained for reasonable business purposes relating to the property financed with Proceeds of the Issue. For example, Reasonable Retainage may include a retention to ensure or promote compliance with a construction contract in circumstances in which the retained amount is not yet payable, or in which the Issuer reasonably determines that a dispute exists regarding completion or payment.

"Rebate Analyst" means an independent individual, firm or entity experienced in the computation of the Rebate Amount pursuant to Section 148(f) of the Code.

"Receipt" means amounts actually or constructively received from Nonpurpose Investments as specified in Regulations §1.148-3(d)(2)(i) through (iii).

"Variable Yield Issue" means any issue that is not a Fixed Yield Issue.

"Yield Period" means, in the case of the first Yield Period, the period that commences on the Issuance Date and ends at the close of business on the first Computation Date and, in the case of each succeeding Yield Period, the period that begins immediately after the end of the immediately preceding Yield Period and ends at the close of business on the next succeeding Computation Date.

PART II: EXCEPTIONS TO REBATE

SECTION 2.01. SPENDING EXCEPTIONS.

The rebate requirements with respect to the Issue are deemed to have been satisfied if any one of three spending exceptions (the 6-Month, the 18-Month, or the 2-Year Spending Exception, collectively, the "Spending Exceptions") is satisfied. The Spending Exceptions are each independent exceptions. The Issue need not meet the requirements of any other exception in order to use any one of the three exceptions. For example, a Construction Issue may qualify for the 6-Month Spending Exception or the 18-Month Spending Exception even though the Issuer makes one or more elections under the 2-Year Exception with respect to the Issue.

The following rules apply for purposes of all of the Spending Exceptions except as otherwise noted.

Refunding Issues. The only spending exception available for a Refunding Issue[4] is the 6-Month Spending Exception.

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4. For purposes of these Instructions, references to "Refunding Issue" include the Refunding Portion of a Multipurpose Issue.

Special Transferred Proceeds Rules. In applying the Spending Exceptions to a Refunding Issue, unspent Proceeds of the Prior Issue that become Transferred Proceeds of the Refunding Issue are ignored. If the Prior Issue satisfies one of the rebate Spending Exceptions, the Proceeds of the Prior Issue that are excepted from rebate under that exception are not subject to rebate either as Proceeds of the Prior Issue or as Transferred Proceeds of the Refunding Issue.

However, if the Prior Issue does not satisfy any of the Spending Exceptions and is not otherwise exempt from rebate, the Transferred Proceeds from the Prior Issue will be subject to rebate, even if the Refunding Issue satisfies the 6-Month Spending Exception. The Rebate Amount will be calculated on the Transferred Proceeds on the basis of the Yield of the Prior Issue up to each transfer date and on the basis of the Yield of the Refunding Issue after each transfer date.

Application of Spending Exceptions to a Multipurpose Issue. If the Issue is a Multipurpose Issue, the Refunding Portion and the New Money Portion are treated for purposes of the rebate Spending Exceptions as separate issues. Thus, the Refunding Portion is eligible to use only the 6-Month Spending Exception. The New Money Portion is eligible to use any of the three Spending Exceptions.

Expenditures for Governmental Purposes of the Issue. Each of the spending exceptions requires that expenditures of Gross Proceeds be for the governmental purposes of the Issue. These purposes include payment of interest (but not principal) on the Issue.

SECTION 2.02. 6-MONTH SPENDING EXCEPTION.

The Issue will be treated as satisfying the rebate requirements if all of the Gross Proceeds of the Issue are allocated to expenditures for the governmental purposes of the Issue within the 6-month period beginning on the Issuance Date and the Rebate Amount, if any, with respect to earnings on amounts deposited in a reasonably required reserve or replacement fund or a Bona Fide Debt Service Fund if and to the extent that such Fund is subject to rebate (see footnote 3) is timely paid to the United States. If no bond of the Issue is a Private Activity Bond (other than a Qualified 501(c)(3) Bond) or a tax or revenue anticipation bond, the 6-month period is extended for an additional 6 months if the unexpended Gross Proceeds of the Issue at the end of the 6-month period do not exceed the lesser of 5% of the Proceeds of the Issue or $100,000.

For purposes of the 6-Month Spending Exception, Gross Proceeds required to be spent within 6 months do not include amounts in a reasonably required reserve or replacement fund for the Issue or in a Bona Fide Debt Service Fund for the Issue.

SECTION 2.03. 18-MONTH SPENDING EXCEPTION.

The Issue (or the New Money Portion if the Issue is a Multipurpose Issue) is treated as satisfying the rebate requirement if the conditions set forth in (A), (B) and (C) are satisfied.

(A) All of the Gross Proceeds of the Issue (excluding amounts in a reasonably required reserve or replacement fund for the Issue or in a Bona Fide Debt Service Fund for the Issue) are allocated to expenditures for the governmental purposes of the Issue in accordance with the following schedule, measured from the Issuance Date:

(1) at least 15% within 6 months;

(2) at least 60% within 12 months; and

(3) 100% within 18 months, subject to the Reasonable Retainage exception described below.

(B) The Rebate Amount, if any, with respect to earnings on amounts deposited in a reasonably required reserve or replacement fund or in a Bona Fide Debt Service Fund for the Issue, to the extent such Fund is subject to rebate (see footnote 3), is timely paid to the United States. And,

(C) The Gross Proceeds of the Issue qualify for the initial 3-year Temporary Period.

If the only unspent Gross Proceeds at the end of the 18th month are Reasonable Retainage, the requirement that 100% of the Gross Proceeds be spent by the end of the 18th month is treated as met if the Reasonable Retainage, and all earnings thereon, are spent for the governmental purposes of the Issue within 30 months of the Issuance Date.

For purposes of determining whether the spend-down requirements have been met as of the end of each of the first two spending periods, the amount of Investment Proceeds that the Issuer reasonably expects as of the Issuance Date to earn on the Sale Proceeds and Investment Proceeds of the Issue during the 18-month period are included in Gross Proceeds of the Issue. The final spend-down requirement includes actual Investment Proceeds for the entire 18 months.

The 18-Month Spending Exception does not apply to the Issue (or the New Money Portion, as applicable) if any portion of the Issue (or New Money Portion) is treated as meeting the rebate requirement under the 2-Year Spending Exception discussed below. This rule prohibits use of the 18-Month Spending Exception for the Nonconstruction Portion of a Bifurcated Issue. The only Spending Exception available for the Nonconstruction Portion of a Bifurcated Issue is the 6-Month Spending Exception.

SECTION 2.04. 2-YEAR SPENDING EXCEPTION FOR CERTAIN CONSTRUCTION ISSUES.

(A) In general. A Construction Issue no bond of which is a Private Activity Bond (other than a Qualified 501(c)(3) Bond or a Bond that finances property to be owned by a Governmental Unit or a 501(c)(3) Organization) is treated as satisfying the rebate requirement if the Available Construction Proceeds of the Issue are allocated to expenditures for the governmental purposes of the Issue in accordance with the following schedule, measured from the Issuance Date:

(1) at least 10% within 6 months;

(2) at least 45% within 1 year;

(3) at least 75% within 18 months; and

(4) 100% within 2 years, subject to the Reasonable Retainage exception described below.

Amounts in a Bona Fide Debt Service Fund or a reasonably required reserve or replacement fund for the Issue are not treated as Gross Proceeds for purposes of the expenditure requirements. However, unless the Issuer has elected otherwise in the Tax Compliance Certificate, earnings on amounts in a reasonably required reserve or replacement fund for the Issue are treated as Available Construction Funds during the 2-year period and therefore must be allocated to expenditures for the governmental purposes of the Issue.

If the Issuer elected in the Tax Compliance Certificate to exclude from Available Construction Proceeds the Investment Proceeds or earnings on a reasonably required reserve or replacement fund for the Issue during the 2-year spend-down period, the Rebate Amount, if any, with respect to such Investment Proceeds or earnings from the Issuance Date must be timely paid to the United States. If the election is not made, the Rebate Amount, if any, with respect to such Investment Proceeds or earnings after the earlier of the date construction is substantially completed or 2 years after the Issuance Date must be timely paid to the United States. The Rebate Amount, if any, with respect to earnings on amounts in a Bona Fide Debt Service Fund must be timely paid to the extent such Fund is subject to the rebate requirements (see footnote 3).

The Issue does not fail to satisfy the spending requirement for the fourth spend-down period (i.e., 100% within 2 years of the Issuance Date) if the only unspent Available Construction Proceeds are amounts for Reasonable Retainage if such amounts (together with all earnings on such amounts) are allocated to expenditures within 3 years of the Issuance Date.

For purposes of determining whether the spend-down requirements have been met as of the end of each of the first 3 spend-down periods, Available Construction Proceeds include the amount of Investment Proceeds or earnings that the Issuer reasonably expected as of the Issuance Date to earn during the 2-year period. For purposes of satisfying the final spend-down requirement,

Available Construction Proceeds include actual Investment Proceeds or earnings from the Issuance Date through the end of the 2-year period.

Available Construction Proceeds do not include Gross Proceeds used to pay Issuance Costs financed by the Issue, but do include earnings on such Proceeds. Thus, an expenditure of Gross Proceeds to pay Issuance Costs does not count toward meeting the spend-down requirements, but expenditures of earnings on such Gross Proceeds to pay Issuance Costs do count.

(B) 1½% penalty in lieu of rebate for Construction Issues. If the Issuer elected in the Tax Compliance Certificate for a Construction Issue, or for the Construction Portion of a Bifurcated Issue, to pay a 1½% penalty in lieu of the Rebate Amount on Available Construction Proceeds in the event that the Construction Issue fails to satisfy any of the spend-down requirements, the 1½% penalty is calculated separately for each spend-down period, including each semi-annual period after the end of the fourth spend-down period until all Available Construction Proceeds have been spent. The penalty is equal to 0.015 times the underexpended Proceeds as of the end of the applicable spend-down period. The fact that no arbitrage is in fact earned during such spend-down period is not relevant. The Rebate Amount with respect to Gross Proceeds other than Available Construction Proceeds (e.g., amounts in a reasonably required reserve or replacement fund or in a Bona Fide Debt Service Fund, to the extent subject to rebate (see footnote 3)) must be timely paid.

PART III: COMPUTATION AND PAYMENT.

SECTION 3.01. COMPUTATION AND PAYMENT OF REBATE AMOUNT.

If none of the Spending Exceptions described above is satisfied (and if the 1-1/2% penalty election for a Construction Issue or the Construction Portion of a Bifurcated Issue has not been made), then within 45 days after each Computation Date, the Issuer shall compute, or cause to be computed, the Rebate Amount as of such Computation Date. The first Computation Date is a date selected by the Issuer, but shall be not later than 5 years after the Issuance Date. Each subsequent Computation Date shall end 5 years after the previous Computation Date except that, in a Variable Yield Issue, the Issuer may select annual Yield Periods. The final Computation Date shall be the date the last obligation of the Issue matures or is finally discharged.

Within 60 days after each Computation Date (except the final Computation Date), the Issuer shall pay to the United States not less than 90% of the Rebate Amount, if any, computed as of such Computation Date. Within 60 days after the final Computation Date, the Issuer shall pay to the United States 100% of the Rebate Amount, if any, computed as of the final Computation Date. In computing the Rebate Amount, a computation credit of $1,000 may be taken into account on the last day of each Bond Year to the Computation Date during which there are unspent Gross Proceeds that are subject to the rebate requirement, and on the final maturity date.

If the operative documents pertaining to the Issue establish a Rebate Fund and require the computation of the Rebate Amount at the end of each Bond Year, the Issuer shall calculate, or cause to be calculated, within 45 days after the end of each Bond Year the Rebate Amount, taking into account the computation credit of $1,000 for each Bond Year. Within 50 days after the end of

each Bond Year, if the Rebate Amount is positive, the Issuer shall deposit in the Rebate Fund such amount as will cause the amount on deposit therein to equal the Rebate Amount, and may withdraw any amount on deposit in the Rebate Fund in excess of the Rebate Amount. Payments of the Rebate Amount to the Internal Revenue Service on a Computation Date shall be made first from amounts on deposit in the Rebate Fund and second from other amounts specified in the operative documents.

Each payment of the Rebate Amount or portion thereof shall be payable to the Internal Revenue Service and shall be made to the Internal Revenue Service Center, Ogden, UT 84201 by certified mail. Each payment shall be accompanied by Internal Revenue Service Form 8038-T and any other form or forms required to be submitted with such remittance.

SECTION 3.02. BOOKS AND RECORDS.

(A) The Issuer or Trustee, as applicable, shall keep proper books of record and accounts containing complete and correct entries of all transactions relating to the receipt, investment, disbursement, allocation and application of the Gross Proceeds of the Issue. Such records shall specify the account or fund to which each Nonpurpose Investment (or portion thereof) held by the Issuer or Trustee is to be allocated and shall set forth as to each Nonpurpose Investment (1) its purchase price, (2) identifying information, including par amount, interest rate, and payments dates, (3) the amount received at maturity or its sales price, as the case may be, including accrued interest, (4) the amounts and dates of any payments made with respect thereto, and (5) the dates of acquisition and disposition or maturity.

The Issuer, Trustee, or Rebate Analyst, as applicable, shall retain the records of all calculations and payments of the Rebate Amount until six years after the retirement of the last obligation that is a part of the Issue.

SECTION 3.03. FAIR MARKET VALUE.

No Nonpurpose Investment shall be acquired for an amount in excess of its fair market value. No Nonpurpose Investment shall be sold or otherwise disposed of for an amount less than its fair market value.

The fair market value of any Nonpurpose Investment shall be the price at which a willing buyer would purchase the Nonpurpose Investment from a willing seller in an arms-length transaction. Fair market value generally is determined on the date on which a contract to purchase or sell the Nonpurpose Investment becomes binding (i.e., the trade date rather than the settlement date). Except as otherwise provided in this Section, a Nonpurpose Investment that is not of a type traded on an established securities market (within the meaning of Section 1273 of the Code) is rebuttably presumed to be acquired or disposed of for a price that is not equal to its fair market value.

(A) Obligations purchased directly from the Treasury. The fair market value of a United States Treasury obligation that is purchased directly from the United States Treasury is its purchase price.

(B) Safe harbor for Guaranteed Investment Contracts. The purchase price of a Guaranteed Investment Contract shall be treated as its fair market value on the purchase date if all the following conditions are met:

(1) The Issuer or broker makes a bona fide solicitation for a specified Guaranteed Investment Contract and receives at least three bona fide bids from reasonably competitive providers (of Guaranteed Investment Contracts) that have no material financial interest in the Issue.

(2) The Issuer purchases the highest-yielding Guaranteed Investment Contract for which a qualifying bid is made (determined net of broker's fees);

(3) The Yield on the Guaranteed Investment Contract (determined net of broker's fees) is not less than the Yield then available from the provider on reasonably comparable Guaranteed Investment Contracts, if any, offered to other persons from a source of funds other than Gross Proceeds of Tax-Exempt Obligations;

(4) The determination of the terms of the Guaranteed Investment Contract takes into account as a significant factor the Issuer's reasonably expected drawdown schedule for the amounts to be invested, exclusive of amounts deposited in a Bona Fide Debt Service Fund and a reasonably required reserve or replacement fund;

(5) The terms of the Guaranteed Investment Contract, including collateral security requirements, are reasonable; and

(6) The obligor on the Guaranteed Investment Contract certifies the administrative costs that it is paying (or expects to pay) to third parties in connection with the Guaranteed Investment Contract.

(C) Safe harbor for certificates of deposit. The purchase price of a certificate of deposit shall be treated as its fair market value on the purchase date if all of the following requirements are met:

(1) The certificate of deposit has a fixed interest rate, a fixed payment schedule, and a substantial penalty for early withdrawal; and

(2) The Yield on the certificate of deposit is not less than (a) the Yield on reasonably comparable direct obligations of the United States, or (b) the highest Yield that is published or posted by the provider to be currently available from the provider on reasonably comparable certificates of deposit offered to the public.

Certificates evidencing the foregoing requirements should be obtained before purchasing any Guaranteed Investment Contract or certificate of deposit.

SECTION 3.04. CONSTRUCTIVE SALE/PURCHASE.

(A) Nonpurpose Investments that are held by the Issuer or Trustee as of any Computation Date (or Bond Year if the computations are required to be done annually) shall be treated for purposes of computing the Rebate Amount as of such date as having been sold for their fair market value as of such date. Investment Property which becomes allocated to Gross Proceeds of the Issue on a date after such Investment Property has actually been purchased shall be treated for purposes of the rebate requirements as having been purchased by the Issuer on such date of allocation at its fair market value on such date.

(B) For purposes of constructive or deemed sales or purchases of Investment Property (other than Investment Property in the Escrow Fund or that is otherwise not invested for a Temporary Period or is not part of a reasonably required reserve or replacement fund for the Issue) must be valued at its fair market value on the date of constructive or deemed sale or purchase

(C) Except as set forth in (B), fixed rate Investment Property that is (1) issued with not more than 2% of original issue discount or original issue premium, (2) issued with original issue premium that is attributable exclusively to reasonable underwriters' compensation or (3) acquired with not more than 2% of market discount or market premium, may be treated as having a fair market value equal to its outstanding stated principal amount, plus accrued interest. Fixed rate Investment Property also may be treated as having a fair market value equal to its present value.

SECTION 3.05. ADMINISTRATIVE COSTS.

(A) Administrative costs shall not be taken into account in determining the payments for or receipts from a Nonpurpose Investment unless such administrative costs are Qualified Administrative Costs. Thus, administrative costs or expenses paid, directly or indirectly, to purchase, carry, sell, or retire Nonpurpose Investments generally do not increase the Payments for, or reduce the Receipts from, Nonpurpose Investments.

(B) Qualified Administrative Costs are taken into account in determining the Payments and Receipts on Nonpurpose Investments and thus increase the Payments for, or decrease the Receipts from, Nonpurpose Investments. In the case of a Guaranteed Investment Contract, a broker's commission or similar fee paid on behalf of either the Issuer or the provider is an administrative cost that is not a Qualified Administrative Cost to the extent that the present value (computed using the taxable discount rate used by the parties to compute the commission or, if not readily ascertainable, a reasonable taxable discount rate) of the commission, as of the date the contract is purchased, exceeds the present value of annual payments equal to 0.05 percent of the weighted average amount reasonably expected to be invested each year during the term of such contract.

PART IV: COMPLIANCE AND AMENDMENT

SECTION 4.01. COMPLIANCE.

The Issuer, Trustee or Rebate Analyst, as applicable, shall take all necessary steps to comply with the requirements of these Instructions in order to ensure that interest on the Issue is excluded from gross income for federal income tax purposes under Section 103(a) of the Code. However, compliance shall not be required in the event and to the extent stated therein the Issuer and the Trustee receive a Bond Counsel's Opinion that either (A) compliance with such requirement is not required to maintain the exclusion from gross income for federal income tax purposes of interest on the Issue, or (B) compliance with some other requirement in lieu of such requirement will comply with Section 148(f) of the Code, in which case compliance with the other requirement specified in the Bond Counsel's Opinion shall constitute compliance with such requirement.

SECTION 4.02. LIABILITY.

If for any reason any requirement of these Instructions is not complied with, the Issuer and the Trustee, if applicable, shall take all necessary and desirable steps to correct such noncompliance within a reasonable period of time after such noncompliance is discovered or should have been discovered with the exercise of reasonable diligence. The Trustee shall have no duty or responsibility to independently verify any of the Issuer's, or the Rebate Analyst's, calculations with respect to the payments of the Rebate Amount due and owing to the United States. Under no circumstances whatsoever shall the Trustee be liable to the Issuer, any bondholder or any other person for any inclusion of the interest on the Issue in gross income for federal income tax purposes, or any claims, demands, damages, liabilities, losses, costs or expenses resulting therefrom or in any way connected therewith, so long as the Trustee acts only in accordance with these Instructions and the operative documents pertaining to the Issue.

(End of Attachment A-1)

LOAN AGREEMENT STANDARD TERMS AND CONDITIONS

Water Infrastructure Finance Authority of Arizona

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This document sets forth Standard Terms and Conditions applicable to the Loan made by the WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA (the "*Authority*") to the Local Borrower. These Standard Terms and Conditions are a part of the Loan Agreement to which this document is attached. Certain terms used herein are defined in Article 8.

Article 1 Covenants of the Local Borrower Relating to the System and the Project.

Section 1.1 **Operation and Maintenance of System**. The Local Borrower covenants and agrees that it shall, in accordance with prudent utility practice, (a) at all times operate the properties of the System and any business in connection therewith in an efficient manner, (b) maintain the System in good repair, working order and operating condition, and (c) from time to time make all necessary and proper repairs, renewals, replacements, additions, betterments and improvements with respect to the System so that at all times the operations carried on in connection therewith shall be properly and advantageously conducted from revenues of the System or, if the Local Borrower so elects, from any other source of funds lawfully available.

Section 1.2 **Additions and Modifications**. The Local Borrower may make any additions, renewals, replacements, modifications or improvements to the System which it deems desirable and which do not materially reduce the operational integrity of any part of the System. All such renewals, replacements, additions, modifications and improvements shall become a part of the System.

Section 1.3 **Disposition of Project and System**.

(a) The Local Borrower shall not sell, lease, abandon or otherwise dispose of all or substantially all or any substantial portion of the Project or the System except upon compliance with the provisions of this Section; provided, however that the requirements of this Section shall not apply to transactions which are capital leases within the meaning of generally accepted accounting principles to finance expansion or improvement of the System and under which the Local Borrower maintains a purchaser's interest or other beneficial ownership, use, possession and control of the System so long as no default exists.

(b) The Local Borrower may sell, lease, abandon or otherwise dispose of all or substantially all or any substantial portion of the Project or the System if the Local Borrower shall give at least ninety (90) days' prior written notice to the Authority of the proposed transaction, and the Authority gives its written consent which shall not be unreasonably withheld. The Local Borrower understands that the Authority, in determining whether or not to give its consent, must determine that the proposed transaction will not adversely affect the Authority's ability to meet its duties, covenants, obligations and agreements or conditions of any grant received by the Authority or the State from the United States of America, which is related to the Capital Grant Facility or any capitalization grants received by the Authority or the State under the Federal Water Pollution Control Act, as amended, and the Federal Safe Drinking Water Act, as amended.

(c) Notwithstanding the provisions of subsection (b) above, the Local Borrower may sell, lease or otherwise dispose of, any of the property comprising part of the System without prior notice to or the consent of the Authority, other than the Project, in either of the following circumstances:

(i) If the Local Borrower determines that such property is not necessary, useful or profitable to the operation of the System; or

(ii) If the value of such property sold, leased or otherwise disposed of in any one year is equal to not more than 5% of the value of the fixed assets of the System.

Section 1.4 **Cost of Project**. The Local Borrower certifies that the estimated Eligible Project Costs as listed in Section 1 of Exhibit B is a reasonable and accurate estimation of the Eligible Project Costs and, upon the direction of the Authority the Local Borrower will supply the Authority with a certificate from its engineer stating that such estimated Eligible Project Costs is a reasonable and accurate estimation.

Article 2 Additional Covenants of the Local Borrower

Section 2.1 **Unconditional Obligations**. The obligation of the Local Borrower to make the Loan Repayments and the obligation to perform and observe the other duties, covenants, obligations and agreements on its part described herein are payable solely from the Source of Repayment described in this Loan Agreement and shall be absolute and unconditional and shall not be abated, rebated, set-off, reduced, abrogated, terminated, waived, diminished, postponed or otherwise modified in any manner or to any extent whatsoever, while any payments hereunder remain unpaid, regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Project or the System, commercial frustration of the purpose, any change in the laws of the United States of America or of the State or any political subdivision of either or in the rules or regulations of any governmental authority, any failure of the Authority to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Project or this Loan Agreement, or any rights of set-off, recoupment, abatement or counterclaim that the Local Borrower might otherwise have against the Authority or any other party or parties; provided, however, that payments under this Loan Agreement shall not constitute a waiver of any such rights. The Local Borrower shall not be obligated to make any payments required to be made by any other local borrowers under separate loan agreements or local borrower bonds. Notwithstanding any other provision of this Section 2.1, or this Loan Agreement, neither the Authority, nor any assignee of the Authority shall have the right or ability to compel the repayment of this Loan Agreement from any source other than the Source of Repayment.

Section 2.2 **Performance Under Loan Agreement**. The Local Borrower covenants and agrees (a) to maintain the System in good repair and operating condition; (b) to cooperate with the Authority to the extent it may lawfully do so, in the observance and performance of the respective duties, covenants, obligations and agreements of such Local Borrower and the Authority under this Loan Agreement; and (c) to comply with the covenants set forth in this Loan Agreement.

Section 2.3 **Disclaimer of Warranties**. The Local Borrower acknowledges and agrees that (i) the Authority makes no warranty or representation, either express or implied as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the System or the Project or any portions thereof or any other warranty or representation with respect thereto; (ii) in no event shall the Authority or its respective agents be liable or responsible for any direct, incidental, indirect, special or consequential damages in connection with or arising out of this Loan Agreement or the Project or the existence, furnishing, functioning or use of the System or the Project; and (iii) are not intended to and shall not be construed as a waiver of any defense or limitation on damages provided for under and pursuant to the laws of the United States or of the State.

Section 2.4 **Loan Repayments; Prepayments; Providing for Payment of the Loan**.

(a) Loan Repayments.

(i) The Local Borrower shall pay to the Authority the amounts set forth in the Loan Repayment Schedule contained in Exhibit A on or before the due dates shown in Exhibit A.

(ii) Each payment made as a Loan Repayment as described in subsection (i) shall be applied first to the combined interest and fee payment then due and payable on the Loan and then to the principal amount of the Loan.

(iii) In addition to the other payments required by this Section, the Local Borrower shall pay a late charge for any payment that is received by the Authority later than the tenth day following its due date, in an amount equal to six percent per annum of the amount of the late payment from its due date to the date it is actually paid; provided, however, that the combined interest and fee rate payable on the Loan including such late charge shall not be in excess of the maximum rate permitted by law or any proceedings or resolution authorizing the execution of this Loan Agreement.

(iv) Upon the final disbursement, if the Loan amount is less than the estimated Eligible Project Costs, the amount of each Principal Installment due as set forth in the Loan Repayment Schedule contained in Exhibit A shall be adjusted to achieve substantially level debt service, and the Authority shall compute the adjusted combined interest and fee amounts to reflect the adjusted principal amounts and shall enter the results in a revised Loan Repayment Schedule delivered to the Local Borrower.

(b) Prepayments. The Loan is not subject to prepayment prior to the tenth anniversary of the final loan draw. The Local Borrower may prepay the Principal Repayment Amount of the Loan in whole or in part in advance of the due dates on or after the tenth anniversary of the final loan draw without penalty upon written notice delivered to the Authority at least 60 days prior to the prepayment date. If the Local Borrower prepays the Repayment Principal Amount in part, the amount of each Principal Installment due as set forth in the Loan Repayment Schedule contained in Exhibit A shall be adjusted to achieve substantially level debt service. Upon such adjustment, the Authority shall compute the adjusted combined interest and fees amounts to reflect the adjusted principal amounts and shall enter the results in the Loan Repayment Schedule with notice to the Local Borrower.

(c) Providing for Payment of the Loan. The Local Borrower may at any time provide for the payment and discharge of the Loan, as provided in this subsection. The Loan shall be deemed to have been paid and discharged if:

(i) the Local Borrower has delivered to the Authority proof satisfactory to the Authority that the Local Borrower has deposited with a financial institution acceptable to the Authority, in trust for and irrevocably committed to payments on the Loan, cash or non-callable direct obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of Treasury of the United States of America) and obligations of any agency or instrumentality of the United States of America the timely payment of the principal of and interest on which are unconditionally guaranteed by the United States of America, which are of such maturities and interest payment dates, and bear such interest, as will be sufficient together with any moneys also deposited, without further investment or reinvestment of either the principal amount or the interest earnings (which earnings are to be held likewise in trust and so committed), to pay all the amounts due under the Loan, as set forth in the Loan Repayment Schedule contained in Exhibit A, as evidenced in a report of an independent firm of nationally recognized certified public accountants addressed to and delivered to the Authority; and

(ii) the Authority has received a bond counsel opinion (as described in Section 6.2(b) and (c) below) to the effect that the deposit of funds and the investment of such deposit, as described in the preceding paragraph, will not, by itself, adversely affect the exclusion from gross income of interest on the Loan or any Authority Bonds for federal income tax purposes.

Section 2.5 **Source of Repayment of Local Borrower's Obligations and Pledge**. The Local Borrower irrevocably pledges the Source of Repayment described in this Loan Agreement for the punctual payment of all amounts due under the Loan Agreement. The Authority and the Local Borrower agree that the amounts payable by the Local Borrower under this Loan Agreement are payable solely from the Source of Repayment described in this Loan Agreement and are not payable from any other source whatsoever, unless the Local Borrower chooses to pay, and pays, any amount due hereunder from any other source lawfully available to it.

Section 2.6 **Insurance**. The Local Borrower shall maintain or cause to be maintained in force, insurance policies with responsible insurers or self-insurance programs or through membership in a risk retention pool, including, but not limited to, the Arizona Municipal Risk Retention Pool (in accordance with the Local Borrower's customary practices) providing against risk of direct physical loss, damage or destruction of the Project and the System, at least to the extent that similar insurance is usually carried by utilities constructing, operating and maintaining system facilities of the nature of the System, including liability coverage, all to the extent available at reasonable cost.

Section 2.7 **No Liens**. Except for:

(a) the debt service on any future bonds, notes or other evidence of indebtedness of the Local Borrower issued or contractual obligations incurred in accordance with this Loan Agreement payable from the funds pledged to the payment of this Loan Agreement which are on parity with the lien and charge on the funds so pledged to pay this Loan Agreement and

(b) as provided in Exhibit D of this Loan Agreement, the debt service on currently outstanding bonds, notes or evidences of indebtedness or contractual obligations of the Local Borrower, if any, payable from the Source of Repayment described in Exhibit D of this Loan Agreement which the Local Borrower has disclosed to the Authority in writing,

the funds so pledged as described in this Loan Agreement after the payment of all costs of operating and maintaining the System, are and will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto which are prior to, or of equal rank with, the obligation of the Local Borrower to pay this Loan Agreement, and all corporate or other action on the part of the Local Borrower to that end has been and will be duly and validly taken.

Section 2.8 **Disadvantaged Business Enterprises**. As applicable, the Local Borrower shall comply with 40 C.F.R Part 33[1]including but not limited to:

Local Borrowers and their prime contractors must follow, document, and maintain documentation of their good faith efforts as listed below to ensure that Disadvantage Business Enterprises (DBEs) have the opportunity to participate in the project by increasing DBE awareness of procurement efforts and outreach.

(a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities; including placing DBEs on solicitation lists and soliciting them whenever they are potential sources.

(b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitation for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.

(c) Consider in the contracting process whether firms competing for large contracts could be subcontracted with DBEs. This will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

(e) Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the U. S. Department of Commerce.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in sections (a) through (e) above.

These conditions must be included in all procurement contracts entered into by the Local Borrower for all DWRF and CWRF projects:

(a) The prime contractor must pay its subcontractor for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the owner.

(b) The prime contractor must notify the owner in writing prior to the termination of any Disadvantage Business Enterprise subcontractor for convenience by the prime contractor.

(c) If a Disadvantage Business Enterprise contractor fails to complete work under the subcontract for any reason, the prime contractor must employ the six good faith efforts if soliciting a replacement contractor.

[1] See Article 9 for a full list of applicable federal laws and authorities relating to Participation by Disadvantaged Business Enterprises in Procurement Under Environmental Protection Agency (EPA) Financial Assistance Agreements.

(d) The prime contractor must continue to employ the six good faith efforts even if the prime contractor has achieved its fair share objectives.

(e) The prime contractor must provide EPA Form 6100-2 DBE Program Subcontractor Participation Form to all of its Disadvantaged Business Enterprise subcontractors. Disadvantaged Business Enterprise subcontractors may send completed Form 6100-2 directly to the Region 9 DBE Coordinator listed below.

Joe Ochab, EPA Region 9, 75 Hawthorne St. (P-22), San Francisco, CA 94105

(f) The prime contractor must have its Disadvantaged Business Enterprise subcontractors complete EPA Form 6100-3 – DBE Program Subcontractor Performance Form. The prime contractor must include all completed forms as part of the prime contractor's bid or proposal package to the Local Borrower.

(g) The prime contractor must complete and submit EPA 6100-4 DBE Program Subcontractor Utilization Form as part of the prime contractor's bid or proposal package to the Local Borrower.

(h) A Local Borrower must ensure that each procurement contract it awards contains the following terms and conditions:

> The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.

Article 3 Representations of Local Borrower

The Local Borrower represents for the benefit of the Authority that the representations contained in this Loan Agreement are true at the time of execution and delivery of this Loan Agreement and, other than with respect to events outside of Local Borrower's control, will be true in all material respects at all times during the term of this Loan Agreement.

Section 3.1 **Organization and Authority**.

(a) The Local Borrower is a Political Subdivision or Indian Tribe as defined in the Authority Act.

(b) The Local Borrower has full legal right and authority and has, or will obtain as and when required, all necessary licenses and permits required to acquire, own, operate and maintain the Project and the System, to carry on its activities relating thereto, to execute and deliver this Loan Agreement, to undertake and complete the Project, to pledge the Source of Repayment, and to carry out and consummate all transactions contemplated by this Loan Agreement. The Project is a project which the Local Borrower may undertake pursuant to State law and for which the Local Borrower is authorized by law to borrow money.

(c) The proceedings of the Local Borrower's governing body approving this Loan Agreement and authorizing its execution, issuance and delivery on behalf of the Local Borrower, and authorizing the Local Borrower to undertake and complete the Project have been duly and lawfully adopted in accordance with the laws of the State.

(d) This Loan Agreement has been duly authorized, executed and delivered by an Authorized Officer of the Local Borrower; and, assuming that the Authority has all the requisite power and authority to authorize, execute and deliver, and has duly authorized, executed and delivered this Loan Agreement, this Loan Agreement constitutes a legal and valid obligation of the Local Borrower enforceable in accordance with its terms, and the information contained under "Description of the Loan" in this Loan Agreement is true and accurate in all material respects.

Section 3.2 **Full Disclosure**.

(a) To the best of the Local Borrower's knowledge, there is no fact that the Local Borrower has not disclosed to the Authority in writing that materially adversely affects the properties, activities, prospects or condition (financial or otherwise) of the Local Borrower or the System, or the ability of the Local Borrower to make all Loan Repayments due hereunder and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement.

(b) The information relating to the Local Borrower (including without limitation the financial and statistical data contained therein) submitted to the Authority by the Local Borrower in connection with the Authority's approval of the Loan was at the time of the Authority's approval of the Loan and at all times subsequent thereto up to and including the Loan Closing, will be (if necessary by amendment provided by the Local Borrower) true and correct and will not contain an untrue statement of material fact or omit to state a material fact necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading in any adverse respect. To the extent permitted by law, and notwithstanding any other provision of this Loan Agreement, the Local Borrower will indemnify, save and hold harmless the Authority, and each of the Authority's agents, for, from and against any and all claims, damages, liability and court awards including costs, expenses and reasonable attorneys' fees incurred as a result of any omission or misstatement of material fact in the information submitted to the Authority by the Local Borrower in connection with the Authority's approval of the Loan, as it may have been supplemented and amended by the Local Borrower.

Section 3.3 **Pending Litigation**. There are no proceedings pending, or to the knowledge of the Local Borrower, threatened, against or affecting the Local Borrower, in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would materially adversely affect the properties, activities, prospects or condition (financial or otherwise) of the Local Borrower or the System, or the ability of the Local Borrower to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement that have not been disclosed in writing to the Authority in the Local Borrower's application for the Loan or otherwise.

Section 3.4 **Compliance with Existing Laws and Agreements**. The authorization, execution and delivery of this Loan Agreement by the Local Borrower, the observance and performance by the Local Borrower of its duties, covenants, obligations and agreements hereunder and the consummation of the transactions provided for in this Loan Agreement, the compliance by the Local Borrower with the provisions of this Loan Agreement and the undertaking and completion of the Project will not result in any breach of any of the terms, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Local Borrower pursuant to any existing ordinance or resolution, trust agreement, indenture, mortgage, deed of trust, loan agreement or other instrument (other than the lien and charge of this Loan Agreement and any ordinance or resolution or indenture which authorized outstanding obligations of the Local Borrower which are on a parity with this Loan Agreement as to a lien on, or a source and security for, payment thereon from the source of payment that is pledged to the Loan Repayments) to which the Local Borrower is a party or by which the Local Borrower, the System or any of its property or assets may be bound, nor will such action result in any violation of the provisions of the charter or other document pursuant to which the Local Borrower was established or any laws, ordinances, resolutions, governmental rules, regulations or court orders to which the Local Borrower, the System or its properties or operations are subject.

Section 3.5 **No Defaults**. No event has occurred and no condition exists that, upon authorization, execution and delivery of this Loan Agreement or receipt of the amount of the Loan, would constitute an Event of Default hereunder. The Local Borrower is not in violation of, and has not received notice of any claimed violation of, any term of any agreement or other instrument to which it is a party or by which it may be bound, which violation would materially adversely affect the properties, activities, prospects or condition (financial or otherwise) of the Local Borrower or the ability of the Local Borrower to make all Loan Repayments or otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement.

Section 3.6 **Governmental Consent**. The Local Borrower has or will have obtained prior to the date of the Loan Closing all permits and approvals required to date by any governmental body or officer (and reasonably expects to receive all permits required in the future by any governmental agency) for the making, observance and performance

by the Local Borrower of its duties, obligations and agreements under this Loan Agreement or for the undertaking or completion of the Project and the financing thereof, and the Local Borrower has complied with all applicable provisions of law requiring any notification, declaration, filing or registration with any governmental body or officer in connection with the making, observance and performance by the Local Borrower of its duties, covenants, obligations and agreements under this Loan Agreement or with the undertaking or completion of the Project and the financing thereof; and the Local Borrower has complied with all applicable provisions of law requiring any notification, declaration, filing or registration with any governmental body or officer in connection with the making, observance and performance by the Local Borrower of its duties, covenants, obligations and agreements under this Loan Agreement or with the undertaking or completion of the Project and the financing thereof. No consent, approval or authorization of, or filing, registration or qualification with, any governmental body or officer, other than those already obtained or reasonably expected to be obtained, is required on the part of the Local Borrower as a condition to the authorization, execution and delivery of this Loan Agreement, the undertaking or completion of the Project or the consummation of any transaction herein contemplated.

Section 3.7 **Compliance with Law**. The Local Borrower:

(a) is in compliance with all laws, ordinances, governmental rules and regulations to which it is subject and the failure to comply with which would materially adversely affect the ability of the Local Borrower to conduct its activities or undertake or complete the Project or the condition (financial or otherwise) of the Local Borrower or the System; and

(b) has obtained, or will obtain as and when required, all licenses, permits, franchises or other governmental authorizations necessary for the ownership of its property or for the conduct of its activities which, if not obtained, would materially adversely affect the ability of the Local Borrower to undertake or complete the Project or the condition (financial or otherwise) of the Local Borrower or the System.

Article 4 Assignment

Section 4.1 **Assignment and Transfer by Authority**. The Local Borrower hereby approves and consents to any assignment or transfer of this Loan Agreement that the Authority deems to be necessary in connection with the Clean Water Revolving Fund and Drinking Water Revolving Fund programs of the Authority.

Section 4.2 **Assignment by Local Borrower**. This Loan Agreement may not be assigned by the Local Borrower for any reason, unless the following conditions shall be satisfied: (i) the assignee shall be a governmental unit within the meaning of Section 141(c) of the Code or another entity acceptable to the Authority and the assignee shall have expressly assumed in writing the full and faithful observance and performance of the Local Borrower's duties, covenants, agreements and obligations hereunder; (ii) immediately after such assignment, the assignee shall not be in default in the performance or observance of any duties, covenants, obligations or agreements of the Local Borrower hereunder; and (iii) the Authority shall receive an opinion of counsel to the effect that such assignment will not violate the provisions of any agreement entered into by the Authority with, or condition of any grant received by the Authority from the United States of America relating to the Capital Grant Facility or any capitalization grants received by the Authority or the State under the Federal Water Pollution Control Act and the Federal Safe Drinking Water Act.

No assignment shall relieve the Local Borrower from primary liability for any of its obligations under this Loan Agreement and in the event of such assignment, the Local Borrower shall continue to remain primarily liable for the performance and observance of its obligations to be performed and observed under this Loan Agreement.

Article 5 Defaults and Remedies

Section 5.1 **Events of Default**. If any of the following events occurs, it is hereby defined as and declared to be and to constitute an "*Event of Default*":

(a) failure by the Local Borrower to pay, or cause to be paid, when due any Loan Repayment;

(b) failure by the Local Borrower to make, or cause to be made, any required payments of principal, redemption premium, if any, and interest on any bonds, notes or other obligations of the Local Borrower for borrowed money (other than the Loan), after giving effect to the applicable grace period, the payments of which are secured by the Source of Repayment described in this Loan Agreement;

(c) failure by the Local Borrower to perform any duty, covenant, obligation or agreement on its part to be observed or performed under this Loan Agreement, other than as referred to in paragraphs (a) and (b) of this Section, which failure shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Local Borrower by the Authority, unless the Authority agrees in writing to an extension of such time prior to its expiration, provided, however, that if the failure stated in such notice is correctable but cannot be corrected within the applicable period the Authority may not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Local Borrower and diligently pursued until the Event of Default is corrected;

(d) the institution of any proceeding, with the acquiescence of the Local Borrower, for the purpose of effecting a composition between the Local Borrower and its creditors or for the purpose of adjusting the claims of such creditors, pursuant to any federal or state statute now or hereafter enacted, if the claims of such creditors are payable from the Source of Repayment described in this Loan Agreement;

(e) a determination by the Authority that any material representation made by or on behalf of the Local Borrower contained in this Loan Agreement, or in any instrument furnished in compliance with or with reference to this Loan Agreement, is false or misleading in any material respect; and

(f) the filing of a petition by or against the Local Borrower under any federal or state bankruptcy or insolvency law or other similar law in effect on the date of this Loan Agreement or thereafter enacted, unless in the case of any such petition filed against the Local Borrower such petition shall be dismissed within thirty (30) days after such filing and such dismissal shall be final and not subject to appeal; or the Local Borrower becoming insolvent or bankrupt or making an assignment for the benefit of its creditors; or the appointment of a custodian (including, without limitation, a receiver, liquidator or trustee of the Local Borrower or any of its property including the System) by court order, or possession of the Local Borrower or its property or assets is taken if such order remains in effect or such possession continues for more than thirty (30) days.

Section 5.2 **Notice of Default**. The Local Borrower shall give the Authority prompt telephone notice of the occurrence of any Event of Default referred to in Section 5.1 paragraph (c) hereof, and of the occurrence of any other event or condition that constitutes an Event of Default, at such time as any senior administrative or financial officer of the Local Borrower becomes aware of the existence thereof. Any telephone notice pursuant to this Section shall be confirmed in writing by the end of the next Business Day.

Section 5.3 **Remedies on Default.**

(a) Whenever an Event of Default referred to in Section 5.1 hereof shall have occurred and be continuing, the Authority shall have the right to take any action permitted or required pursuant to this Loan Agreement and to take whatever other action at law or in equity as may appear necessary or desirable to collect the amounts then due and thereafter to become due on their scheduled payment dates or to enforce the performance and observance of any duty, covenant, obligation or agreement of the Local Borrower hereunder, including, without limitation, appointment of a receiver of the System.

(b) Nothing in this Loan Agreement shall be construed to affect the Attorney General taking action to enforce this Loan Agreement in accordance with the Authority Act.

Section 5.4 **Attorney's Fees and Other Expenses**. In the event of a default hereunder by the Local Borrower, the Local Borrower shall on demand and to the extent not prohibited by applicable law pay to the Authority the reasonable fees and expenses of attorneys and other reasonable expenses (including without limitation the reasonably allocated costs of in-house counsel and legal staff) incurred by the Authority in the collection of Loan

Repayments or any other sum due hereunder or in the enforcement of performance or observance of any other duties, covenants, obligations or agreements of the Local Borrower to the extent permitted by law.

Section 5.5 **Application of Moneys**. The parties acknowledge that: (a) all amounts coming due hereunder as Loan Repayments shall be treated as principal and combined interest and fees with respect to the Loan which amounts are secured by a pledge of the Source of Repayment in accordance with Exhibit D of this Loan Agreement; and (b) amounts coming due under Section 5.4 hereof shall be secured by the Source of Repayment on a basis subordinate to the Loan Repayments, but on a parity with comparable expenses relating to such Outstanding Parity Obligations and Additional Parity Obligations.

However, any moneys collected by the Authority pursuant to Section 5.3 in the exercise of remedies with respect to amounts due or to become due hereunder shall be applied: (a) first, to pay any attorney's fees or other fees and expenses owed by the Local Borrower pursuant to Section 5.4 hereof, (b) second, to pay delinquent combined interest fees and late charges on the Loan; (c) third, to pay combined interest and fees then due and payable on the Loan; (d) fourth, to pay delinquent principal on the Loan in order of scheduled maturity; (e) fifth, to pay principal then due and payable on the Loan; and (f) sixth, to pay any other amounts due and payable pursuant to this Loan Agreement.

Section 5.6 **No Remedy Exclusive; Waiver; Notice**. No remedy conferred upon or reserved to the Authority hereunder is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. No delay or omission to exercise any right, remedy or power accruing upon any Event of Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such right, remedy or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it as described in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article.

Section 5.7 **Retention of Authority's Rights**. Notwithstanding any assignment or transfer of this Agreement pursuant to the provisions hereof, or anything else to the contrary contained herein, the Authority shall have the right upon the occurrence of an Event of Default to take any action, including (without limitation) bringing an action against the Local Borrower at law or in equity, as the Authority may, in its discretion, deem necessary to enforce the obligations of the Local Borrower to the Authority.

Section 5.8 **Default by the Authority**. In the event of any default by the Authority in any duty, covenant, agreement or obligation described in this Agreement, the Local Borrower's remedy for such default shall be limited to injunction, special action, action for specific performance or any other available equitable remedy designed to enforce the performance or observance of any duty, covenant, obligation or agreement of the Authority described herein as may be necessary or appropriate. The Authority shall on demand pay to the Local Borrower the reasonable fees and expenses of attorneys and other reasonable expenses in the enforcement of such performance or observance.

Article 6 Provisions Applicable to Loans Financed by or Pledged to Secure Authority Bonds

Section 6.1 **General.** The Local Borrower acknowledges that the Authority is entering into this Loan Agreement and agreeing to make the Loan at this time for the benefit of the Local Borrower, and that the Authority may finance the Loan, along with other loans to other local borrowers, through the issuance of Authority Bonds and may pledge the Loan to secure Authority Bonds. If and for so long as the Authority's source of funds to make disbursements on, or to carry, the Loan represented by this Loan Agreement is, or becomes, the proceeds of Authority Bonds, or this Loan Agreement is assigned by the Authority as security for payment of amounts due or to become due on Authority Bonds, the Local Borrower agrees to cooperate with the Authority with respect to the issuance of Authority Bonds by furnishing and certifying information concerning the Local Borrower, the Project, the System and the Source of Repayment, and by agreeing to reasonable modifications and additions to this Loan Agreement necessary or convenient for the Authority Bond transaction. Without limiting the generality of the foregoing, the Local Borrower agrees that if the Authority at any time determines, in its discretion, that it is necessary in connection with the

issuance of Authority Bonds or the maintenance of the Authority's bond program, then the provisions set forth in this Article shall be in effect.

Section 6.2 **Tax Covenants**.

(a) General. The Local Borrower acknowledges that, in connection with its state revolving fund programs, the Authority issues its Authority Bonds from time to time to finance loans and the Authority also pledges certain loans to secure and to serve as the source of payment for the Authority Bonds. As a result, and under the provisions of federal tax law applicable to the Authority Bonds, it is in the Authority's interest for the Loan to qualify and be a Tax-Exempt Obligation that is not an AMT Obligation. Therefore, the Local Borrower represents and covenants as follows with respect to the Loan and the Authority Bonds. The Local Borrower covenants that it will not take any action, or fail to take any action, if any such action or failure to take such action would adversely affect the exclusion from gross income of the interest on the Loan or the Authority Bonds under Section 103(a) of the Internal Revenue Code or cause the interest on the Loan or the Authority Bonds to become an AMT Obligation, and in the event of such action or omission, it will, promptly upon having such brought to its attention, take such reasonable actions based upon a bond counsel opinion as may rescind or otherwise negate such action or omission. The Local Borrower will not directly or indirectly use or permit the use of any proceeds of the Loan or any other funds of the Local Borrower or take or omit to take any action that would cause the Loan or the Authority Bonds to be or become "arbitrage bonds" within the meaning of Section 148(a) of the Internal Revenue Code or to fail to meet any other applicable requirement of Sections 103, 141, 148, 149 and 150 of the Internal Revenue Code or cause the interest on the Loan or the Authority Bonds to become an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code. To that end, the Local Borrower will comply with all applicable requirements of Sections 103, 141, 148, 149 and 150 of the Code to the extent applicable to the Loan.

(b) Modification Based on Bond Counsel Opinion. Notwithstanding any provision of this Section, if the Local Borrower provides to the Authority a bond counsel opinion to the effect that any action required under this Section is no longer required, or to the effect that some further action is required, to maintain the exclusion from gross income of interest on the Loan or the Authority Bonds pursuant to Section 103(a) of the Internal Revenue Code, the provisions of this Section and the covenants in this Section shall be deemed to be modified to that extent.

(c) Bond Counsel Opinion. For purposes of this Article, "bond counsel opinion" means an opinion letter of a firm of attorneys of national reputation experienced in the field of municipal bonds whose opinions are generally accepted by purchasers of municipal bonds, and who is acceptable to the Authority.

Section 6.3 **Third Party Beneficiaries**. The Trustee, the owners from time to time of the Authority Bonds, any Credit Enhancer from time to time of the Authority Bonds and any underwriter of the Authority Bonds are each expressly acknowledged to be third party beneficiaries of this Loan Agreement and each representation, agreement, duty, obligation and provision of this Loan Agreement.

Section 6.4 **Additional Documents Relating to Authority Bonds**. The Local Borrower will furnish to the Authority and certify to such information and execute and deliver and cause to be executed and delivered such documents as the Authority, the underwriter or other parties to any Authority Bond transaction may reasonably require, including, without limitation:

(a) a certificate of an Authorized Officer of the Local Borrower to the effect that the information contained in the Final Official Statement (defined in Section 6.5, paragraph (a)) for the Authority Bonds concerning the Local Borrower is correct in all material respects and is an accurate summary of the information which it purports to summarize, and that nothing has come to the Authorized Officer's attention that would lead the Authorized Officer to believe that the information in the Final Official Statement relating to the Local Borrower contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; and

(b) subject to the continuing disclosure requirements of Securities and Exchange Commission Rule 15c2-12 (the "*Disclosure Rule*"), a continuing disclosure undertaking of the Local Borrower meeting the requirements of the Disclosure Rule , and a statement of the Local Borrower as to whether it has failed to provide any information and

notices required by the provisions of previous continuing disclosure undertakings, if any, of the Local Borrower under the Disclosure Rule, and if it has not, describing the circumstances and status of such failure; and

(c) an appropriate certificate executed by Authorized Officer of the Local Borrower concerning the reasonable expectations of the Local Borrower as to the use of the proceeds of the Loan and such other matters as may be required on the part of the Local Borrower in order to ensure that the Authority Bonds are and will remain Tax-Exempt Obligations that are not AMT Obligations, and the Local Borrower covenants to comply with the provisions of such certificate; and

(d) such other certificates, documents and information, and supplemental opinions of Local Borrower's counsel, as the Authority, the underwriters of the Authority Bonds or other parties to the Authority Bonds transaction may reasonably require and as are necessary to confirm the continued truth and accuracy of information supplied by or on behalf of the Local Borrower.

Section 6.5 **Disclosure Regarding Authority Bonds**.

(a) The information, if any, relating to the Local Borrower (including without limitation the financial and statistical data contained therein) which has been furnished by the Local Borrower to be included in, and which is included in, a Preliminary Official Statement of the Authority (the "*Preliminary Official Statement*"), or a final Official Statement (the "*Final Official Statement*") of the Authority concerning any Authority Bonds, as of the respective dates of each such document and at all times subsequent thereto up to and including the Bond Closing, will be (if necessary by amendment provided by the Local Borrower) true and correct and will not contain an untrue statement of material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. To the extent permitted by law, and notwithstanding any other provision of this Loan Agreement, the Local Borrower will indemnify, save and hold harmless the Authority and each other local borrower, if any, included in the Final Official Statement, and each of such parties' respective agents, for, from and against any and all claims, damages, liability and court awards including costs, expenses and attorneys fees incurred as a result of any omission or misstatement of a material fact in the Local Borrower's information in the Final Official Statement, as it may have been supplemented or amended by the Local Borrower.

(b) The Local Borrower agrees that from the date of the Final Official Statement and for a period until not later than 25 days after the date of the Bond Closing if and so long as the offering of the Authority Bonds continues (i) the Local Borrower will furnish such information with respect to itself as the Authority (for itself or at the request of the underwriters of the Authority Bonds) may from time to time reasonably request and (ii) if any event shall occur as a result of which it is necessary, in the opinion of Bond Counsel to the Authority, or counsel for the underwriters of the Authority Bonds, to amend or supplement the information in the Final Official Statement relating to the Local Borrower in order to make such information not misleading in light of the circumstances then existing, the Local Borrower will forthwith prepare, and furnish to the Authority and the underwriters such information relating to the Local Borrower as may be necessary to permit the preparation of an amendment of or supplement to the Final Official Statement (in form and substance satisfactory to the Bond Counsel to the Authority and counsel for the underwriters) which will amend or supplement the Final Official Statement so that it will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances then existing, not misleading.

(c) The Local Borrower agrees that if prior to the 25th day following the end of the underwriting period of the Authority Bonds, as defined for purposes of the Disclosure Rule, any event shall occur which causes the representations contained in Section 6.4, paragraph (a) to be false in any material respect, the Local Borrower shall promptly notify the Authority of such development, and if in the opinion of the Authority and the underwriters of the Authority Bonds such development requires the preparation of a supplement or an amendment to the Preliminary Official Statement or the Final Official Statement, the Local Borrower agrees to cooperate with the Authority and the underwriters for the Authority Bonds in preparing any such supplement or amendment in a form acceptable to such parties and to pay all reasonable expenses incurred by such parties in connection with the preparation thereof.

Section 6.6 **Assignment and Transfer by Authority to Trustee**.

(a) The Local Borrower expressly acknowledges that, other than the right of the Authority to be indemnified by the Local Borrower, all right, title and interest of the Authority in, to and under this Loan Agreement will be assigned to the Trustee as security for the Authority Bonds, as applicable, as provided in the Authority's Master Trust Indenture, and that if any Event of Default shall occur the Trustee, pursuant to the Authority's Master Trust Indenture, shall be entitled to act hereunder in the place and stead of the Authority. The Local Borrower hereby acknowledges the requirements of the Authority's Master Trust Indenture applicable to the Authority Bonds and consents to such assignment and appointment. The Authority shall retain the right to compel or otherwise enforce observance and performance by the Local Borrower of its duties, covenants, obligations and to be indemnified by the Local Borrower; provided, however, that in no event shall the Authority or the Trustee have the right to accelerate the payments under this Loan Agreement.

(b) The Local Borrower hereby approves and consents to any assignment or transfer of this Loan Agreement that the Authority deems to be necessary in connection with any refunding of the Authority Bonds or otherwise in connection with the Clean Water Revolving Fund and Drinking Water Revolving Fund programs of the Authority.

Section 6.7 **Conditions to Assignment by Local Borrower**. Notwithstanding Section 4.2, this Loan Agreement may not be assigned by the Local Borrower for any reason, unless the following conditions shall be satisfied: (i) the Authority, the Trustee and the Credit Enhancer, if any, of the Authority Bonds shall have approved said assignment in writing; (ii) the assignee shall be a governmental unit within the meaning of Section 141(c) of the Internal Revenue Code or another entity acceptable to the Authority and the assignee shall have expressly assumed in writing the full and faithful observance and performance of the Local Borrower's duties, covenants, agreements and obligations hereunder; (iii) immediately after such assignment, the assignee shall not be in default in the performance or observance of any duties, covenants, obligations or agreements of the Local Borrower hereunder; (iv) the Authority and the Trustee shall have received an opinion of bond counsel to the effect that such assignment will not adversely affect the exclusion of interest on the Authority Bonds from gross income for purposes of Federal income taxation under Section 103(a) of the Code or make the Authority Bonds or the Loan AMT Obligations; and (v) the Authority and the Trustee shall receive an opinion of counsel to the effect that such assignment will not violate the provisions of the Master Trust Indenture or any agreement entered into by the Authority with, or condition of any grant received by the Authority from, the United States of America relating to the Capital Grant Facility or any capitalization grants received by the Authority or the State under the Federal Water Pollution Control Act and the Federal Safe Drinking Water Act.

No assignment shall relieve the Local Borrower from primary liability for any of its obligations under this Loan Agreement and in the event of such assignment, the Local Borrower shall continue to remain primarily liable for the performance and observance of its obligations to be performed and observed under this Loan Agreement.

Section 6.8 **Sale or Other Disposition of Project or System**. The Local Borrower agrees that it will not sell, lease, abandon or otherwise dispose of all or substantially all or any substantial portion of the Project or the System unless (i) the transferee assumes the Local Borrower's obligations under this Loan Agreement in accordance with Section 6.6, (ii) the Authority shall by appropriate action determine, in its sole discretion, that such sale, lease, abandonment or other disposition will not adversely affect the Authority's ability to meet its duties, covenants, obligations and agreements under the Bond Documents, and will not adversely affect the eligibility of interest on Authority Bonds then outstanding or which could be issued in the future for exclusion from gross income for purposes of federal income taxation or cause such Authority Bonds to be AMT Obligations, and (iii) the Credit Enhancer, if any, of the Authority Bonds shall have given its prior written consent to such disposition.

Section 6.9 **Deficiencies Under Bond Documents Caused by Failure to Make Loan Repayment**. The Local Borrower acknowledges that payment of the Authority Bonds by the Authority, including payment from moneys drawn by the Trustee from the Bond Reserves or the CWRF Financial Assistance Account and DWRF Financial Assistance Account~~s~~ established under the Bond Documents, does not constitute payment of the amounts due under this Loan Agreement. If at any time the amounts on deposit in the Bond Reserves or the CWRF Financial Assistance Account and DWRF Financial Assistance Account~~s~~ shall be less than the amounts required by the Bond Documents as the result of any transfer of moneys from the Bond Reserves or the CWRF Financial Assistance Account and DWRF Financial Assistance Account~~s~~ which in turn is the result of a failure by the Local Borrower to make any Loan Repayments required hereunder, the Local Borrower agrees to (i) replenish such moneys so transferred, and (ii) replenish any deficiency arising from losses incurred in making such transfer as the result of the

liquidation by the Authority of investment securities acquired as an investment of moneys in the Bond Reserves or the CWRF Financial Assistance Account and DWRF Financial Assistance Accounts, by making payments to the Authority in equal monthly installments for the lesser of six (6) months or the remaining term of the Loan at a combined interest and fee rate to be determined by the Authority necessary to make up any loss caused by such deficiency, provided that the combined interest and fee rate payable on the Loan including such make-up combined interest and fees shall not exceed the maximum rate permitted by the Authorizing Proceedings which authorized this Loan Agreement.

Section 6.10 **Indemnification**. To the extent permitted by law, the Local Borrower shall indemnify, save and hold harmless the Authority against any and all claims, damages, liability and court awards including costs, expenses and attorney fees to the extent incurred as a result of any gross negligence or willful misconduct by the Local Borrower, or its employees, agents or subcontractors pursuant to the terms of this Loan Agreement.

Section 6.11 **Compliance with Master Trust Indenture**. The Local Borrower covenants and agrees to take such action as it may lawfully take and as the Authority shall reasonably request so as to enable the Authority to observe and comply with, all duties, covenants, obligations and agreements contained in the Master Trust Indenture insofar as such duties, covenants, obligations and agreements relate to the obligations of the Local Borrower under this Loan Agreement.

Section 6.12 **Provisions Relating to Default**.

(a) Any notice or information which the Local Borrower is to give to the Authority pursuant to the provisions of Article 5 shall also be given by the Local Borrower to the Trustee and to any Credit Enhancer at the same time.

(b) Notwithstanding the provisions of Section 5.3, paragraph (a) and Section 5.7, so long as a Credit Enhancer is not in default of its obligations with respect to its payment guarantee of the Authority Bonds and such guarantee is in effect, the Credit Enhancer shall have the right to direct the exercise of remedies provided for herein and the Trustee and the Authority shall not pursue any remedy except with the prior written consent of the Credit Enhancer.

(c) In the event of a default hereunder by the Local Borrower, the Local Borrower shall also pay the expenses of the Trustee and of any Credit Enhancer in the same manner as provided in Section 5.4 with respect to the expenses of the Authority.

Section 6.13 **Tax Compliance Certificate**. If the Authority Bonds are issued and sold on the basis that they are Tax-Exempt Obligations, an Authorized Officer of the Local Borrower shall deliver an appropriate certificate concerning the reasonable expectations of the Local Borrower as to the use of the proceeds of the Loan and such other matters as may be required on the part of the Local Borrower in order to ensure that the Authority Bonds are and will remain Tax-Exempt Obligations that are not AMT Obligations, and the Local Borrower covenants to comply with the provisions of such certificate.

Article 7 Miscellaneous

Section 7.1 **Binding Effect**. This Loan Agreement shall inure to the benefit of and shall be binding upon the Authority and the Local Borrower and their respective successors and assigns.

Section 7.2 **Severability**. In the event any provision of this Loan Agreement shall be held illegal, invalid or unenforceable by any Court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

Section 7.3 **Amendments, Supplements and Modifications**. This Loan Agreement may not be amended, supplemented or modified without the prior written consent of the Authority and the Local Borrower.

Section 7.4 **Execution in Counterparts**. This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 7.5 **Captions**. The captions or headings in this Loan Agreement are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions or sections of this Loan Agreement.

Section 7.6 **Further Assurances**. The Local Borrower shall, at the request of the Authority, authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights and agreements granted or intended to be granted by this Loan Agreement.

Section 7.7 **State of Arizona Contract Provisions**.

(a) Books and Records. As required by the provisions of Arizona Revised Statutes Section 35-214, the Local Borrower agrees that all books, accounts, reports, files and other records relating to this Loan Agreement shall be retained and shall be subject at all reasonable times to inspection and audits by the Authority for five years after completion of this Loan Agreement, and that upon request by the Authority such records shall be produced at any of the Authority offices designated herein as the place at which notices to the Authority are to be given.

(b) Prohibition Against Discrimination. In the event that it applies, the parties agree to comply with the Arizona Governor's Executive Order 2009-9, entitled "Prohibition of Discrimination in State Contracts Non-Discrimination in Employment by Government Contractors and Subcontractors," which mandates that all persons, regardless of race, color, religion, sex, age, or national origin shall have equal access to employment opportunities, and all other applicable state and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. The Local Borrower shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.

(c) Governing Law and Forum. This Loan Agreement shall be governed by and construed in accordance with the laws and judicial decisions of the State of Arizona, except as such laws may be preempted by any federal rules or regulations. The parties hereto expressly acknowledge and agree and all Local Borrowers by their acceptance thereof shall be deemed to have acknowledged and agreed that any judicial action to interpret or enforce the terms of this Loan Agreement against the Authority shall be brought and maintained in the Superior Court of the State of Arizona in and for Maricopa County or in the United States District Court in and for the District of Arizona.

(d) Arbitration. In the event of a dispute, the parties agree to use arbitration, after exhausting applicable administrative review, to the extent required by Arizona Revised Statutes Section 12-1518, and the prevailing party shall be entitled to attorney's fees and costs with respect thereto.

(e) Notice of Arizona Revised Statutes Section 38-511 – Cancellation. Notice is hereby given of the provisions of Arizona Revised Statutes Section 38-511, as amended. By this reference, the provisions of said statute are incorporated herein to the extent of their applicability to this Loan Agreement under the law of the State of Arizona.

(f) Additional Warranties and Certifications from the Local Borrower. In compliance with Section 23-214(B) of the Arizona Revised Statutes, the Local Borrower warrants to the Authority that either (i) it is not an "employer" (within the meaning of Arizona Revised Statutes Section 23-214(B)) or (ii) it is registered with and is participating in the employment verification pilot program as jointly administered by the United States department of homeland security and the social security administration or any of its successor programs (the "E-Verify Program") and that the proof submitted to the Authority of that registration and participation is true and correct. The Local Borrower agrees that, until the Loan is fully paid, at all times during which it is an "employer" (within the meaning of Arizona Revised Statutes Section 23-214(B)) it will be registered with and will participate in the E-Verify Program. The breach by the Local Borrower of the foregoing shall be deemed a material breach by the Local Borrower of this Loan Agreement and may result in penalties up to and including the termination of this Loan Agreement. If the Authority determines that the Local Borrower is not so registered and participating when required, the Authority will notify the Local Borrower by certified mail of the determination of noncompliance and the Local Borrower's right to appeal the determination. On a final determination of noncompliance, the Local Borrower shall repay all monies received as an economic development incentive (within the meaning of Arizona Revised Statutes Section 23-214(B)) to the Authority within thirty days of the final determination.

Article 8 Definitions

Section 8.1 **Definitions**. The following terms as used in this Loan Agreement shall, unless the context clearly requires otherwise, have the following meaning:

"*AMT Obligation*" means a Tax-Exempt Obligation the interest on which is an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code.

"*Annual Loan Review Form*" means the loan compliance questionnaire circulated by the Authority to all borrowers as part of the Authority's annual loan portfolio review.

"*Authority*" means the Water Infrastructure Finance Authority of Arizona, a body corporate and politic of the State of Arizona duly created and validly existing under and by virtue of the Authority Act.

"*Authority Act*" means Title 49, Chapter 8 (Section 49-1201 et seq.) of the Arizona Revised Statutes ("A.R.S.").

"*Authority Bonds*" means any bonds of the Authority issued to finance the State's revolving fund established pursuant to the Water Pollution Control Act, as amended, and the Safe Drinking Water Act, as amended.

"*Authorized Officer*" means, (i) with respect to the Local Borrower, the person whose name is set forth in this Loan Agreement or such other person or persons authorized by the Local Borrower to act as an authorized officer of the Local Borrower to perform any act or execute any document relating to the Loan or this Loan Agreement whose name is furnished in writing to the Authority and the Trustee; and (ii) with respect to the Authority, the Chairman, Vice Chairman, Executive Director, or any other person or persons designated by the Board to act on behalf of the Authority with respect to this Loan Agreement; the designation of such person or persons shall be evidenced by a written certificate containing a specimen signature of such person or persons and signed on behalf of the Authority by its Chairman or Vice Chairman.

"*Bond Closing*" means the date of initial delivery of and payment for the Authority Bonds.

"*Bond Documents*" means and includes the Master Trust Indenture, any supplemental indenture and any comparable or related document pursuant to which the Authority Bonds are issued, and all further amendments and supplements thereto adopted in accordance with the provisions thereof.

"Bond Reserves" means reserves established by the Bond Documents for the Authority Bonds to secure timely payment of amounts due on the Authority Bonds even if one or more local borrowers do not make timely payments on their loans.

"*Business Day*" means any day other than a Saturday, Sunday or legal holiday or a day on which banking institutions, in the city in which the designated office of the Authority (being Phoenix, Arizona) is located, are closed.

"*Capital Grant Facility*" means the contractual arrangement established with the Authority by the United States of America Environmental Protection Agency to make capitalization grant payments pursuant to Title VI of the Federal Water Pollution Control Act, as amended (33 U.S.C. § 125 et seq.) and the Federal Safe Drinking Water Act, as amended (particularly 42 U.S.C. § 300j-12 et seq.).

"*Clean Water Act*" means the Federal Water Pollution Control Act amendments of 1972 (P.L. 92-500; 86 Stat. 816), as amended by the Water Quality Act of 1987 (P.L. 100-4; 101 Stat. 7) and the Water Resources Reform and Development Act of 2014 (P.L. 113-21, 128 Stat. 1193).

"*Clean Water Revolving Fund*" means the fund established by A.R.S. § 49-1221.

"*Code*" means the Internal Revenue Code of 1986, the Regulations (whether temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any

official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section includes any applicable successor section or provision and such applicable Regulations, rulings, announcements, notices, procedures and determinations pertinent to that Section.

"*Combined Interest and Fee Rate*" means periodic interest and fee payments made by the Borrower, see Exhibit A to this Loan Agreement.

"*Construction Period"* means the period from the date of the Loan Closing until the date of the final disbursement of proceeds of the Loan pursuant to this Loan Agreement, but in no event later than the third anniversary of the Loan Closing.

"*Cost*" means those costs that are eligible to be funded from draws under the Capital Grant Facility and are reasonable, necessary and allocable to the Project and are permitted by generally accepted government auditing standards to be costs of the Project.

"*Credit Enhancer*" means the entity so designated in the Bond Documents, if any, or any successor thereto, that from time to time has issued and outstanding a municipal bond insurance policy or similar payment guarantee relating to the Authority Bonds.

"*CWRF Financial Assistance Account*" means the account so designated in the Master Trust Indenture to which loans funded by the Clean Water Revolving Fund shall be credited.

"*Debt Management Fee*" means the fee component of the combined interest and fee payments made by the Borrower, see Exhibit A to this Loan Agreement.

"*Department*" means the Department of Environmental Quality of the State of Arizona.

"*Drinking Water Facility*" has the meaning given that term in the Authority Act, currently: a community water system or a non-profit noncommunity water system as defined in the Federal Safe Drinking Water Act (P.L. 93-523; 88 Stat. 1660l; P.L. 95-190; 91 Stat. 1393; P.L. 104-182; 110 Stat. 1613) that is located in the State. The term does not include water systems owned by federal agencies.

"*Drinking Water Revolving Fund*" means the fund established by A.R.S. § 49-1241.

"*DWRF Financial Assistance Account*" means the account so designated in the Master Trust Indenture to which loans funded by the Drinking Water Revolving Fund shall be credited.

"*Eligible Project Costs*" means, whether incurred before or after the date of this Loan Agreement, such portion of the Costs as is disbursed by the Authority for the benefit of the Local Borrower. The Local Borrower and the Authority acknowledge that the actual Eligible Project Costs for the Project have not been determined as of the effective date of this Loan Agreement. The final Eligible Project Costs shall be established after all disbursements have been made.

"*Event of Default*" means any occurrence or event specified in Section 5.1 hereof.

"*Indian Tribe*" has the meaning given that term by the Authority Act, currently: any Indian tribe, band, group or community that is recognized by the United States Secretary of the Interior and that exercises governmental authority within the limits of any Indian reservation under the Jurisdiction of the United States government notwithstanding the issuance of any patent and including rights-of-way running through the reservation.

"*Loan*" means (a) during the Construction Period, the commitment to lend to the Local Borrower the Estimated Eligible Project Costs set forth in this Loan Agreement (as it may be amended or revised from time to time), and (b) thereafter, the amount of money equal to the Eligible Project Costs which is actually loaned to the Local Borrower pursuant to this Loan Agreement.

"*Loan Agreement*" or "*Agreement*" means this Loan Agreement, including the Exhibits and these Standard Terms and Conditions attached to this Loan Agreement, as it may be supplemented, modified or amended from time to time in accordance with the terms hereof.

"*Loan Closing*" means the date of execution and delivery of this Loan Agreement.

"*Loan Repayment Date*" means the payment dates commencing and ending on the dates set forth in this Loan Agreement.

"*Loan Repayments*" means the payments payable by the Local Borrower pursuant to this Loan Agreement.

"*Local Borrower*" means the Political Subdivision or Indian Tribe that is a party to and is described in the first paragraph of this Loan Agreement.

"*Master Trust Indenture*" means and includes the Master Trust Indenture dated as of August 1, 1999, as supplemented, and any comparable or related document, pursuant to which the Authority issues Authority Bonds.

"*Political Subdivision*" has the meaning given that term by the Authority Act, currently: a county, city, town or special taxing district authorized by law to construct wastewater treatment facilities.

"*Project*" is the project described in Section 2.1 of the Loan Agreement, all or a portion of the Cost of which is financed from the proceeds of the Loan.

"*Repayment Period*" means the period over which the principal amount of the Loan will be repaid which period begins and ends on the dates set forth in this Loan Agreement.

"*Repayment Principal Amount*" means the amount the Authority agrees to loan to the Local Borrower pursuant to this Loan Agreement or such lesser amount of actual Eligible Project Costs as represents the aggregate amount of the Loan actually made pursuant to this Loan Agreement.

"Reserve Fund Surety" means a surety bond, insurance policy, letter of credit or similar arrangement representing the irrevocable obligation of the issuer thereof to pay to or at the direction of the Local Borrower an amount up to the Reserve Requirement as set forth in Exhibit A.

"*Safe Drinking Water Act*" means the Federal Safe Drinking Water Act (P.L. 93-523; 88 Stat. 1660; P.L. 96-190; 91 Stat . 1393; P.L. 104-182; 110 Stat. 1613), as amended in 1996.

"*Source of Repayment*" means the "source of repayment" set forth in this Loan Agreement as defined in Exhibit D.

"*State*" means the State of Arizona.

"*System*" means the "System" as defined in Section 2.2 of the Loan Agreement.

"*Tax-Exempt Obligation*" means any obligation or issue of obligations (including bonds, notes and lease obligations treated for federal income tax purposes as evidences of indebtedness) the interest on which is excluded from gross income for federal income tax purposes within the meaning of Section 150 of the Code, and includes any obligation or any investment treated as a "tax-exempt bond" for the applicable purpose of Section 148 of the Code

"*Trustee*" means the Trustee appointed by the Authority pursuant to the Bond Documents and its successor or successors and any other corporation which may at any time be substituted in its place as Trustee pursuant to the Bond Documents.

Terms not otherwise defined herein shall have the meanings ascribed to them in Exhibit D to the Loan Agreement.

Section 8.2 **Rules of Interpretation**. For all purposes of this Loan Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) Words of one gender include the corresponding words of other genders; words of neuter include both genders; and words in the singular include words in the plural and vice versa.

(b) Words indicating persons, parties, or entities (and the like) include firms, associations, partnerships (including limited partnerships), limited liability companies (and the like), corporations, trusts and other legal entities, including public and governmental bodies, as well as natural persons.

(c) References to a statute refer to the statute, as amended, and any successor statute, and to all regulations promulgated under or implementing the statute or successor statute, as in effect at the relevant time.

(d) References to a governmental or quasi-governmental entity or representatives thereof also refer to an entity that succeeds to the functions of the governmental or quasi-governmental entity and representatives thereof.

(e) Headings preceding sections of text and any table of contents are solely for convenience of reference and are not part of this Loan Agreement and are not to affect its meaning, interpretation or effect.

(f) Actions permitted under this Loan Agreement may be taken at any time and from time to time in the actor's sole discretion.

(g) The word "including" means "including, but not limited to" and the word "include" means "include, among others."

(h) The terms "hereby," "hereof," "herein," and "hereunder" (and the like) refer to this Loan Agreement.

(i) Indications of time of day mean local time in Phoenix, Arizona.

(j) This Loan Agreement shall be governed by and construed in accordance with the applicable law of the State of Arizona, except for its conflict of law rules and except as preempted by federal.

Article 9 List of Federal Laws and Authorities

By Section 5.4 and Section 5.5 of Exhibit B to the Loan Agreement, the Local Borrower agrees that the Project will comply with applicable provisions of the following federal laws and authorities:

Environmental:

1. Archaeological and Historical Preservation Act of 1974, Pub. L. 93-291; 16 U.S.C. § 469a-1.

2. Clean Air Act, Pub. L. 95-95, as amended; 42 U.S.C. § 7401 et. seq.

3. Clean Water Act, Titles II, IV, and V, Pub. L. 92-500, as amended.

4. Coastal Barrier Resources Act, Pub. L. 97-348; 16 U.S.C. § 3501 et. seq.

5. Coastal Zone Management Act, Pub. L. 92-583, as amended; 16 U.S.C. § 1451 et. seq.

6. Endangered Species Act, Pub. L. 93-205, as amended; 16 U.S.C. § 1531 et seq.

7. Environmental Justice, Executive Order 12898.

8. Farmland Protection Policy Act, Pub. L. 97-98; 7 U.S.C. § 4201 et seq.

9. Fish and Wildlife Coordination Act, Pub. L. 85-624, as amended.

10. Floodplain Management, Executive Order 11988, as amended by Executive Order 12148.

11. Magnunson-Stevens Fishery Conservation and Management Act, Pub L. 94-265, as amended; 16 U.S.C. § 1801 et. seq.

12. National Historic Preservation Act of 1966, Pub. L. 89-665, as amended; 16 U.S.C. § 470 et. seq.

13. Protection and Enhancement of the Cultural Environment, Executive Order 11593.

14. Protection of Wetlands, Executive Order 11990, as amended by Executive Order 12608; Pub. L. 99-645, as codified at 16 U.S.C. § 3901 et. seq.

15. Safe Drinking Water Act, Section 1424(e), Pub. L. 92-523, as amended; 42 U.S.C. § 300f et. seq.

16. Wild and Scenic Rivers Act, Pub. L. 90-542, as amended; 16 U.S.C. § 1271 et. seq.

17. Migratory Bird Treaty Act of 1918, 16 U.S.C. § 703 et. seq.

Social Legislation:

1. Age Discrimination Act, Pub. L. 94-135; 42 U.S.C. § 6102.

2. Civil Rights Act of 1964, Pub. L. 88-352, Title VI; 42 U.S.C. § 2000d.

3. Equal Employment Opportunity, Executive Order 11246, as amended.

4. Participation by Disadvantaged Business Enterprises in Procurement Under Environmental Protection Agency (EPA) Financial Assistance Agreements.

    a. Promoting the use of Small, Minority, and Women-owned Businesses, Executive Orders 11625, 12138 and 12432.

    b. Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Pub. L. 100-590.

    c. Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, Pub. L. 102-389; 42 U.S.C. § 4370d.

    d. Title X Clean Air Act, Pub. L. 101-549; 42 U.S.C. § 7601 note.

5. Rehabilitation Act of 1973, Pub. L. 93-112; 29 U.S.C. § 794 (including Executive Order 11914 and 11250).

6. Section 13 of the Federal Water Pollution Control Act, Pub. L. 92-500; 33 U.S.C. § 1251.

7. The Drug Free Workplace Act Of 1988, Pub. L. 100-690.

Economic and Miscellaneous Authority:

1. Anti-Lobbying Provision (40 CFR Part 34) and New Restrictions on Lobbying, Section 319 of Pub. L. 101-121.

2. Debarment and Suspension, Executive Order 12549.

3. Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89-754, as amended; 42 U.S.C. § 3331 et. seq.

4. Preservation of Open Competition and Government Neutrality, Executive Order 13502.

5. Prohibitions relating to violators of the Clean Air Act, Section 306 of the Clean Air Act, 42 U.S.C. § 7505; Section 508 of the Clean Water Act, 33 U.S.C. § 1368; Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans.

6. Uniform Relocation and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, as amended; 42 U.S.C. §§ 4601-4655.

*****

Council-Regular Meeting **A4**

Meeting Date: 05/05/2020

To: Mayor and Council

From: Kristin Taft, Grants Manager

Date: May 5, 2020

Strategic Plan Focus Area:
Not Applicable

Subject: Resolution No. 2020-040: A resolution of the Mayor and Common Council of the Town of Marana, Arizona, approving the form and authorizing the execution and delivery of a loan agreement with the Water Infrastructure Finance Authority of Arizona from its Drinking Water Revolving Fund program; delegating the determination of certain matters relating thereto to the Town Manager and the Finance Director of the town; providing for the transfer of certain moneys and making certain covenants and agreements with respect thereto; authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by such loan agreement and this resolution and declaring an emergency (Kristin Taft)

Discussion:

On January 15, 2019, the Town Council approved resolution No. 2019-002 approving the form and authorizing the execution and delivery of a loan agreement with the Water Infrastructure Finance Authority of Arizona from its Drinking Water Revolving Fund Program. With this resolution, The Town Council directed staff to pursue the construction of water treatment facilities to remove from Marana drinking water certain perfluorinated compounds that exceed health advisory levels. To that end, Town staff proceeded with the design of the facilities and applied for a Drinking Water State Revolving Fund loan from the Water Infrastructure Finance Authority of Arizona (WIFA).

WIFA approved the original loan for this project (Loan No. 920293-19) in the amount of $15,000,000. After receiving the loan, beginning the project, completing the design, and receiving bids for the proposed work, the Town experienced a shortfall of approximately $1,100,000. The Town of Marana is seeking an additional loan from WIFA in the amount of $1,100,000 with $525,500 in forgivable principal to the Town for these expenses.

WIFA requires the Town to adopt a resolution approving the loan agreement and containing other standard language and terms. The Town's bond attorney, Michael Cafiso, has reviewed the loan agreement and has prepared the proposed resolution accompanying this agenda item, to comply with WIFA's requirements. The anticipated loan closing date is May 15, 2020.

The proposed resolution includes an emergency clause, to allow the resolution to be effective immediately, thereby allowing the closing to occur as scheduled on May 15, 2020. The closing may be delayed if the resolution is adopted without the emergency clause.

The backup materials include the current draft of the loan agreement. The resolution provides for further reasonable modifications of the loan agreement as approved by the Town Manager. Paragraph 2.4(b)(ii) of the loan agreement standard terms and conditions document of the loan agreement allows prepayment, without penalty, at any time, out of the proceeds of the pending PFCs litigation proceeds.

Financial Impact:

Fiscal Year:	20
Budgeted Y/N:	Y
Amount:	$574,500*

*The principal amount of the loan and financial assistance under the loan agreement is $1,100,000 with $525,500 forgivable principal. The primary repayment source is excise taxes (including state shared revenues). The loan term is 20 years. Payments are to be made semi-annually. The "Combined Interest and Fee Rate" (CIFR) is shown on the loan documents to be 3.4%. This includes a fee of 1.5%. The 3.4 CIFR is an estimate. The actual rate charged on the amount of the loan required to be repaid will be based on market activity on the Wednesday prior to closing. At 3.4%, the Town’s annual payment would be $38,719.73.

Staff Recommendation:

Staff recommends adoption of Resolution No. 2020-040, approving the form and authorizing the execution and delivery of a loan agreement with the Water Infrastructure Finance Authority of Arizona from its Drinking Water Revolving Fund Program; delegating the determination of certain matters relating thereto to the Town Manager and the Finance Director of the Town; providing for the transfer of certain moneys and making certain covenants and agreements with respect thereto; authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by such loan agreement and this resolution; and declaring an emergency.

Suggested Motion:

I move to adopt Resolution No. 2020-040, approving the WIFA loan and other related matters and declaring an emergency.

Attachments

Resolution No. 2020-040
Draft Loan Agreement

RESOLUTION NO. 2020-040

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF MARANA, ARIZONA, APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT WITH THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA FROM ITS DRINKING WATER REVOLVING FUND PROGRAM; DELEGATING THE DETERMINATION OF CERTAIN MATTERS RELATING THERETO TO THE MANAGER AND THE FINANCE DIRECTOR OF THE CITY; PROVIDING FOR THE TRANSFER OF CERTAIN MONEYS AND MAKING CERTAIN COVENANTS AND AGREEMENTS WITH RESPECT THERETO; AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY SUCH LOAN AGREEMENT AND THIS RESOLUTION AND DECLARING AN EMERGENCY

WHEREAS, the Mayor and Common Council of the Town of Marana, Arizona (the "Town"), has heretofore applied to the Water Infrastructure Finance of Arizona (the "Authority"), for a loan (the "Loan") from the Authority's Water Revolving Fund Program (the "Program") to provide funds to design and construct an ion exchange for polyfluoroalkyl removal plus low-pressure high output ultraviolet and peroxide advanced oxidation process for dioxane removal with granular activated carbon for peroxide quenching as well as payment of the Town's proportionate share of expenses of administering the Program and any bonds issued by the Authority with respect thereto (collectively, the "Project"); and

WHEREAS, the terms and conditions under which the Loan will be made and the obligations of the Town with respect to the Loan will be set forth in a loan agreement to be executed and delivered by the Town and the Authority (the "Loan Agreement"); and

WHEREAS, the Loan and the loan repayments payable by the Town pursuant to the Loan Agreement (the "Loan Repayments") will be secured by a pledge of certain excise taxes and State shared revenues of the Town (collectively, the "Source of Repayment"); and

WHEREAS, the Mayor and Common Council of the Town have determined that it will be beneficial to the citizens of the Town to enter into and to perform the Loan Agreement, whereby the Town will borrow not to exceed $1,200,000 from the Authority; and

WHEREAS, the Loan shall be repaid on or before twenty-one (21) years from the date of the execution and delivery of the Loan Agreement and the Loan shall bear interest at a rate not to exceed three and one-half percent (3.50%) per annum; and

WHEREAS, there has been placed on file with the Clerk of the Town and presented at the meeting at which this Resolution was adopted the proposed form of the Loan Agreement;

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

Section 1. The form, terms and provisions of the Loan Agreement, in the form of such document (including the exhibits thereto) presented at the meeting at which this Resolution was adopted are hereby approved, with such insertions, omissions and changes, not inconsistent with the Town's application to the Authority or the requirements of the federal government or the Authority, as shall be approved by the Manager of the Town, the execution of such document being conclusive evidence of such approval, and the Manager of the Town is hereby authorized and directed, for and on behalf of the Town, to execute and attest and deliver, respectively, the Loan Agreement.

Section 2. For the payment of the principal of and interest on the Loan, the Town shall pay the Loan Repayments provided for in the Loan Agreement. The Town shall also pay all other amounts required to be paid by the Town pursuant to the provisions of the Loan Agreement.

Section 3. The obligation of the Town to pay the Loan Repayments provided for in the Loan Agreement to make the other payments provided for in the Loan Agreement is limited to payment from the Source of Repayment, and the obligations of the Town under the Loan Agreement shall not constitute nor give rise to a general obligation of the Town or any claim against its ad valorem taxing powers, or constitute an indebtedness within the meaning of any statutory or constitutional debt limitation applicable to the Town.

Section 4. The appropriate officials and officers of the Town are hereby authorized and directed to take all action necessary or reasonably required to carry out, give effect to and to consummate the transactions contemplated by the Loan Agreement, and by this Resolution, including, without limitation, the execution and delivery of any closing and other documents reasonably required to be delivered in connection therewith.

Section 5. If any section, paragraph, subdivision, sentence, clause or phrase of this Resolution is for any reason held to be illegal or unenforceable, such decision will not affect the validity of the remaining portions of this Resolution. The

Mayor and Common Council of the Town hereby declare that it would have adopted this Resolution and each and every other section, paragraph, subdivision, sentence, clause or phrase hereof and authorized the execution and delivery of the Loan Agreement pursuant hereto irrespective of the fact that any one or more sections, paragraphs, subdivisions, sentences, clauses or phrases of this Resolution may be held illegal, invalid or unenforceable. All resolutions or parts thereof, inconsistent herewith, are hereby waived to the extent only of such inconsistency. This waiver shall not be construed as reviving any resolution or any part thereof.

Section 6. All actions of the officers and agents of the Town including the Mayor and Common Council of the Town which conform to the purposes and intent of this Resolution and which further the execution and delivery of the Loan Agreement as contemplated by this Resolution, whether heretofore or hereafter taken, are hereby ratified, confirmed and approved. The proper officers and agents of the Town are hereby authorized and directed to do all such acts and things and to execute and deliver all such documents on behalf of the Town as may be necessary to carry out the terms and intent of this Resolution.

Section 7. All acts and conditions necessary to be performed by the Town or to have been met precedent to and in the execution and delivery of the Loan Agreement in order to make it a legal, valid and binding obligation of the Town will at the time of delivery of the Loan Agreement have been performed and have been met, in regular and due form as required by law, and no statutory, charter or constitutional limitation of indebtedness or taxation will have been exceeded in the execution and delivery of the Loan Agreement.

Section 8. All formal actions of the Mayor and Common Council of the Town concerning and relating to the passage of this Resolution were taken in an open meeting of the Mayor and Common Council of the Town, and all deliberations of the Mayor and Common Council of the Town and of any committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

Section 9. The immediate operation of the provisions of this Resolution is necessary for the preservation of the public health and welfare and for the further reason that the execution and delivery at the earliest possible date of the Loan Agreement is urgently needed to attempt to secure the lowest possible interest cost to the Town; therefore, an emergency is hereby declared to exist and this Resolution is enacted as an emergency measure and shall be in full force and effect from and after the passage and adoption by the Mayor and Common Council of the Town, as required by law, and this Resolution is hereby exempt from the referendum provisions of the Constitution and laws of the State of Arizona.

Section 10. After the execution and delivery of the Loan Agreement and upon receipt of the Loan from the Authority, this Resolution shall be and remain irrepealably until the Loan and the Loan Agreement and the interest thereon shall have been fully paid, cancelled and discharged.

[*Remainder of Page Intentionally Left Blank*.]

PASSED AND ADOPTED by the Common Council and approved by the Mayor of the Town of Marana, Arizona, this 5th day of May, 2020.

.....
Mayor

ATTEST:

.....
Town Clerk

APPROVED AS TO FORM:

.....
Town Attorney

CERTIFICATION

I hereby certify that the foregoing Resolution No. 2020-040 was duly passed and adopted by the Mayor and Common Council of the Town of Marana, Arizona, at a regular meeting held on the 5th day of May, 2020, and the vote was ..... ayes and ..... nays.

.....
Town Clerk

Town of Marana and

Water Infrastructure Finance Authority of Arizona

Borrower – Table of Contents

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Loan Agreement Addendum-Wage Rate and Forgivable Principal Requirements for Compliance with P.L. 111-88	4.
Loan Agreement Addendum-American Iron and Steel Requirements for Compliance with Federal Law	5.
Exhibit A of Loan Agreement: Financial Terms and Conditions	6.
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Exhibit C of Loan Agreement: Reporting Requirements	8.
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Exhibit E of Loan Agreement: Debt Service Reserve Provisions	10.
Exhibit F of Loan Agreement: Replacement Reserve Provisions	11.
Exhibit G of Loan Agreement: Form of Opinion of Local Borrower	12.
Exhibit H of Loan Agreement: Tax Compliance Certificate of Local Borrower	13.
IRS Form 8038-G	14.
Standard Terms and Conditions	15.
WIFA Disbursement Requisition Procedures and Payment Requisitions (on CD)	

Loan Resolution 2020-014 – Town of Marana

Water Infrastructure Finance Authority of Arizona

Section 1: Resolution

WHEREAS, the Water Infrastructure Finance Authority of Arizona (the "*Authority*") has received from Town of Marana (the *"Local Borrower"*) a request for a loan (the "*Loan*"); and

WHEREAS, the Authority has determined that the Local Borrower has met the requirements of Arizona Revised Statutes §49-1201 et seq. (the "*Act*") and the rules promulgated thereunder (the *"Rules"*); and

WHEREAS, the terms and conditions under which a Loan will be made and the obligations of the Local Borrower will be set forth in a loan agreement or bond purchase agreement (the "*Loan Agreement*") to be executed by the Local Borrower and the Authority.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE AUTHORITY AS FOLLOWS:

The Executive Director of the Authority is hereby authorized and directed to execute a Loan Agreement with the Local Borrower to evidence a Loan in accordance with the Act, the Rules, the Local Borrower's applications to the Authority, and the Project Summary detailed in Section 2 of this Loan Resolution.

The Executive Director and other Authority officials, as appropriate, are authorized and directed to sign any document and take such actions as necessary and appropriate to consummate the transactions contemplated by this Resolution and the Loan Agreement and to ensure that the Local Borrower has completed all requirements of the Authority as detailed in Section 3, Section 4, and Section 5 of this Loan Resolution.

This Resolution shall take effect immediately and shall terminate one year from the date of Board Action.

Dated: February 26, 2020

By: _____
Chairman

Attest: _____
~~Executive Director~~

Loan Resolution 2020-014 - Town of Marana

Water Infrastructure Finance Authority of Arizona

Section 2: Project Summary

2.1 Project Number(s)

DW 028-2020

2.2 Project Priority Data

PPL Rank	Funding Cycle	Population Served	Subsidy Rate
6	DW 2020	7,560	85%

2.3 Project Description(s)

In order to construct treatment systems at the two affected water systems, the Town is seeking an additional $1,100,000 in funding.

The Town will utilize loan funds to design and construct an ion exchange for PFAS removal plus low-pressure high output (LPHO) ultraviolet and peroxide advanced oxidation process (AOP) for 1,4-dioxane removal with granular activated carbon for peroxide quenching. Treatment systems will be constructed at each of the affected water systems with a goal for removal of these compounds to 50 percent of the EPA health advisories.

2.4 Previous Board or Committee Actions

December 19, 2018 – Board adopted Loan Resolution 2019-009 to award $15,000,000 (Loan No. 920293-19) to the Town of Marana to fund the installation of two advanced water treatment systems designed to reduce concentrations of currently unregulated compounds found in the Town's water supply wells.

June 27, 2018 – Board adopted Loan Resolution 2018-008 to award $1,481,990 (Loan No. 910176-19) to the Town of Marana to fund the design and construction of a new lift station and force main to convey flow from the Adonis sewage collection system to the existing Town of Marana municipal system.

2017 Technical Assistance Funding Cycle - the Board awarded the Town of Marana $34,950 of clean water technical assistance for the El Rio Riparian Restoration Project.

December 16, 2009 – Board adopted Loan Resolution 2010-023 to award $5,250,000 (Loan No. 920193-10) to the Town of Marana to fund multiple water projects.

2.5 Project Finance Committee Recommendations

Not reviewed by the Project Finance Committee.

Section 3: Financial Assistance Terms & Conditions (Section 7.1 of Due Diligence)

Financial Assistance Amount: $1,100,000 with $525,500 in forgivable principal

Primary Repayment Source: Excise Taxes

Secondary Repayment Source: None

Loan Term: 20 years

Frequency of Repayment: Semi-Annual

Loan Structure: Standard Governmental - Level 1

Debt Service Reserve Fund Requirements: No Requirement

Repair and Replacement Fund Requirements: No Requirement

Requirements Prior to Loan Execution:

Require Legal Opinion: Yes

Other: No Requirement

Requirements Prior to Construction: No Requirement

Requirement During Construction: No Requirement

Requirements Prior to Final Disbursements: No Requirement

Loan Category: Qualified, Not Pledged

Policy Exceptions: None

Section 4: Technical Terms & Conditions (Section 7.2 of Due Diligence)

Observation Schedule B:

Observation 1: Upon borrower notification of construction commencement

Additional Observations: at least one site observation within each 12 month period

Final Observation: 80% construction budget disbursement

Withholding Percentage: 10% (released after deliverables received)

Requirements Prior to Loan Execution: No Requirement

Requirements Prior to Construction:

Prior Review and Approval of Construction Bids: Yes

Require Construction Signs: Yes

The Local Borrower shall erect a construction sign displaying information on the Project and the funding sources. The Authority shall provide specifications for such construction signs.

Other: No Requirement

Requirements During Construction:

Prior Review of Changes in Project Scope: Yes

The Local Borrower shall submit to the Authority, for review and approval prior to execution, any change to the plans and specifications, construction contracts, Eligible Project Costs, or any other change which will effect the performance standards or purpose of the Project.

Other: No Requirement

Requirements Prior to Releasing Withholdings:

Require Plan of Operation: Yes

Require Final Approval: Yes

Other: No Requirement

Policy Exceptions: None

Section 5: Additional Notice & Reporting Requirements (Section 7.3 of Due Diligence)

WIFA to generate Press Release: No

Other: Wage rate reporting requirements; Use of American Iron and Steel requirements

Loan Agreement

Water Infrastructure Finance Authority of Arizona
(the "Authority")

and

Town of Marana
(the "Local Borrower")

Evidencing a Loan from the
Authority to the Local Borrower

Dated as of **TBD**, 2020

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Section 1.3 Notices 1
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Article 2 Description of the Project

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Article 3 Loan to Local Borrower; Amounts Payable

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Exhibit A Financial Assistance Terms and Conditions; Borrower Payment Instructions; and Loan Repayment Schedule

Exhibit B Technical Assistance Terms and Conditions

Exhibit C Reporting Requirements

Exhibit D Source of Repayment

Exhibit E Debt Service Reserve Requirements

Exhibit F Replacement Reserve Requirements

Exhibit G Form of Opinion of Counsel to Borrower

Exhibit H Tax Compliance Certificate of Local Borrower

Loan Agreement

This Loan Agreement (this "*Loan Agreement*") is made and entered into as of **TBD** by and between the Water Infrastructure Finance Authority of Arizona (the "*Authority*"), and Town of Marana (the "*Local Borrower*"), a political subdivision of the State of Arizona.

This Loan Agreement includes the attached Exhibits and the attached Standard Terms and Conditions. Any capitalized terms used and not defined herein shall have the meanings ascribed to such terms in the Exhibits and the Standard Terms and Conditions.

The Authority and the Local Borrower agree as follows:

Article 1 Description of the Loan

Section 1.1 Name and Address of Local Borrower.

Town of Marana
Attention: Yiannis Kalaitzidis, Finance Director
11555 West Civic Center Drive
Marana, Arizona 85653
Telephone: (520) 382-3493
Fax: (520) 382-1945

Section 1.2 Authorized Officer(s) of Local Borrower.

Town of Marana
Attention: Jamsheed Mehta, Town Manager
11555 West Civic Center Drive
Marana, Arizona 85653
Telephone: (520) 382-1906
Fax: (520) 382-1901

Section 1.3 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid, to the Local Borrower at the address specified in Section 1.1 and to the Authority at the following address:

Executive Director
Water Infrastructure Finance Authority of Arizona
100 North 15th Avenue, Suite 103
Phoenix, Arizona 85007
Telephone: (602) 364-1310
Fax: (602) 364-1327

Any of the parties may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent, by notice in writing given to the others.

Section 1.4 Loan Information. The terms of the Loan include the terms set forth in the Exhibits, which are part of this Loan Agreement:

Exhibit A Financial Assistance Terms and Conditions; Borrower Payment Instructions; and Loan Repayment Schedule

Exhibit B Technical Assistance Terms and Conditions

Exhibit C Reporting Requirements

Exhibit D Source of Repayment

Exhibit E Debt Service Reserve Requirements

Exhibit F Replacement Reserve Requirements

Exhibit G Form of Opinion of Counsel to Borrower

Exhibit H Tax Compliance Certificate of Local Borrower

Prior to Loan Closing, the Local Borrower must deliver to the Authority the Opinion of Local Borrower Counsel in the form of Exhibit G and the Tax Compliance Certificate of Local Borrower in the form of Exhibit H, signed and dated the date of Loan Closing.

Article 2 Description Of The Project

Section 2.1 Description of Project. The Project is described in Project Summary attached to the Loan Resolution of the Authority, and in Exhibit B of this Loan Agreement.

Section 2.2 Description of System. The term "System" means and includes all of the properties and facilities of the complete Waterworks plant and system of the Local Borrower, whether lying within or without the boundaries of the Local Borrower, as now existing and as they may hereafter be improved or extended, all improvements, additions and extensions thereto or replacements thereof hereafter constructed or acquired by purchase, contract or otherwise and all contracts, rights, agreements, leases and franchises of every nature owned by the Local Borrower and used or useful or held for use in the operation of said plant and system or any part or portion thereof.

Article 3 Loan to Local Borrower; Amounts Payable

Section 3.1 The Loan. The Authority shall loan and disburse to the Local Borrower in accordance with this Article 3 an amount listed in Exhibit A (the "Loan"), and the Local Borrower shall borrow and accept from the Authority, the Loan in the principal amount determined pursuant to this Article 3; provided, however, that (i) the Authority shall be under no obligation to disburse any amount of the Loan if an Event of Default has occurred and is continuing under this Loan Agreement, and (ii) the amount to be disbursed shall be lawfully

available for disbursement. The Local Borrower shall use the proceeds of the Loan strictly in accordance with the requirements of this Loan Agreement.

Section 3.2 Disbursements of Loan Proceeds. The Authority may disburse funds by check, by electronic means or by means of magnetic tape or other transfer medium. Except as hereinafter provided, disbursements shall be made only when (i) the request for disbursements is in substantially the form provided by the Authority and is accompanied by the necessary certifications and documentation and (ii) an Authorized Officer of the Authority has determined that such disbursement is proper. An Authorized Officer of the Authority shall approve disbursements directly to the persons or entities entitled to payment or to the Local Borrower in the case of reimbursement for costs of services already paid, and shall provide the Local Borrower with a copy of the approval and the date approved. Disbursements may be made only for Eligible Project Costs.

Section 3.3 Amounts Payable. The Local Borrower shall pay to the Authority the amounts shown in Exhibit A on or before the dates shown in Exhibit A, as the same may be adjusted as provided in the Standard Terms and Conditions, to reflect any revisions to the principal repayment schedule of the Loan. Such payments shall be made by electronic funds transfer or by direct debit to the Authority.

Section 3.4 Tax Covenants.

(a) General. The Local Borrower acknowledges that, in connection with its state revolving fund programs, the Authority issues its bonds ("Authority Bonds") from time to time to finance loans and the Authority also pledges certain loans to secure and to serve as the source of payment for the Authority Bonds. As a result, and under the provisions of federal tax law applicable to the Authority Bonds, it is in the Authority's interest for the Loan to qualify and be an obligation that bears interest that is excludable from gross income for federal income tax purposes and is not an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code. Therefore, the Local Borrower represents and covenants as follows with respect to the Loan and the Authority Bonds. The Local Borrower covenants that it will not take any action, or fail to take any action, if any such action or failure to take such action would adversely affect the exclusion from gross income of the interest on the Loan or the Authority Bonds under Section 103(a) of the Internal Revenue Code or cause the interest on the Loan or the Authority Bonds to become an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code, and in the event of such action or omission, it will, promptly upon having such brought to its attention, take such reasonable actions based upon a bond counsel opinion as may rescind or otherwise negate such action or omission. The Local Borrower will not directly or indirectly use or permit the use of any proceeds of the Loan or any other funds of the Local Borrower or take or omit to take any action that would cause the Loan or the Authority Bonds to be or become "arbitrage bonds" within the meaning of Section 148(a) of the Internal Revenue Code or to fail to meet any other applicable requirement of Sections 103, 141, 148, 149 and 150 of the Internal Revenue Code or cause the interest on the Loan or the Authority Bonds to become an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code. To that

end, the Local Borrower will comply with all applicable requirements of Sections 103, 141, 148, 149 and 150 of the Code to the extent applicable to the Loan.

(b) Modification Based on Bond Counsel Opinion. Notwithstanding any provision of this Section, if the Local Borrower provides to the Authority a bond counsel opinion to the effect that any action required under this Section is no longer required, or to the effect that some further action is required, to maintain the exclusion from gross income of interest on the Loan or the Authority Bonds pursuant to Section 103(a) of the Internal Revenue Code, the provisions of this Section and the covenants in this Section shall be deemed to be modified to that extent.

(c) Bond Counsel Opinion. For purposes of this Section, "bond counsel opinion" means an opinion letter of a firm of attorneys of national reputation experienced in the field of municipal bonds whose opinions are generally accepted by purchasers of municipal bonds, and who is acceptable to the Authority.

IN WITNESS WHEREOF, the Authority and the Local Borrower have caused this Loan Agreement to be executed and delivered as of the date of execution hereof.

Water Infrastructure Finance Authority of Arizona

By: _____
Dan Dialessi, Executive Director

Town of Marana

By:_____
Jamsheed Mehta, Town Manager

Attest:

By: _____
Clerk

LOAN AGREEMENT ADDENDUM

Wage Rate and Forgivable Principal Requirements for Compliance with P.L. 111-88

Water Infrastructure Finance Authority of Arizona

This document (this "Wage Rate and Forgivable Principal Addendum") sets forth additional requirements applicable to state revolving fund Loans made by the Water Infrastructure Finance Authority of Arizona ("WIFA") that are subject to the requirements of Public Law 111-88, "Making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes," enacted October 30, 2009 ("P.L. 111-88"). The provisions in this Wage Rate and Forgivable Principal Addendum are a part of the Loan Agreement. Capitalized terms not otherwise defined herein shall have the meanings given them in the Loan Agreement.

The parties acknowledge and agree that funds disbursed by WIFA to the Local Borrower will include funds made available to WIFA by the federal government under P.L. 111-88, and that the requirements of P.L. 111-88 include those set forth in this Wage Rate and Forgivable Principal Addendum. The Local Borrower agrees to comply with all of those requirements and agrees that failure to do so is a breach of the provisions of the Loan Agreement which may result in a default under the Loan Agreement, termination of WIFA's obligation to make disbursements on the Loan and the Local Borrower being required to repay all amounts that have been disbursed by WIFA on the Loan, together with interest and fees as provided in the Loan Agreement (including interest and fees at rates adjusted from those originally in effect as described herein).

Additional Requirement for Subrecipients that are not Governmental Entities:

Obtaining Wage Determinations - Under this Wage Rate and Forgivable Principal Addendum, the non-governmental borrower must submit its proposed Davis Bacon wage determinations to WIFA for approval prior to including the wage determination in any solicitation, contract task orders, work assignments, or similar instruments to existing contractors. **THIS PARAGRAPH DOES NOT APPLY TO GOVERNMENTAL ENTITIES.**

Section 1. P.L. 111-88 Compliance - Forgivable Principal Portion.

(a) Section 1 of Exhibit A to the Loan Agreement specifies the Total Financial Assistance Amount, the amount, if any, designated as the Forgivable Principal Portion, the Intended Repayment Amount, and the required amount of reserves to be established based upon the Intended Repayment Amount. Section 2 of Exhibit A to the Loan Agreement specifics a schedule of interest and principal payments based on the Intended Repayment Amount. If the Local Borrower fails to comply with the requirements of P.L. 111-88, including those set forth in this Wage Rate and Forgivable Principal Addendum:

(i) WIFA will provide a revised Exhibit A for the Loan Agreement to amortize the entire Total Financial Assistance Amount with the Forgivable Principal Portion set to $525,500.00, adjusted, as necessary, to incorporate, previous principal payments.

(ii) The Local Borrower will repay the Total Financial Assistance Amount.

Section 2. P.L. 111-88 Compliance - Wage Rate Requirements.

This language must be included in all Davis Bacon covered construction contracts and subcontracts. (29 CFR Part 5.5)

(a) The Local Borrower shall insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in Sec. 5.1, or the FFY 2010 appropriation, the following clauses:

(1) **Minimum wages**. (i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in Sec. 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. Local Borrowers may obtain wage determinations from the U. S. Department of Labor's web site, www.wdol.gov.

(ii)(A) The Local Borrower, on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The WIFA award official shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
(2) The classification is utilized in the area by the construction industry; and
(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Local Borrower agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Local Borrower to the WIFA award official. The WIFA award official will transmit the report, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA Davis Bacon Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the WIFA award official or will notify the WIFA award official within the 30-day period that additional time is necessary.
(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the Local Borrower do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the questions, including the views of all interested parties and the recommendation of the WIFA award official, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) **Withholding**. The Local Borrower shall upon its own action or upon written request of WIFA, EPA award official or an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics,

including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) **Payrolls and basic records**. (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Local Borrower. Such documentation shall be available on request of WIFA or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5 (a)(1) based on the most recent payroll copies for the specified week. **The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number).** The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/whd/forms/wh347.pdf or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Local Borrower for transmission to WIFA or EPA, if requested by EPA, WIFA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a

subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the Local Borrower.
(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
(1) That the payroll for the payroll period contains the information required to be provided under Sec. 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under Sec. 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.
(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.
(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of WIFA. EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or WIFA may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) **Apprentices and trainees** - (i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above,

shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) **Compliance with Copeland Act requirements**. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) **Subcontracts**. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may by appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) **Contract termination: debarment**. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) **Compliance with Davis-Bacon and Related Act requirements**. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) **Disputes concerning labor standards**. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the Local Borrower, WIFA, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) **Certification of eligibility**. (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(b) **Contract Work Hours and Safety Standards Act**. The Local Borrower shall insert the following clauses set forth in paragraphs (b)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Sec. 5.5(a) or 4.6 of part 4 of this title. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.
(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.
(3) Withholding for unpaid wages and liquidated damages. The Local Borrower, upon its own action or upon written request of the EPA Award Official or an authorized representative of the Department of Labor shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.
(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.
(c) In addition to the clauses contained in paragraph (b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR Sec. 5.1, the Local Borrower shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Local Borrower shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of WIFA, EPA and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

Section 3. General Provisions.

(a) Binding Effect. This Wage Rate and Forgivable Principal Addendum shall inure to the benefit of and shall be binding upon WIFA and the Local Borrower and their respective successors and assigns.

(b) Severability. In the event any provision of this Wage Rate and Forgivable Principal Addendum shall be held illegal, invalid or unenforceable by any court of competent

jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

(c) Amendments, Supplements and Modifications. This Wage Rate and Forgivable Principal Addendum may not be amended, supplemented or modified without the prior written consent of WIFA and the Local Borrower.

(d) Execution in Counterparts. This Wage Rate and Forgivable Principal Addendum may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

(e) Applicable Law. This Wage Rate and Forgivable Principal Addendum shall be governed by and construed in accordance with the laws of the State of Arizona.

(f) Captions. The captions or headings in this Wage Rate and Forgivable Principal Addendum are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions of this Wage Rate and Forgivable Principal Addendum.

(g) Further Assurances. The Local Borrower shall, at the request of WIFA , authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights and agreements granted or intended to be granted by this Wage Rate and Forgivable Principal Addendum.

(h) Arbitration. The parties hereto agree to use arbitration to the extent required by Section 12-1518 of the Arizona Revised Statutes.

(i) Notice Regarding A.R.S. § 38 511. To the extent applicable by provision of law, the parties acknowledge that this Wage Rate and Forgivable Principal Addendum is subject to cancellation pursuant to A.R.S. § 38-511, the provisions of which are hereby incorporated herein.

[SIGNATURE PAGE FOLLOWS]

WIFA and the Local Borrower are signing this Wage Rate and Forgivable Principal Addendum to be effective as part of the Loan Agreement.

Water Infrastructure Finance Authority of Arizona

By: _____

Dan Dialessi, Executive Director

Town of Marana

By: _____

Jamsheed Mehta, Town Manager

[Signature page to Wage Rate and Forgivable Principal Addendum to Loan Agreement]

LOAN AGREEMENT ADDENDUM

American Iron and Steel Requirements for Compliance with Federal Law

Water Infrastructure Finance Authority of Arizona

This document (this "American Iron and Steel Addendum") sets forth additional requirements made applicable to state revolving fund Loans made by the Water Infrastructure Finance Authority of Arizona ("WIFA") by federal law. The provisions in this American Iron and Steel Addendum are a part of the Loan Agreement. Capitalized terms not otherwise defined herein shall have the meanings given them in the Loan Agreement.

The parties acknowledge and agree that funds disbursed by WIFA to the Local Borrower will include funds made available to WIFA by the federal government under federal law, and that the requirements of federal law include those set forth in this American Iron and Steel Addendum. The Local Borrower agrees to comply with all of those requirements and agrees that failure to do so is a breach of the provisions of the Loan Agreement which may result in a default under the Loan Agreement, termination of WIFA's obligation to make disbursements on the Loan and the Local Borrower being required to repay all amounts that have been disbursed by WIFA on the Loan, together with interest and fees as provided in the Loan Agreement.

Federal law requires that WIFA include in all assistance agreements, including the Loan Agreement, for the construction, alteration, maintenance, or repair of treatment works under the Clean Water State Revolving Fund and for the construction, alteration, maintenance, or repair of a public water system under the Drinking Water State Revolving Fund, a provision requiring the application of American Iron and Steel requirements for the entirety of the construction activities financed by the assistance agreement through completion of construction, no matter when construction commences. Whether or not the project has multiple sources of funding, the American Iron and Steel requirements apply to the entire project and not just to the activities funded by the money made available to WIFA by the federal government.

Section 1. **American Iron and Steel Requirements.** In accordance with federal law:

(a)(1) None of the funds made available to WIFA as authorized by title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) or as authorized by section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12) shall be used for a project for the construction, alteration, maintenance, or repair of a public water system or treatment works unless all of the iron and steel products used in the project are produced in the United States.

(2) In this section, the term "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(b) Subsection (a) shall not apply in any case or category of cases in which the Administrator of the Environmental Protection Agency (in this section referred to as the "Administrator") finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

(2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the Administrator receives a request for a waiver under this section, the Administrator shall make available to the public on an informal basis a copy of the request and information available to the Administrator concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Administrator shall make the request and accompanying information available by electronic means, including on the official public Internet Web site of the Environmental Protection Agency.

Section 2. General Provisions.

(a) Binding Effect. This American Iron and Steel Addendum shall inure to the benefit of and shall be binding upon WIFA and the Local Borrower and their respective successors and assigns.

(b) Severability. In the event any provision of this American Iron and Steel Addendum shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

(c) Amendments, Supplements and Modifications. This American Iron and Steel Addendum may not be amended, supplemented or modified without the prior written consent of WIFA and the Local Borrower.

(d) Execution in Counterparts. This American Iron and Steel Addendum may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

(e) Applicable Law. This American Iron and Steel Addendum shall be governed by and construed in accordance with the laws of the State of Arizona and applicable federal law.

(f) Captions. The captions or headings in this American Iron and Steel Addendum are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions of this American Iron and Steel Addendum.

(g) Further Assurances. The Local Borrower shall, at the request of WIFA , authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights and agreements granted or intended to be granted by this American Iron and Steel Addendum.

(h) Prohibition Against Discrimination. In the event that it applies, the parties agree to comply with the Arizona Governor's Executive Order 2009-9, entitled "Prohibition of Discrimination in State Contracts Non-Discrimination in Employment by Government Contractors and Subcontractors," which mandates that all persons, regardless of race, color, religion, sex, age, or national origin shall have equal access to employment opportunities, and all other applicable state and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. The Local Borrower shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.

(i) Arbitration. In the event of a dispute, the parties agree to use arbitration, after exhausting applicable administrative review, to the extent required by Arizona Revised Statutes Section 12-1518, and the prevailing party shall be entitled to attorney's fees and costs with respect thereto.

(j) Notice of Arizona Revised Statutes Section 38-511 - Cancellation. Notice is hereby given of the provisions of Arizona Revised Statutes Section 38-511, as amended. By this reference, the provisions of said statute are incorporated herein to the extent of their applicability to this American Iron and Steel Addendum under the law of the State of Arizona.

[SIGNATURE PAGE FOLLOWS]

WIFA and the Local Borrower are signing this American Iron and Steel Addendum to be effective as part of the Loan Agreement.

Water Infrastructure Finance Authority of Arizona

By: _____

Dan Dialessi, Executive Director

Town of Marana

By: _____

Jamsheed Mehta, Town Manager

[Signature page to American Iron and Steel Addendum to Loan Agreement]

Exhibit A of Loan Agreement

Section 1: Financial Assistance Terms and Conditions
Town of Marana
21-Apr-20

Loan Number		920303-20
Closing Date		05/15/20
First Payment Period		01/01/21

Financial Assistance Terms and Conditions

Original Loan Amount as of the Closing Date	$	1,100,000.00
Forgivable Principal Amount	$	525,500.00
Intended Repayment Amount	$	574,500.00
Loan Term		20
Combined Interest & Fee Rate		3.400%
Total # of Payment Periods within Loan Term		40

** Combined Interest and Fee Rate (CIFR) allocation: Fee = 1.5% (150 basis points); Interest = CIFR minus Fee.*

Principal Repayments

Period Principal Repayments Begin	2
First Principal Repayment Date	07/01/20
Final Principal Repayment Date	07/01/40

Combined Interest and Fee Payment Dates

First Combined Interest and Fee Payment Date*	01/01/21
Final Combined Interest and Fee Payment Date	07/01/40

* *Actual initial Combined Interest and Fee payment calculated only on dollar amount drawn against loan as of initial payment date*

Debt Service Reserve Fund Requirements

Total Reserve Amount	None
Annual Amount	None
Reserve Funded by (Date)	Not Applicable

Replacement Reserve Fund Requirement

Begin Funding on (Date)	Not Applicable
Annual Amount	None
Semi-Annual Deposit	None

Annual Payment

Years 1 through 5	$	38,719.73
Years 6 through 10	$	38,719.73
Years 11 through 15	$	38,719.73
Years 16 through 20	$	38,719.73
Years 21 through 25	$	-
Years 26 through 30	$	-

Section 2: Loan Repayment Schedule
Town of Marana
21-Apr-20

Year	Period	Semi-Annual Payment Dates	Combined Interest and Fee Rate	Semi-Annual Combined Interest and Fee Payment	Annual Principal Repayment	Total Annual Payment
1	1	01/01/21	3.400%	0.00		
1	2	07/01/21	3.400%	12,262.38	19,186.73	31,449.11
2	3	01/01/22	3.400%	9,440.33		
2	4	07/01/22	3.400%	9,440.33	19,839.07	38,719.73
3	5	01/01/23	3.400%	9,103.06		
3	6	07/01/23	3.400%	9,103.06	20,513.61	38,719.73
4	7	01/01/24	3.400%	8,754.33		
4	8	07/01/24	3.400%	8,754.33	21,211.07	38,719.73
5	9	01/01/25	3.400%	8,393.74		
5	10	07/01/25	3.400%	8,393.74	21,932.25	38,719.73
6	11	01/01/26	3.400%	8,020.89		
6	12	07/01/26	3.400%	8,020.89	22,677.95	38,719.73
7	13	01/01/27	3.400%	7,635.36		
7	14	07/01/27	3.400%	7,635.36	23,449.01	38,719.73
8	15	01/01/28	3.400%	7,236.74		
8	16	07/01/28	3.400%	7,236.74	24,246.25	38,719.73
9	17	01/01/29	3.400%	6,824.55		
9	18	07/01/29	3.400%	6,824.55	25,070.63	38,719.73
10	19	01/01/30	3.400%	6,398.35		
10	20	07/01/30	3.400%	6,398.35	25,923.03	38,719.73
11	21	01/01/31	3.400%	5,957.66		
11	22	07/01/31	3.400%	5,957.66	26,804.41	38,719.73
12	23	01/01/32	3.400%	5,501.98		
12	24	07/01/32	3.400%	5,501.98	27,715.77	38,719.73
13	25	01/01/33	3.400%	5,030.82		
13	26	07/01/33	3.400%	5,030.82	28,658.09	38,719.73
14	27	01/01/34	3.400%	4,543.63		
14	28	07/01/34	3.400%	4,543.63	29,632.47	38,719.73
15	29	01/01/35	3.400%	4,039.88		
15	30	07/01/35	3.400%	4,039.88	30,639.97	38,719.73
16	31	01/01/36	3.400%	3,519.00		
16	32	07/01/36	3.400%	3,519.00	31,681.73	38,719.73
17	33	01/01/37	3.400%	2,980.40		
17	34	07/01/37	3.400%	2,980.40	32,758.93	38,719.73
18	35	01/01/38	3.400%	2,423.50		
18	36	07/01/38	3.400%	2,423.50	33,872.73	38,719.73
19	37	01/01/39	3.400%	1,847.67		
19	38	07/01/39	3.400%	1,847.67	35,024.39	38,719.73
20	39	01/01/40	3.400%	1,252.25		
20	40	07/01/40	3.400%	1,252.25	73,661.91	76,166.41
				230,070.66	574,500.00	804,570.66

Exhibit B

Technical Terms and Conditions

Section 1
Budget

Uses by Budget Item	**Amount Budgeted**
Planning……...	$0.00
Design & Engineering…….	$0.00
Legal/Debt Authorization……	$0.00
Financial Advisor……	$0.00
Land/System Acquisition……	$0.00
Equipment/Materials……...	$0.00
Construction/Installation/Improvement……...	$1,100,000.00
Inspection & Construction Management…….	$0.00
Project Officer…….	$0.00
Administration…….	$0.00
Staff Training……..	$0.00
Capitalized Interest……..	$0.00
Refinance Loan……..	$0.00
Other……	$0.00
Total Budget……...	$1,100,000.00

Section 2
Project Description

In order to construct treatment systems at the two affected water systems, the Town is seeking an additional $1,100,000 in funding.

The Town will utilize loan funds to design and construct an ion exchange for PFAS removal plus low-pressure high output (LPHO) ultraviolet and peroxide advanced oxidation process (AOP) for 1,4-dioxane removal with granular activated carbon for peroxide quenching. Treatment systems will be constructed at each of the affected water systems with a goal for removal of these compounds to 50 percent of the EPA health advisories.

Section 3
Estimated Observation and Disbursement Schedule

Observation Schedule B:

Observation 1: Upon borrower notification of construction commencement

Additional Observations: at least one site observation within each 12 month period

Final Observation: 80% construction budget disbursement

Additional Observations – A WIFA representative may perform additional observations based on information provided in the projects status reports included in each Local Borrower disbursement requisition form.

Withholding Percentage: 10% (released after deliverables received)

Section 4
Requirements Prior To Construction

Section 4.1 **Construction Bids.** The Local Borrower shall submit to the Authority for review and approval prior to execution:

(a) engineering contracts related to the Project,

(b) bid documents related to the Project,

(c) construction contracts related to the Project, and

(d) certification of positive effort for disadvantaged business enterprise participation.

Section 4.2 **User Charges**. The Local Borrower has established (or, if the System is not yet in operation, the Local Borrower will, at or before the time the System commences operation, establish) a system of user charges which, with other funds lawfully available, will at all times be sufficient to pay the costs of operation and maintenance of the System, including renewals and replacements of the System. The Local Borrower also agrees that such system of user charges will be established and maintained in compliance with any applicable requirements of state and federal law as long as the Local Borrower owes amounts under this Loan Agreement. The Local Borrower at its sole option may pay the costs of operation, maintenance, repair, replacement, extensions and additions to the System from any funds lawfully available to it for such purpose.

Section 4.3 **Interest in Project Site**. As a condition of the Loan, the Local Borrower will demonstrate to the satisfaction of the Authority that the Local Borrower has or will have a fee simple or such other estate or interest in the site of the Project, including necessary easements

and rights-of-way, as the Authority finds sufficient to assure undisturbed use and possession for the purpose of construction and operation of the Project for the estimated life of the Project.

Section 4.4 **Federal Clean Water Act**. The Local Borrower covenants that, to the extent legally applicable, the Project will meet the requirements of the Federal Clean Water Act in effect on the date of Loan Closing and any amendments thereto that may retroactively apply to the Loan, and the Local Borrower agrees that the Project will comply with applicable provisions of those federal laws and authorities listed in Article 9 of the Standard Terms and Conditions.

Section 4.5 **Federal Safe Drinking Water Act**. The Local Borrower covenants that, to the extent legally applicable, the Project will meet the requirements of the Federal Safe Drinking Water Act in effect on the date of Loan Closing and any amendments thereto that may retroactively apply to the Loan, and the Local Borrower agrees that the Project will comply with applicable provisions of those federal laws and authorities listed in Article 9 of the Standard Terms and Conditions.

Section 4.6 **Signs**. The Local Borrower shall erect a construction sign displaying information on the Project and the funding sources. The Authority shall provide specifications for such construction signs.

Section 5
Requirements During Construction

Section 5.1 **Changes in Project Scope.** The Local Borrower shall submit to the Authority, for review and approval prior to execution, any change to the plans and specifications, construction contracts, Eligible Project Costs, or any other change which will effect the performance standards or purpose of the Project.

Section 5.2 **Completion of Project and Provision of Moneys Therefor**. The Local Borrower covenants and agrees (a) to exercise its best efforts in accordance with prudent utility construction practice to complete the Project and (b) to the extent permitted by law, to provide from its own fiscal resources all moneys, in excess of the total amount of loan proceeds it receives hereunder and under any subsequent loan from the Authority, required to complete the Project.

Section 5.3 **Inspections; Information**. The Local Borrower shall permit the Authority and any party designated by the Authority to examine, visit and inspect, at any and all reasonable times, the property, if any, constituting the Project, and to inspect and make copies of any accounts, books and records, including (without limitation) its records regarding receipts, disbursements, contracts, investments and any other matters relating thereto and to its financial standing, and shall supply such reports and information as the Authority may reasonably require in connection therewith.

Section 5.4 **Adjustments for Ineligible Costs**. The Local Borrower shall promptly reimburse the Authority for any portion of the Loan which is determined to have been used for costs that are not eligible for funding under the Authority Act, the Federal Clean Water Act, as amended,

or the Federal Safe Drinking Water Act, as amended, unless such matter is curable in some other manner by the Local Borrower to the satisfaction of the Authority. Such reimbursement shall be promptly repaid to the Authority upon written request of the Authority. Any such reimbursed principal amount will be applied to reduce the outstanding principal amount of the Loan.

Section 5.5 **Archaeological Artifacts**. In the event that archaeological artifacts or historical resources are discovered during construction excavation of the Project, the Local Borrower shall stop or cause to be stopped construction activities and will notify the State Historic Preservation Office and the Authority of such discovery.

Section 6
Requirements Prior To Final Disbursements

Section 6.1 **Plan of Operation**. After construction is 50% complete and prior to the release of the withholding, the Local Borrower will submit to the Authority a plan of operation which provides a concise, sequential description of an implementation schedule for those activities necessary to assure efficient and reliable start-up and continual operation of the Project.

Section 6.2 **Final Approval**. Prior to the release of the withholding, the Local Borrower will submit to the Authority (a) as-built drawings by a professional engineer that document all changes from the original plans and specifications (b) copies of all testing results performed by or under the supervision of a professional engineer as required by the specifications, and (c) Arizona Department of Environmental Quality (ADEQ) approval of construction or an engineer's Certificate of Completion certifying that all construction was completed in accordance with the plans and specifications or that any changes made are in conformance with the Arizona Revised Statutes, ADEQ and Environmental Protection Agency rules, permits and guidelines and are documented in the as-built drawings. Based on a review of the information submitted, the Authority reserves the right, prior to the release of the withholding, to request modifications to the Project, the system, or the materials submitted pursuant to this section.

Exhibit C

Reporting Requirements

Section 1. **Annual Loan Review**. The Authority's Annual Loan Review Form and annual financial statements in a format approved by the Authority, including the report of any annual audit(s) and all audit reports required by governmental auditing standards and any applicable Arizona rules, shall be provided by the Local Borrower to the Authority within one-hundred and eighty (180) days after the end of each fiscal year of the Local Borrower. The Local Borrower shall complete all audits and submit all reports required by the federal Single Audit Act within the time limits under that federal law, currently within the earlier of 30 days after receipt of the auditor's reports or nine months after the end of the audit period, unless a longer period is agreed to in advance by the federal agency that provided the funding or a different period is specified in a program-specific audit guide.

Section 2. **Records and Accounts**. The Local Borrower shall keep accurate records and accounts for the System, including records and accounts for the Project (the "*System Records*"), separate and distinct from its other records and accounts (the "*General Records*"). The Local Borrower must maintain the System Records in accordance with generally accepted accounting principles (GAAP), including standards relating to the reporting of infrastructure assets, as issued by the Governmental Accounting Standards Board (GASB) or by the Financial Accounting Standards Board (FASB), as applicable to the Local Borrower. If required by law, the Local Borrower must have the System Records audited annually by an independent accountant, which audit may be part of the annual audit of the General Records of the Local Borrower. The Local Borrower must make all System Records and General Records available for inspection by the Authority at any reasonable time.

Section 3. **Notice of Change In Key Personnel**. Promptly after becoming aware thereof, the Local Borrower shall provide notice in writing to the Authority of any change to the information in Section 1 of the Loan Agreement and any other change in key personnel connected to the Project and Loan.

Section 4. **Notice of Material Adverse Change**. The Local Borrower shall promptly notify the Authority of any material adverse change in the activities, prospects or condition (financial or otherwise), of the Local Borrower relating to the System, or in the ability of the Local Borrower to make all Loan Repayments from the Source of Repayment described in this Loan Agreement and otherwise to observe and perform its duties, covenants, obligations and agreements hereunder.

Section 5. **Disadvantaged Business Enterprise (DBE) Program.** The Local Borrower must report DBE participation to the Authority based on guidance from the Authority.

Section 6. **Notice of Default**. Promptly after becoming aware thereof, Local Borrower shall give notice to the Authority of (i) the occurrence of any Event of Default under the Loan Agreement or (ii) the occurrence of any breach, default, Event of Default, or event which with the giving of notice or lapse of time, or both, could become a material breach, default, or Event of Default (a "Future Breach") under any agreement, indenture, mortgage, or other instrument

(other than the Loan Agreement) to which the Local Borrower is a party or by which it or any of its property is bound or affected. Local Borrower shall provide written notice to the Authority if the effect of such breach, default, Event of Default or Future Breach is to accelerate, or to permit the acceleration of, the maturity of any indebtedness under such agreement, indenture, mortgage, or other instrument; provided, however, that the failure of the Local Borrower to give such notice shall not affect the right and power of the Authority to exercise any and all of the remedies specified herein.

Section 7**.** **Notice of Construction Commencement**. The Local Borrower shall promptly notify the Authority immediately upon commencement of construction activities.

Section 8**.** **Notice of Non-Environmental Litigation**. Promptly after the commencement or overt threat thereof, Local Borrower shall provide the Authority with written notice of the commencement of all actions, suits, or proceedings before any court, arbitrator, or governmental department, commission, board, bureau, agency, or instrumentality affecting Local Borrower which, if adversely determined, could have a material adverse effect on the condition (financial or otherwise), operations, properties, or business of Local Borrower, or on the ability of Local Borrower to perform its obligations under the Loan Agreement.

Section 9. **Notice of Environmental Litigation**. Without limiting the provisions of Section 8 above, promptly after receipt thereof, Local Borrower shall provide the Authority with written notice of the receipt of all pleadings, orders, complaints, indictments, or other communication alleging a condition that may require Local Borrower to undertake or to contribute to a cleanup or other response under laws relating to environmental protection, or which seek penalties, damages, injunctive relief, or criminal sanctions related to alleged violations of such laws, or which claim personal injury to any person or property damage as a result of environmental factors or conditions or which, if adversely determined, could have a material adverse effect on the condition (financial or otherwise), operations, properties, or business of Local Borrower, or on the ability of Local Borrower to perform its obligations under the Loan Agreement.

Section 10. **Regulatory and Other Notices**. Promptly after receipt or submission thereof, Local Borrower shall provide the Authority with copies of any notices or other communications received from or directed to any governmental authority with respect to any matter or proceeding which could have a material adverse effect on the condition (financial or otherwise), operations, properties, or business of Local Borrower, or the ability of Local Borrower to perform its obligations under the Loan Agreement, or which reveals a substantial non compliance with any applicable law, regulation or rule.

Section 11. **Other Information**. The Local Borrower shall submit to the Authority other information regarding the condition (financial or otherwise), or operation of the Local Borrower as the Authority may, from time to time, reasonably request.

Section 12. **Additional Reporting Requirements.** The Local Borrower shall refer to the Loan Agreement Addendum for wage rate reporting requirements.

Exhibit D Source of Repayment: Excise Taxes

Section 1 Certain Definitions[1]

As used in this Loan Agreement, the following terms shall have the meanings set forth below unless the context clearly requires otherwise:

"Additional Revenue Obligations" means any additional obligations which may hereafter be issued or incurred by the Local Borrower (or any financing conduit acting on behalf of the Local Borrower) having a lien upon and payable from Excise Tax Revenues and State Shared Revenues on a parity with, and in compliance with the terms of, the First Purchase Agreement, the Second Purchase Agreement, the Third Purchase Agreement, the First Loan Agreement, the Second Loan Agreement, the Third Loan Agreement and this Loan Agreement.

"Annual Debt Service" means the amount to be paid in any Fiscal Year with respect to the Parity Obligations for payment of principal and interest requirements.

"Excise Tax Revenues" means revenues from the Local Borrower sales taxes, license and permit fees and fines and forfeitures which the Local Borrower now collects; provided that the Mayor and Common Council of the Local Borrower may impose other transaction privilege taxes in the future, the uses of revenue from which will be restricted, at the discretion of such Council.

"First Loan Agreement" means the Loan Agreement (CW 910176-19), dated as of August 10, 2018, by and between the Local Borrower and the Authority.

"First Purchase Agreement" means the First Purchase Agreement, dated as of June 1, 2013, by and between Wells Fargo Bank, N.A., as seller, and the Local Borrower, as purchaser.

"Fiscal Year" means the fiscal year of the Local Borrower, currently the period July 1 through June 30.

"Maximum Annual Debt Service" means, for any Fiscal Year, the greatest Annual Debt Service for the then-current or any succeeding Fiscal Year.

"Parity Obligations" means the First Purchase Agreement, the Second Purchase Agreement, the Third Purchase Agreement, the First Loan Agreement, the Second Loan Agreement, the Third Loan Agreement this Loan Agreement and any Additional Revenue Obligations.

"Second Loan Agreement" means the Loan Agreement (DW 920293-19), dated as of January 18, 2019, by and between the Local Borrower and the Authority.

[1] By this reference, the First Loan Agreement and the Second Loan Agreement are hereby amended as follows retroactive to their dates: the definition "First Loan Agreement" is added to the Second Loan Agreement; the definition "State Shared Revenues" is added to the definitions in the First Loan Agreement and the Second Loan Agreement, and "First Loan Agreement" is added to the list of agreements in the definitions of Additional Revenue Obligations and Parity Obligations in the Second Loan Agreement.

"Second Purchase Agreement" means the Second Purchase Agreement, dated as of June 1, 2014, by and between Zions First National Bank, as seller, and the Local Borrower, as purchaser.

"State" means the State of Arizona.

"State Shared Revenues" means revenues from amounts allocated or apportioned to the Local Borrower by the State, any political subdivision thereof or any other governmental unit or agency, except the share of the Local Borrower of any taxes which by State law, rule or regulation must be expended for other purposes, such as motor vehicle fuel taxes.

"Third Loan Agreement" means the Loan Agreement (CW 910183-20), dated as of even date herewith, by and between the Local Borrower and the Authority.

"Third Purchase Agreement" means the Third Purchase Agreement, dated as of April 1, 2017, by and between U.S. Bank National Association, as seller, and the Local Borrower, as purchaser.

Section 2 Source of Repayment and Rate Covenant Provisions

(a) It is understood and agreed that all payments with respect to the Loan shall be made only from the Source of Repayment, which is hereby pledged to the payment of all amounts due under the Loan. The Source of Repayment is Excise Tax Revenues and State Shared Revenues. The Excise Tax Revenues and State Shared Revenues are hereby pledged by the Local Borrower to the payment of all amounts due under the Loan and such amounts shall be secured by a paramount and first lien on and pledge of the Excise Tax Revenues and State Shared Revenues on parity with the pledge and lien granted by the Local Borrower for the payment and security of the First Purchase Agreement, the Second Purchase Agreement, the Third Purchase Agreement, the First Loan Agreement, the Second Loan Agreement, the Third Loan Agreement and any Additional Parity Obligations.[2] The amounts due under this Loan Agreement, the First Purchase Agreement, the Second Purchase Agreement, the Third Purchase Agreement, the First Loan Agreement, the Second Loan Agreement, the Third Loan Agreement and any Additional Parity Obligations[2] shall be equally and ratably secured by said pledge and lien without priority one over the other.

(b) The Local Borrower shall remit to the Authority from Excise Tax Revenues and State Shared Revenues all amounts due under this Loan Agreement in the amounts and at the times and for the purposes as required herein. The obligation of the Local Borrower to make payments of any amounts due under this Loan Agreement, including amounts due after default or termination hereof, is limited to payment from Excise Tax Revenues and State Shared Revenues and shall under no circumstances constitute a general obligation or a pledge of the full faith and credit of the Local Borrower, the State or any of its political subdivisions, or require the levy of, or be payable from the proceeds of, any *ad valorem* property taxes.

(c) The Local Borrower may, at the sole option of the Local Borrower, make payments due pursuant to Section 3.3 hereof from its other funds as permitted by law and as the Local Borrower shall determine from time to time, but the Authority acknowledges that it has no claim hereunder

[2] By this reference, the Second Loan Agreement is hereby amended retroactive to its date, to add "First Loan Agreement" to the list of agreements here.

to such other funds. No part of the purchase price payable pursuant to this Loan Agreement shall be payable out of any *ad valorem* property taxes imposed by the Local Borrower or from bonds or other obligations, the payment of which the Local Borrower's general taxing authority is pledged, unless (i) the same shall have been duly budgeted by the Local Borrower according to law, (ii) such payment or payments shall be within the budget limitations of the statutes of the State and (iii) any such bonded indebtedness or other obligation is within the debt limitations of the Constitution of the State.

(d) Excise Tax Revenues and State Shared Revenues in excess of amounts, if any, required to be deposited with or held by the Authority for payments due under this Loan Agreement shall constitute surplus revenues and may be used by the Local Borrower for any lawful purpose for the benefit of the Local Borrower, including the payment of obligations to which Excise Tax Revenues and State Shared Revenues may from time to time be pledged on a basis subordinate hereto. If at any time the moneys in the funds held for payment of amounts due under this Loan Agreement are not sufficient to make the deposits and transfers required, any such deficiency shall be made up from the first moneys thereafter received and available for such transfers under the terms of this Loan Agreement and, with respect to payment from Excise Tax Revenues and State Shared Revenues, *pro rata*, as applicable, with amounts due with respect to the First Purchase Agreement, the Second Purchase Agreement, the Third Purchase Agreement, the First Loan Agreement, the Second Loan Agreement, the Third Loan Agreement and any Additional Revenue Obligations[3], and the transfer of any such sum or sums to said fund as may be necessary to make up any such deficiency shall be in addition to the then-current transfers required to be made pursuant hereto.

(e) To the extent permitted by applicable law, Excise Tax Revenues shall be retained and maintained so that the amounts received from Excise Tax Revenues plus State Shared Revenues, when combined mathematically for such purpose only, all within and for the most recently completed Fiscal Year, shall have been equal to at least two (2) times the Annual Debt Service for the current Fiscal Year. If Excise Tax Revenues plus State Shared Revenues for any such Fiscal Year shall not have been equal to at least one and one-quarter (1.25) times the Annual Debt Service for the current Fiscal Year or if at any time it appears that Excise Tax Revenues plus State Shared Revenues will not be sufficient to meet such requirements, the Local Borrower shall, to the extent permitted by applicable law, impose new exactions of the type of the excise taxes which will be part of the excise taxes or increase the rates for the excise taxes currently imposed fully sufficient at all times, after making allowance for contingencies and errors, in each Fiscal Year in order that (i) Excise Tax Revenues plus State Shared Revenues will be sufficient to meet all current requirements hereunder and (ii) Excise Tax Revenues plus State Shared Revenues will be reasonably calculated to attain the level as required by the first sentence of this paragraph.

(f) The Excise Tax Revenue Fund established in connection with the Third Purchase Agreement is expanded to provide for the purposes of this Loan Agreement and, after paying therefrom amounts for the purposes described herein, such Fund may be reduced to zero, including by transferring any such balance to the General Fund of the Local Borrower.

[3] By this reference, the Second Loan Agreement is hereby amended retroactive to its date, to add "First Loan Agreement" to the list of agreements here.

Section 3 Additional Parity Obligations

Additional Revenue Obligations may be incurred but only if Excise Tax Revenues plus State Shared Revenues, when combined mathematically for such purpose only, in the most recently completed Fiscal Year, shall have amounted to at least two (2) times the Maximum Annual Debt Service.

Section 4 Default; Remedies Upon Default

The following shall supersede all contrary provisions herein to the extent of the subject matter hereof:

(a) (i) Upon (A) the nonpayment of the whole or any part of any of the amounts described in Section 3.3 hereof at the time when the same are to be paid as provided herein, (B) the violation by the Local Borrower of any other covenant or provision of this Loan Agreement, (C) the occurrence of an event of default with respect to the First Purchase Agreement, the Second Purchase Agreement, the Third Purchase Agreement, the First Loan Agreement, the Second Loan Agreement, the Third Loan Agreement or any Additional Revenue Obligations[4] or (D) the insolvency or bankruptcy of the Local Borrower as the same may be defined under any law of the United States of America or the State, or any voluntary or involuntary action of the Local Borrower or others to take advantage of, or to impose, as the case may be, any law for the relief of debtors or creditors, including a petition for reorganization, and

(ii) if such default has not been cured (A) in the case of nonpayment of any of the amounts described in Section 3.3 hereof as required hereunder on the due date or the nonpayment of principal or interest due with respect to the First Purchase Agreement, the Second Purchase Agreement, the Third Purchase Agreement, the First Loan Agreement, the Second Loan Agreement, the Third Loan Agreement or any Additional Revenue Obligations[4] on their due dates; (B) in the case of the breach of any other covenant or provision of this Loan Agreement not cured within sixty (60) days after notice in writing from the Authority specifying such default and (C) in the case of any other default under any of the First Purchase Agreement, the Second Purchase Agreement, the Third Purchase Agreement, the First Loan Agreement, the Second Loan Agreement, the Third Loan Agreement or any Additional Revenue Obligations[4] after any notice and passage of time provided for under the proceedings under which such obligations were issued then,

(iii) the Authority may take whatever action at law or in equity, including the remedy of specific performance, may appear necessary or desirable to collect any amounts payable by the Local Borrower under this Loan Agreement then due (but not such amounts accruing), or to enforce performance and observance of any pledge, obligation, agreement or covenant of the Local Borrower under this Loan Agreement, and with respect to Excise Tax Revenues and State-Shared Revenues, without notice and without giving any bond or surety to the Local Borrower or anyone claiming under the Local Borrower, have a receiver

[4] By this reference, the Second Loan Agreement is hereby amended retroactive to its date, to add "First Loan Agreement" to the list of agreements here.

appointed of Excise Tax Revenues and State Shared Revenues which are pledged to the payment of amounts due hereunder, with such powers as the court making such appointment shall confer (and the Local Borrower does hereby irrevocably consent to such appointment); provided, however, that under no circumstances may such amounts due hereunder be accelerated.

Each right, power and remedy of the Authority provided for in this Loan Agreement shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for herein, or, unless prohibited by the terms hereof, now or hereafter existing at law or in equity or by statute or otherwise, in any jurisdiction where such rights, powers and remedies are sought to be enforced, and the exercise or beginning of the exercise by the Authority of any one or more of the rights, powers or remedies provided for herein or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by either party of any or all of such other rights, powers or remedies. The failure to insist upon strict performance of any of the covenants or agreements herein set forth shall not be considered or taken as a waiver or relinquishment for the future of the rights of the Authority to insist upon a strict compliance by the Authority with all the covenants and conditions hereof. The Local Borrower shall, upon not less than 10 days' prior request by the Authority, execute, acknowledge and deliver to the Authority a statement in writing certifying that this Loan Agreement is unmodified and in full force and effect (or, if this Loan Agreement has been modified, that it is in full force and effect except as modified, and stating the modification), and the dates to which the amounts payable hereunder have been paid in advance, if any.

(b) The Authority shall in no event be in default in the performance of any of its obligations hereunder unless and until the Authority shall have failed to perform such obligation within 30 days or such additional time as is reasonably required to correct any such default after notice by the Local Borrower properly specifying wherein the Authority has failed to perform any such obligation.

Exhibit E Debt Service Reserve Requirement

No Debt Service Reserve Required

The Local Borrower shall not be required to either (i) provide a Reserve Fund Surety or (ii) fund a Reserve Fund in cash in connection with this Agreement.

Exhibit F Replacement Reserve Requirements

No Replacement Reserve Required

The Local Borrower shall not be required to maintain a Replacement Reserve in connection with the Loan.

Exhibit G Form of Opinion of Local Borrower Counsel

Enter Date of Opinion

Water Infrastructure Finance Authority of Arizona
Phoenix, Arizona

Ladies and Gentlemen:

I am an attorney admitted to practice in the State of Arizona and I have acted as counsel to the Town of Marana (the "*Local Borrower*"), which has entered into a Loan Agreement (as hereinafter defined) with the Water Infrastructure Finance Authority of Arizona (the "*Authority*"), and have acted as such in connection with the authorization, execution and delivery by the Local Borrower of the Loan Agreement (as hereinafter defined). Terms used and not otherwise defined herein have the meanings given to them in the Loan Agreement.

In so acting I have examined the Constitution and laws of the State of Arizona. I have also examined originals, or copies certified or otherwise identified to my satisfaction, of the following:

(a) the Loan Agreement, dated as of **TBD**, 2020 (the "*Loan Agreement*") by and between the Authority and the Local Borrower; and

(b) proceedings of the governing board of the Local Borrower relating to the approval of the Loan Agreement and the Local Borrower Bond and the execution, issuance and delivery thereof on behalf of the Local Borrower, and the authorization of the undertaking and completion of the Project, including the proceedings relating to the election held on Enter Election Date on the question of authorizing the Local Borrower to enter into loan agreements with the Authority and/or issue the Local Borrower Bond, of which there is authorized but unissued capacity at least equal to the principal amount of the Loan.

I have also examined and relied upon originals, or copies certified or otherwise authenticated to my satisfaction, of such other records, documents, certificates and other instruments, and made such investigation of law as in my judgment I have deemed necessary or appropriate to enable me to render the opinions expressed below.

Based upon the foregoing, I am of the opinion that:

1. The Local Borrower is a political subdivison of the State of Arizona with the legal right to carry on the business of the System as currently being conducted and as proposed to be conducted.

2. The Local Borrower has full legal right and authority to pledge the Source of Repayment for the Loan Repayments and to execute and deliver the Loan Agreement, and to observe and perform its duties, covenants, obligations and agreements thereunder and to undertake and complete the Project; subject, however, to the effect of restrictions and limitations imposed by or

resulting from, bankruptcy, insolvency, moratorium, reorganization, debt adjustment or other similar laws affecting creditors rights generally ("*Creditor's Rights Limitations*") heretofore or hereafter enacted.

3. The Local Borrower has duly and validly pledged the Source of Repayment for the punctual payment of the principal of and interest on the Loan and all other amounts due under the Loan Agreement and the Local Borrower Bond according to their respective terms.

4. All additional debt tests and reserve and other requirements applicable to the Local Borrower with respect to the pledge of the Source of Repayment have been satisfied.

5. The authorizing proceedings of the Local Borrower's governing body approving the Loan Agreement and authorizing its execution, issuance and delivery on behalf of the Local Borrower, and authorizing the Local Borrower to undertake and complete the Project (hereinafter collectively called the "*Authorizing Resolutions*") have been duly and lawfully adopted and authorized in accordance with applicable Arizona law, at a meeting or meetings which were duly called pursuant to necessary public notice and held in accordance with applicable Arizona law, and at which quorums were present and acting throughout.

6. The Loan Agreement has been duly authorized, executed and delivered by the authorized officers of the Local Borrower; and, assuming that the Authority has all the requisite power and authority to authorize, execute and deliver, and has duly authorized, executed and delivered the Loan Agreement, the Loan Agreement constitutes the legal, valid and binding obligation of the Local Borrower enforceable in accordance with its terms; subject, however, to the effect of and to restrictions and limitations imposed by or resulting from Creditor's Rights Limitations or other laws, judicial decisions and principles of equity relating to the enforcement of contractual obligations generally.

7. To the best of my knowledge, after such investigation as I have deemed appropriate, the authorization, execution and delivery of the Loan Agreement by the Local Borrower, the observance and performance by the Local Borrower of its duties, covenants, obligations and agreements thereunder and the consummation of the transactions contemplated therein and the undertaking and completion of the Project do not and will not contravene any existing law or any existing order, injunction, judgment, decree, rule or regulation of any court or governmental or administrative agency, authority or person having jurisdiction over the Local Borrower or its property or assets or result in a breach or violation of any of the terms and provisions of, or constitute a default under, any existing bond resolution, trust agreement, indenture, mortgage, deed of trust or other agreement to which the Local Borrower is a party or by which it, the System or its property or assets is bound.

8. To the best of my knowledge, after such investigation as I have deemed appropriate, all approvals, consents or authorizations of, or registrations of or filings with, any governmental or public agency, authority or person required to date on the part of the Local Borrower in connection with the authorization, execution, delivery and performance of the Loan Agreement, and the undertaking and completion of the Project have been obtained or made.

9. To the best of my knowledge, after such investigation as I have deemed appropriate, there is no litigation or other proceeding pending or threatened in any Court or other tribunal of competent jurisdiction (either State or Federal) questioning the creation, organization or existence of the Local Borrower or the validity, legality or enforceability of the Loan Agreement, or the undertaking or completion of the Project.

This opinion is rendered on the basis of Federal law and the laws of the State of Arizona as enacted and construed on the date hereof. I express no opinion as to any matter not set forth in the numbered paragraphs herein.

Very truly yours,

Exhibit H Form of Tax Compliance Certificate of Local Borrower

Water Infrastructure Finance Authority of Arizona

$1,100,000.00 Loan to Town of Marana

The Water Infrastructure Finance Authority of Arizona (the "Authority") and Town of Marana (the "Local Borrower") are entering into a Loan Agreement (the "Loan Agreement") in the maximum principal amount stated above pursuant to which the Authority will make a loan (the "Loan") to the Local Borrower. In connection with its state revolving fund programs, the Authority issues its bonds ("Authority Bonds") from time to time to finance loans and the Authority also pledges certain loans to secure and to serve as the source of payment for the Authority Bonds. As a result, and under the provisions of federal tax law applicable to the Authority Bonds, it is in the Authority's interest for the Loan to qualify and be a Tax-Exempt Obligation that is not an AMT Obligation. Therefore, in order to establish certain facts necessary for the Loan to qualify and be treated as a Tax-Exempt Obligation that is not an AMT Obligation, and as required by the provisions of the Loan Agreement, the Local Borrower by its officer signing this Certificate, certifies, represents, and covenants as follows with respect to the Loan. All statements in this Certificate are of facts or, as to events to occur in the future, reasonable expectations.

I. DEFINITIONS

1.10. Attachment A. The definitions and cross-references set forth in Attachment A apply to this Certificate and its Attachments. All terms relating to a particular issue, such as Sale Proceeds, relate to the Loan, unless indicated otherwise. (For example, "Sale Proceeds" refers to Sale Proceeds of the Loan, unless indicated otherwise.)

1.20. Special Definitions. Terms used herein, to the extent not defined in Attachment A or below, have the same meaning as defined in the Loan Agreement. In addition, the following definitions apply to this Certificate and its Attachments:

"Instructions" means the Rebate Instructions attached hereto as Attachment A-1.

"Issue" means the Loan.

"Issuer" means the Local Borrower.

"Project" means the financing of a portion of the costs of acquisition, construction and improvement of facilities to be financed by the Loan and includes Issuance Costs and interest on the Loan for up to three years from the Issuance Date or, if later, one year after the date the Project is placed in service, all of which are governmental purposes for purposes of the Code.

"Reserve Fund" is defined in 3.40(a).

1.30. References. Reference to a Section means a section of the Code. Reference by number only (for example, "2.10") means that numbered paragraph of this Certificate. Reference to an Attachment means an attachment to this Certificate.

II. ISSUE DATA

2.10. Issuer. The Issuer is a Governmental Unit.

2.20. Purpose of Issue. The Issue is being issued to provide funds to pay costs of the Project.

2.30. Dates. The Sale Date of the Issue is the date on which the Loan Agreement is executed and delivered by the Authority and the Local Borrower, and the Issuance Date of the Issue is the first date on which the aggregate draws under the Loan exceed the lesser of $50,000 or 5% of the principal amount of the Loan.

2.40. Issue Price. The Issue Price of the Issue is the principal amount actually advanced by the Authority to the Issuer as the Loan.

2.50. Sale Proceeds, Net Proceeds, and Net Sale Proceeds. The amount of Sale Proceeds equals the Issue Price. The amount of Net Proceeds equals the Issue Price minus the amount of Proceeds (if any) deposited in the Reserve Fund (if any). The amount of Net Sale Proceeds equals the amount of Net Proceeds minus the Minor Portion.

2.60. Disposition of Sale Proceeds. There will be no Pre-Issuance Accrued Interest with respect to the Issue. The Sale Proceeds will be used to pay costs of the Project and, if applicable, to fund the Reserve Fund (if any).

2.70. Higher Yielding Investments. Gross Proceeds will not be invested in Higher Yielding Investments except for (A) the Minor Portion to the extent provided in 3.80, (B) those Gross Proceeds identified in 3.10, 3.20, and 3.30, but only during the applicable Temporary Periods there described for those Gross Proceeds, and (C) Gross Proceeds held in the Reserve Fund (if any) to the extent set forth in 3.40(a).

2.80. Single Issue. No other obligations have been or will be sold less than 15 days before or after the Sale Date pursuant to the same plan of financing with the Issue that are expected to be paid from substantially the same source of funds as the Issue, determined without regard to guarantees from a person who is not a Related Party to the Issuer. Accordingly, no obligations other than those of the Issue are a part of a single issue with the Issue.

III. ARBITRAGE (NONREBATE) MATTERS

3.10. Use of Net Sale Proceeds and Pre-Issuance Accrued Interest; Temporary Periods.

(A) Pre-Issuance Accrued Interest. There will be no Pre-Issuance Accrued Interest with respect to the Issue.

(B) Payment of Costs of the Project.

(1) All of the Net Sale Proceeds will be used to pay costs of the Project. Such Sale Proceeds may be used to acquire or hold Higher Yielding Investments for a period ending on the third anniversary of the Issuance Date (such period being the Temporary Period for such amount) because the following three tests are reasonably expected to be satisfied:

(i) At least 85% of the Net Sale Proceeds will be allocated to expenditures on the Project by the end of the Temporary Period;

(ii) Within 6 months of the Issuance Date, the Issuer will incur substantial binding obligations to third parties to expend at least 5% of the Net Sale Proceeds on the Project; and

(iii) Completion of the Project and allocation of the Net Sale Proceeds to expenditures will proceed with due diligence.

Any Sale Proceeds that remain unspent on the third anniversary of the Issuance Date, which is the expiration date of the Temporary Period for such Proceeds, shall not be invested in Higher Yielding Investments with respect to the Issue after that date except as part of the Minor Portion. In complying with the foregoing sentence, the Issuer may take into account "yield reduction payments" (within the meaning of Regulations §1.148-5(c)) paid to the United States.

(2) Any Reimbursement Allocation will qualify as a Reimbursement of Prior Capital Expenditures and will be made by an entry in the financial records of the Issuer kept with respect to the Issue showing that Sale Proceeds of the Issue have been returned to the fund or account of the Issuer from which such amount was originally and temporarily advanced to finance Capital Expenditures paid before this date by not more than (A) 18 months after the later of the date such Capital Expenditures were paid or the date on which the property resulting from such Capital Expenditures and comprising part of the Project was placed in service or (B) three years after the original expenditures were paid.

3.20. Investment Proceeds. Any Investment Proceeds will be used to pay costs of the Project and may be invested in Higher Yielding Investments during the Temporary Period identified in 3.10(B)(1) or, if longer, one year from the date of receipt, such period being the Temporary Period for such Proceeds.

3.30. Payment Fund. Amounts deposited from time to time in the fund of the Issuer from which payments will be made on the Issue, which is a Bona Fide Debt Service Fund, will be used to pay Debt Service on the Issue within 13 months after the amounts are so deposited, such period being the Temporary Period for such amounts.

3.40. Reserve Funds.

(A) Debt Service Reserve Fund. If (and only if) the Loan Agreement requires the funding of a debt service reserve fund ("Reserve Fund") in cash: The amount of Proceeds of the Loan deposited in the Reserve Fund shall not exceed

10% of the stated principal amount of the Loan. Amounts in the portion of the Reserve Fund allocable to the Issue may be invested in Higher Yielding Investments with respect to the Issue to the extent that such amounts do not exceed the least of (i) 10% of the principal amount of the Issue; (ii) maximum annual Debt Service; and (iii) 125% of average annual Debt Service. Any amounts in the portion of the Reserve Fund allocable to the Issue in excess of the least of these amounts will not be invested in Higher Yielding Investments with respect to the Issue. In complying with the yield restriction set forth in this Section, the Issuer may take into account "yield reduction payments" (within the meaning of Regulations § 1.148-5(c)) timely paid or to be timely paid to the United States because amounts in the Reserve Fund (other than investment earnings) are not reasonably expected to be used to pay Debt Service other than in connection with reductions in the amount required to be in the Reserve Account. The establishing and funding of the Reserve Fund was reasonably required by the Authority as a condition of making the Loan.

(B) Replacement Reserve Fund. If (and only if) the Loan Agreement requires the funding of a replacement reserve fund ("Replacement Reserve Fund") in cash: The Replacement Reserve Fund may be used for one or more of the following purposes: (i) the acquisition of new, or the replacement of obsolete or worn out, machinery, equipment, furniture, fixtures or other personal property for the Issuer's utility system, provided that the property is depreciable; (ii) the performance of repairs with respect to the Issuer's utility system that are of an extraordinary and non-recurring nature, provided that the property is depreciable; (iii) the acquisition or construction of additions to or improvements, extensions or enlargements to, or remodeling of, the Issuer's utility system, provided that the property is depreciable; and/or (iv) to make Debt Service payments to the Authority on the Issue (collectively, the "Permitted Uses"). The Issuer reasonably expects to use amounts in the Replacement Reserve Fund for Permitted Uses other than to make Debt Service payments to the Authority on the Issue, and therefore there is no reasonable assurance of the availability of those amounts to make Debt Service payments to the Authority on the Issue if the Issuer encounters financial difficulties

3.50. No Other Replacement Fund or Assured Available Funds. Except as described in 3.30 and, if and to the extent applicable, 3.40(A), , the Issuer has not established and does not expect to establish or use any sinking fund, debt service fund, redemption fund, reserve or replacement fund, or similar fund, or any other fund to pay Debt Service on the Issue. Except for money referred to in 3.30 and Proceeds of a Refunding Issue, if any, no other money or Investment Property is or will be pledged as collateral or used for the payment of Debt Service on the Issue (or for the reimbursement of any others who may provide money to pay that Debt Service), or is or will be restricted, dedicated, encumbered, or set aside in any way as to afford the holders of the Issue reasonable assurance of the availability of such money or Investment Property to pay Debt Service on the Issue.

3.60. No Overissuance. The Proceeds of the Issue are not reasonably expected to exceed the amount needed for the governmental purposes of the Issue as set forth in 2.20.

3.70. Other Uses of Proceeds Negated. Except as stated otherwise in this Certificate, none of the Proceeds of the Issue will be used:

(A) to pay principal of or interest on, refund, renew, roll over, retire, or replace any other obligations issued by or on behalf of the Issuer or any other Governmental Unit,

(B) to replace any Proceeds of another issue that were not expended on the project for which such other issue was issued,

(C) to replace any money that was or will be used directly or indirectly to acquire Higher Yielding Investments,

(D) to make a loan to any person or other Governmental Unit,

(E) to pay any Working Capital Expenditure other than expenditures identified in Regulations §1.148-6(d)(3)(ii)(A) and (B) (i.e., Issuance Costs of the Issue, Qualified Administrative Costs, reasonable charges for a Qualified Guarantee or for a Qualified Hedge, interest on the Issue for a period commencing on the Issuance Date of the Issue and ending on the date that is the later of three years from such Issuance Date or one year after the date on which the project financed or refinanced by the Issue was or will be placed in service, payments of the Rebate Amount, and costs, other than those already described, that do not exceed 5% of the Sale Proceeds and that are directly related to Capital Expenditures financed or deemed financed by the Issue, principal or interest on an issue paid from unexpected excess Sale Proceeds or Investment Proceeds, and principal or interest on an issue paid from investment earnings on a reserve or replacement fund that are deposited in a Bona Fide Debt Service Fund), or

(F) to reimburse any expenditures made prior to the Issuance Date except those that qualify as a Reimbursement of Prior Capital Expenditures.

No portion of the Issue is being issued solely for the purpose of investing Proceeds in Higher Yielding Investments.

3.80. Minor Portion. The Minor Portion is equal to the lesser of 5% of the Sale Proceeds of the Issue and $100,000. Such Minor Portion may be invested in Higher Yielding Investments with respect to the Issue.

3.90. No Other Replacement Proceeds. That portion of the Issue that is to be used to finance Capital Expenditures has a weighted average maturity that does not exceed 120% of the weighted average reasonably expected economic life of the property resulting from such Capital Expenditures.

IV. REBATE MATTERS

4.10. Issuer Obligation Regarding Rebate. Consistently with its covenants contained in the Loan Agreement, the Issuer will calculate and make, or cause to be calculated and made,

payments of the Rebate Amount in the amounts and at the times and in the manner provided in Section 148(f) with respect to Gross Proceeds to the extent not exempted under Section 148(f)(4) and the Instructions.

4.20. No Avoidance of Rebate Amount. No amounts that are required to be paid to the United States will be used to make any payment to a party other than the United States through a transaction or a series of transactions that reduces the amount earned on any Investment Property or that results in a smaller profit or a larger loss on any Investment Property than would have resulted in an arm's length transaction in which the Yield on the Issue was not relevant to either party to the transaction.

4.30. Exceptions.

(A) Small Issuer Exception. The Issue is exempt under Section 148(f)(4)(D) from the rebate requirement **if all** of the following requirements are satisfied:

(1) The Issuer is a Governmental Unit with general taxing powers within the meaning of Section 148(f)(4)(D), and

(2) No part of the Issue is a Private Activity Bond, and

(3) All of the Net Proceeds will be used for "local governmental activities" of the Issuer within the meaning of Section 148(f)(4)(D) and none of the Net Proceeds will be used for any Private Business Use, and

(4) The aggregate principal amount of all Tax-Exempt Obligations, including the Issue, issued or to be issued by the Issuer, its subordinate entities and entities that issue any such obligations on behalf of the Issuer, or on behalf of which the Issuer issues any such obligations, during the current calendar year does not, and is not reasonably expected to, exceed $5,000,000. The Tax-Exempt Obligations taken into account for this purpose exclude any Private Activity Bonds and any Current Refunding Portion and Current Refunding Issue to the extent that the amount of such Current Refunding Portion or Current Refunding Issue does not exceed the outstanding amount of the obligations refunded by such Current Refunding Portion or Current Refunding Issue. No entity has been or will be formed or availed of to avoid the purposes of Section 148(f)(4)(D)(i)(IV).

If, but only if, all of the above requirements are satisfied, check here: [____]

and sign here: _____

(B) General Exception. Notwithstanding the foregoing, the computations and payments of amounts to the United States referred to in IV need not be made to the extent that the Issuer will not thereby fail to comply with any requirements of Section 148(f) and the Instructions based on an opinion of bond counsel.

4.40. Election. The Issue is a Construction Issue. The Issuer hereby elects to apply the 2-year spending exception to the rebate requirements on the basis of actual facts instead of the Issuer's reasonable expectations.

V. OTHER TAX MATTERS

5.10. Not Private Activity Bonds or Pool Bonds. No obligation of the Issue will be a Private Activity Bond or a pooled financing bond (within the meaning of Section 149(f)), based on the following:

(A) Not more than 5% of the Proceeds, if any, directly or indirectly, will be used for a Private Business Use and not more than 5%, if any, of the Debt Service on the Issue, directly or indirectly, will be secured by any interest in property used or to be used for a Private Business Use or payments in respect of such property, or will be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a Private Business Use.

(B) Less than 5% of the Proceeds, if any, will be used to make or finance loans to any Private Person or Governmental Unit other than the Issuer.

(C) The lesser of the Proceeds that are being or will be used for any Private Business Use or the Proceeds with respect to which there are payments or (borrowed money) that are being or will be used for any Private Business Use does not exceed $15,000,000 and none of the Proceeds will be used with respect to an "output facility" (other than a facility for the furnishing of water) within the meaning of Section 141(b)(4).

(D) The Issuer does not expect to sell or otherwise dispose of the Project or any portion thereof during the term of the Issue except for dispositions of property in the normal course at the end of such property's useful life to the Issuer. With respect to tangible personal property, if any, that is part of the Project, the Issuer reasonably expects that:

(1) Dispositions of such tangible personal property, if any, will be in the ordinary course of an established governmental program;

(2) The weighted average maturity of the obligations of the Issue financing such property (treating the obligations of the Issue properly allocable to such personal property as a separate issue for this purpose) will not be greater than 120% of the reasonably expected actual use of such property for governmental purposes;

(3) The fair market value of such property on the date of disposition will not be greater than 25% of its cost;

(4) The property will no longer be suitable for its governmental purposes on the date of disposition; and

(5) The amounts received from any disposition of such property are required to be, and will be, commingled with substantial tax or other governmental revenues and will be spent on governmental programs within 6 months from the date of such deposit and commingling.

5.20. Issue Not Federally Guaranteed. The Issue is not Federally Guaranteed.

5.30. Not Hedge Bonds. At least 85% of the Spendable Proceeds will be used to carry out the governmental purposes of the Issue within three years from the Issuance Date. Not more than 50%, if any, of the Proceeds will be invested in Nonpurpose Investments having a substantially guaranteed Yield for four years or more (including but not limited to any investment contract or fixed yield investment having a maturity of four years or more). The reasonable expectations stated above are not based on and do not take into account (A) any expectations or assumptions as to the occurrence of changes in market interest rates or changes of federal tax law or regulations or rulings thereunder or (B) any prepayments of items other than items that are customarily prepaid.

5.40. Hedge Contracts. The Issuer has not entered into, and does not reasonably expect to enter into, any Hedge with respect to the Issue, or any portion thereof. The Issuer acknowledges that entering into a Hedge with respect to the Issue, or any portion thereof, may change the Yield and that Bond Counsel should be contacted prior to entering into any Hedge with respect to the Issue in order to determine whether payments/receipts pursuant to the Hedge will be taken into account in computing the Yield.

5.50. Internal Revenue Service Information Return. Within the time and on the form prescribed by the Internal Revenue Service under Section 149(e), the Issuer will file with the Internal Revenue Service an Information Return setting forth the required information relating to the Issue. The information reported on that Information Return will be true, correct, and complete to the best of the knowledge and belief of the undersigned.

5.60. Responsibility of Officer.

(A) The officer signing this Certificate is one of the officers of the Issuer responsible for issuing the Issue.

(B) To the best of the knowledge, information, and belief of the undersigned, all expectations stated in this Certificate are the expectations of the Issuer and are reasonable, all facts stated are true, and there are no other existing facts, estimates, or circumstances that would or could materially change the statements made in this Certificate. The certifications and representations made in this Certificate are intended to be relied upon as certifications described in Regulations § 1.148-2(b). The Issuer acknowledges that any change in the facts or expectations from those set forth in this Certificate may result in different requirements or a change in status of the Issue or interest thereon under the Code, and that bond counsel should be contacted if such changes are to occur or have occurred.

Town of Marana

By:_____

Name:_____

Title:_____

List of Attachments

Attachment A -- Definitions for Tax Compliance Certificate

Attachment A-1 -- Rebate Instructions

Attachment A

Definitions for Tax Compliance Certificate of Local Borrower

The following terms, as used in Attachment A and in the Tax Compliance Certificate to which it is attached and in the other Attachments to the Tax Compliance Certificate, have the following meanings unless therein otherwise defined or unless a different meaning is indicated by the context in which the term is used. Capitalized terms used within these definitions that are not defined in Attachment A have the meanings ascribed to them in the Tax Compliance Certificate to which this Attachment A is attached. The word "Issue," in lower case, refers either to the Issue or to another issue of obligations or portion thereof treated as a separate issue for the applicable purposes of Section 148, as the context requires. The word "obligation" or "obligations," in lower case, includes any obligation, whether in the form of bonds, notes, certificates, or any other obligation that is a "bond" within the meaning of Section 150(a)(1). All capitalized terms used in this Certificate include either the singular or the plural. All terms used in this Attachment A or in the Tax Compliance Certificate to which this Attachment A is attached, including terms specifically defined, shall be interpreted in a manner consistent with Sections 103 and 141-150 and the applicable Regulations thereunder except as otherwise specified. All references to Section, unless otherwise noted, refer to the Code.

"Advance Refunding Issue" means any Refunding Issue that is not a Current Refunding Issue.

"Advance Refunding Portion" means that portion of a Multipurpose Issue that constitutes a separate governmental purpose and that would be treated as an Advance Refunding Issue if it had been issued as a separate issue.

"AMT Obligation" means a Tax-Exempt Obligation the interest on which is an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code.

"Available Construction Proceeds" means an amount equal to (a) the sum of (i) the Issue Price of an issue, (ii) Investment Proceeds on that Issue Price, (iii) earnings on any reasonably required reserve or replacement fund allocable to the issue not funded from the Issue Price, and (iv) Investment Proceeds and earnings on (ii) and (iii), (b) reduced by the portions, if any, of the Issue Price of the issue (i) attributable to Pre-Issuance Accrued Interest and earnings thereon, (ii) allocable to the underwriter's discount, (iii) used to pay other Issuance Costs of the issue, and (iv) deposited in a reasonably required reserve or replacement fund allocable to the issue. "Available Construction Proceeds" does not include Investment Proceeds or earnings on a reasonably required reserve or replacement fund allocable to the issue for any period after the earlier of (a) the close of the 2-year period that begins on the Issuance Date or (b) the date the construction of the project financed by the issue is substantially completed, provided, however, that such Investment Proceeds or earnings shall be excluded from "Available Construction Proceeds" if the Issuer has timely elected such exclusion. If an issue is a Multipurpose Issue that includes a New Money Portion that is a Construction Issue, this definition shall be applied by substituting "New Money Portion" for "issue" each place the latter term appears. If an issue or the New Money Portion of a Multipurpose Issue, as applicable, is

not a Construction Issue, and the Issuer makes the bifurcation election under Regulations §1.148-7(j)(1) and Section 148(f)(4)(C)(v) to treat the issue or the New Money Portion as two separate issues consisting of the Construction Portion and the Nonconstruction Portion, this definition shall be applied by substituting "Construction Portion" for "issue" each place the latter term appears.

"Bona Fide Debt Service Fund" means a fund, including a portion of or an account in that fund (or in the case of a fund established for two or more issues, the portion of that fund properly allocable to an issue), or a combination of such funds, accounts or portions that is used primarily to achieve a proper matching of revenues with Debt Service on an issue within each Bond Year and that is depleted at least once each year except for a reasonable carryover amount not to exceed the greater of the earnings thereon for the immediately preceding Bond Year or one-twelfth of the annual Debt Service on the issue for the immediately preceding Bond Year.

"Bond Year" means the annual period relevant to the application of Section 148(f) to an issue, except that the first and last Bond Years may be less than 12 months long. The last day of a Bond Year shall be the close of business on the day preceding the anniversary of the Issuance Date of an issue unless the Issuer selects another date on which to end a Bond Year in the manner permitted by the Code.

"Capital Expenditures" means costs of a type that are properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of Placed in Service) under general federal income tax principles.

"Code" means the Internal Revenue Code of 1986, the Regulations (whether temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section includes any applicable successor section or provision and such applicable Regulations, rulings, announcements, notices, procedures and determinations pertinent to that Section.

"Commingled Fund" means any fund or account of the Issuer that contains both Gross Proceeds of an issue and amounts in excess of $25,000 that are not Gross Proceeds of the issue if the amounts in the fund or account are invested and accounted for collectively, without regard to the source of funds deposited in the fund or account.

"Commingled Investment Proceeds" means Investment Proceeds of an issue (other than Investment Proceeds held in a Refunding Escrow) that are deposited in a Commingled Fund with substantial tax or other revenues from governmental operations of the Issuer and that are reasonably expected to be spent for governmental purposes within 6 months from the date of deposit in the Commingled Fund, using any reasonable accounting assumptions.

"Conduit Borrower" means the obligor on a purpose investment.

"Conduit Financing Issue" means an issue the Proceeds of which are reasonably expected to be used to finance one or more Conduit Loans.

"Conduit Loan" means a purpose investment acquired by the Issuer with Proceeds of a Conduit Financing Issue, thereby effecting a loan to the Conduit Borrower.

"Construction Expenditures" means Capital Expenditures allocable to the cost of real property (including the construction or making of improvements to real property, but excluding acquisitions of interests in land or other existing real property) or constructed personal property within the meaning of Regulations §1.148-7(g).

"Construction Issue" means an issue at least 75% of the Available Construction Proceeds of which are to be used for Construction Expenditures with respect to property that is, or upon completion will be, owned by a Governmental Unit or a 501(c)(3) Organization. If an issue is a Multipurpose Issue that includes a New Money Portion, this definition shall be applied by substituting "New Money Portion" for "Construction Issue" each place the latter term appears. If an election under Section 148(f)(4)(C)(v) and Regulations §1.148-7(j) is made to bifurcate an issue or the New Money Portion of a Multipurpose Issue, this definition shall be applied by substituting "Construction Portion" for "Construction Issue" each place the latter term appears.

"Construction Portion" means that portion of an issue or the New Money Portion of a Multipurpose Issue at least 75% of the Available Construction Proceeds of which are to be used for Construction Expenditures with respect to property that is, or upon completion will be, owned by a Governmental Unit or a 501(c)(3) Organization and that finances 100% of the Construction Expenditures.

"Controlled Group" means a group of entities controlled directly or indirectly by the same entity or group of entities within the meaning of Regulations §1.150-1(e).

"Current Refunding Issue" means a Refunding Issue that is issued not more than 90 days before the last expenditure of any Proceeds of the Refunding Issue for the payment of Debt Service on the Refunded Bonds.

"Current Refunding Portion" means that portion of a Multipurpose Issue that constitutes a separate governmental purpose and that would be treated as a Current Refunding Issue if it had been issued as a separate issue.

"Debt Service" means principal of and interest and any redemption premium on an issue.

"Excess Gross Proceeds" means all Gross Proceeds of an Advance Refunding Issue that exceed an amount equal to 1% of the Sale Proceeds of such Advance Refunding Issue, other than Gross Proceeds allocable to: (a) payment of Debt Service on the Refunded Bonds; (b) payment of Pre-Issuance Accrued Interest on the Advance Refunding Issue and interest on the Advance Refunding Issue that accrues for a period up to the completion date of any capital project financed by the Prior Issue, plus one year; (c) a reasonably required reserve or replacement fund for the

Advance Refunding Issue or Investment Proceeds of such fund; (d) payment of Issuance Costs of the Advance Refunding Issue; (e) payment of administrative costs allocable to repaying the Refunded Bonds, carrying and repaying the Advance Refunding Issue, or investments of the Advance Refunding Issue; (f) Transferred Proceeds allocable to expenditures for the governmental purpose of the Prior Issue (treating for this purpose all unspent Proceeds of the Prior Issue properly allocable to the Refunded Bonds as of the Issuance Date of the Advance Refunding Issue as Transferred Proceeds); (g) interest on purpose investments; (h) Replacement Proceeds in a sinking fund for the Advance Refunding Issue; and (i) fees for a Qualified Guarantee for the Advance Refunding Issue or the Prior Issue. If an Issue is a Multipurpose Issue that includes an Advance Refunding Portion, this definition shall be applied by substituting "Advance Refunding Portion" for "Advance Refunding Issue" each place the latter term appears.

"Federally Guaranteed" means that (a) the payment of Debt Service on an issue, or the payment of principal or interest with respect to any loans made from the Proceeds of the issue, is directly or indirectly guaranteed in whole or in part by the United States or by an agency or instrumentality of the United States, within the meaning of Section 149(b) of the Code, or (b) more than 5% of the Proceeds of an issue will be invested directly or indirectly in federally insured deposits or accounts. The preceding sentence does not apply to (a) Proceeds invested during an initial Temporary Period until such Proceeds are needed to pay costs of the project, (b) investments of a Bona Fide Debt Service Fund, (c) direct purchases from the United States of obligations issued by the United States Treasury, or (d) other investments permitted by Section 149(b) or Regulations §1.149(b)-1(b).

"501(c)(3) Organization" means an organization described in Section 501(c)(3) and exempt from tax under Section 501(a).

"Fixed Yield Issue" means an issue of obligations the Yield on which is fixed and determinable on the Issuance Date.

"Governmental Unit" means a state, territory or possession of the United States, the District of Columbia, or any political subdivision thereof referred to as a "State or local governmental unit" in Regulations §1.103-1(a). "Governmental Unit" does not include the United States or any agency or instrumentality of the United States.

"Gross Proceeds" means Proceeds and Replacement Proceeds of an issue.

"Hedge" means a contract entered into by the Issuer or the Conduit Borrower primarily to modify the Issuer's or the Conduit Borrower's risk of interest rate changes with respect to an obligation (e.g., an interest rate swap, an interest rate cap, a futures contract, a forward contract or an option).

"Higher Yielding Investments" means any Investment Property that produces a Yield that (a) in the case of Investment Property allocable to Replacement Proceeds of an issue and Investment Property in a Refunding Escrow, is more than one thousandth of one percentage point (.00001) higher than the Yield on the applicable issue, and (b) for all other purposes is more than one-eighth of one percentage point (.00125) higher than the Yield on the issue.

"Investment Proceeds" means any amounts actually or constructively received from investing Proceeds of an issue in Investment Property.

"Investment Property" means investment property within the meaning of Sections 148(b)(2) and 148(b)(3), including any security (within the meaning of Section 165(g)(2)(A) or (B)), any obligation, any annuity contract and any other investment-type property (including certain residential rental property for family units as described in Section 148(b)(2)(E) in the case of any bond other than a Private Activity Bond). Investment Property includes a Tax-Exempt Obligation that is a "specified private activity bond" as defined in Section 57(a)(5)(C), but does not include other Tax-Exempt Obligations.

"Issuance Costs" means costs to the extent incurred in connection with, and allocable to, the issuance of an issue, and includes underwriter's compensation withheld from the Issue Price, counsel fees, financial advisory fees, rating agency fees, trustee fees, paying agent fees, bond registrar, certification and authentication fees, accounting fees, printing costs for bonds and offering documents, public approval process costs, engineering and feasibility study costs, guarantee fees other than for a Qualified Guarantee and similar costs, but does not include fees charged by the Issuer.

"Issuance Date" means the date of physical delivery of an issue by the Issuer in exchange for the purchase price of the issue.

"Issue Price" means in the circumstances applicable to an issue:

(1) Public Offering. In the case of obligations actually offered to the general public in a bona fide public offering at the initial offering price for each maturity set forth in the certificate of the underwriter or placement agent attached to the Tax Compliance Certificate of the Issuer, the aggregate of the initial offering price for each maturity (including any Pre-Issuance Accrued Interest and original issue premium, but excluding any original issue discount), which price is not more than the fair market value thereof as of the Sale Date, and at which initial offering price not less than 10% of the principal amount of each maturity, as of the Sale Date, was sold or reasonably expected to be sold (other than to bond houses, brokers or other intermediaries). In the case of publicly offered obligations that are not described in the preceding sentence, Issue Price means the aggregate of the initial offering price to the public of each maturity set forth in the certificate of the underwriter or placement agent attached to the Tax Compliance Certificate of the Issuer, which price is not more than the fair market value thereof as of the Sale Date, and at which initial offering price not less than 10% of the principal amount of each maturity was sold to the public.

(2) Private Placement. In the case of obligations sold by private placement, the aggregate of the prices (including any Pre-Issuance Accrued Interest and original issue premium, but excluding any original issue discount) paid to the

Issuer by the first purchaser(s) (other than bond houses, brokers or other intermediaries).

"Minor Portion" means an amount equal to the lesser of $100,000 or 5% of the Sale Proceeds of an issue.

"Multipurpose Issue" means an issue the bonds of which are allocable to two or more separate governmental purposes within the meaning of Regulations §1.148-9(h).

"Net Proceeds" means the Sale Proceeds of an issue less the portion thereof, if any, deposited in a reasonably required reserve or replacement fund for the issue.

"Net Sale Proceeds" means the Sale Proceeds of an issue less the portion thereof, if any, deposited in a reasonably required reserve or replacement fund for the issue and the portion invested as a part of a Minor Portion for the issue.

"New Money Issue" means an issue that is not a Refunding Issue.

"New Money Portion" means that portion of a Multipurpose Issue other than the Refunding Portion.

"Nonpurpose Investments" means any Investment Property that is acquired with Gross Proceeds as an investment and not in carrying out any governmental purpose of an issue. "Nonpurpose Investments" does not include any investment that is not regarded as "investment property" or a "nonpurpose investment" for the particular purposes of Section 148 (such as certain investments in U.S. Treasury obligations in the State and Local Government Series and certain temporary investments), but does include any other investment that is a "nonpurpose investment" within the applicable meaning of Section 148.

"Placed in Service" means the date on which, based on all the facts and circumstances, a facility has reached a degree of completion that would permit its operation at substantially its design level and the facility is, in fact, in operation at such level.

"Pre-Issuance Accrued Interest" means interest on an obligation that accrued for a period not greater than one year before its Issuance Date and that will be paid within one year after such Issuance Date.

"Preliminary Expenditures" means any Capital Expenditures that are "preliminary expenditures" within the meaning of Regulations §1.150-2(f)(2), i.e., architectural, engineering, surveying, soil testing, reimbursement bond issuance, and similar costs that are incurred prior to commencement of acquisition, construction, or rehabilitation of a project other than land acquisition, site preparation, and similar costs incident to commencement of construction. The aggregate amount of Preliminary Expenditures may not exceed 20% of the aggregate Issue Price of the issue or issues that financed or are reasonably expected to finance the project for which such Preliminary Expenditures are or were incurred.

"Prior Issue" means an issue of obligations all or a portion of the Debt Service on which is paid or provided for with Proceeds of a Refunding Issue. The Prior Issue may be a Refunding Issue.

"Private Activity Bond" means (a) obligations of an issue more than 10% of the Proceeds of which, directly or indirectly, are or are to be used for a Private Business Use and more than 10% of the Debt Service on which, directly or indirectly, is or is to be paid from or secured by payments with respect to property, or secured by property, used for a Private Business Use, or (b) obligations of an issue, the Proceeds of which are or are to be used to make or finance loans to any Private Person that, in the aggregate, exceed the lesser of 5% of such Proceeds or $5,000,000. In the event of Unrelated or Disproportionate Use, the tests in (a) shall be applied by substituting 5% for 10% each place the latter term is used.

"Private Business Use" means use (directly or indirectly) in a trade or business carried on by any Private Person other than use as a member of, and on the same basis as, the general public. Any activity carried on by a Private Person (other than a natural person) shall be treated as a trade or business. In the case of a Qualified 501(c)(3) Bond, Private Business Use excludes use by a 501(c)(3) Organization that is not an unrelated trade or business activity by such 501(c)(3) Organization within the meaning of Section 513(a).

"Private Person" means any natural person or any artificial person, including a corporation, partnership, trust or other entity, other than a Governmental Unit. "Private Person" includes the United States and any agency or instrumentality of the United States.

"Proceeds" means any Sale Proceeds, Investment Proceeds, and Transferred Proceeds of an issue. "Proceeds" does not include Replacement Proceeds.

"Qualified Administrative Costs" means reasonable direct administrative costs (other than carrying costs) such as separately stated brokerage or selling commissions, but not legal and accounting fees, recordkeeping, custody and similar costs. General overhead costs and similar indirect costs of the Issuer such as employee salaries and office expenses and costs associated with computing the Rebate Amount are not Qualified Administrative Costs.

"Qualified 501(c)(3) Bonds" means an issue of obligations that satisfies the requirements of Section 145(a).

"Qualified Guarantee" means any guarantee of an obligation that constitutes a "qualified guarantee" within the meaning of Regulations §1.148-4(f).

"Qualified Hedge" means a Hedge that is a "qualified hedge" within the meaning of Regulations §1.148-4(h)(2).

"Rebate Amount" means the excess of the future value, as of any date, of all receipts on Nonpurpose Investments acquired with Gross Proceeds of an issue over the future value, as of that date, of all payments on those Nonpurpose Investments, computed in accordance with Section 148(f) and Regulations §1.148-3.

"Refunded Bonds" means obligations of a Prior Issue the Debt Service on which is or is to be paid from Proceeds of a Refunding Issue.

"Refunding Bonds" means obligations of a Refunding Issue.

"Refunding Issue" means an issue the Proceeds of which are or are to be used to pay Debt Service on Refunded Bonds and includes Issuance Costs, Pre-Issuance Accrued Interest or permitted capitalized interest, a reasonably required reserve or replacement fund and similar costs of the Refunding Issue.

"Refunding Escrow" means one or more funds established as part of a single transaction, or a series of related transactions, containing Proceeds of a Refunding Issue and any other amounts to be used to pay Debt Service on Refunded Bonds of one or more issues.

"Refunding Portion" means that portion of a Multipurpose Issue the Proceeds of which are, or are to be, used to pay Debt Service on Refunded Bonds and includes Issuance Costs, Pre-Issuance Accrued Interest or permitted capitalized interest, a reasonably required reserve or replacement fund and similar costs properly allocable to the Refunding Portion.

"Regulations" or "Reg." means Treasury Regulations.

"Reimbursement Allocation" means an allocation of the Proceeds of an issue for the Reimbursement of Prior Capital Expenditures, other than Preliminary Expenditures, that meets each of the following requirements: (a) is evidenced on the books or records of the Issuer maintained with respect to the issue, (b) the allocation entry identifies either actual prior Capital Expenditures, or the fund or account from which the prior Capital Expenditures were paid, and (c) evidences the Issuer's use of Proceeds of the issue to reimburse a Capital Expenditure for a governmental purpose that was originally paid from a source other than the Proceeds of the issue.

"Reimbursement of Prior Capital Expenditures" means a Reimbursement Allocation of Proceeds of the Issue to a Capital Expenditure paid prior to the Issuance Date of such Issue, that satisfies the following requirements: (a) the Capital Expenditure was paid after March 1, 1992; (b) prior to, or within 60 days after, payment of the Capital Expenditure (except Preliminary Expenditures), the Issuer adopted an official intent for the Capital Expenditure that satisfies Regulations §1.150-2(e); and (c) except for Preliminary Expenditures, the Reimbursement Allocation occurs or will occur within 18 months after the later of the date the Capital Expenditure was paid or the date the project resulting from such Capital Expenditure was Placed in Service or abandoned, but in no event more than 3 years after the Capital Expenditure was paid.

"Related Party" means, in reference to a Governmental Unit or 501(c)(3) Organization, any member of the same Controlled Group and, in reference to any person that is not a Governmental Unit or 501(c)(3) Organization, a "related person" as defined in Section 144(a)(3) of the Code.

"Replacement Proceeds" means, with respect to an issue, amounts (including any investment income, but excluding any Proceeds of any issue) replaced by Proceeds of that issue within the meaning of Section 148(a)(2). "Replacement Proceeds" includes amounts, other than Proceeds, held in a sinking fund, pledged fund or reserve or replacement fund for an issue.

"Sale Date" means, with respect to an issue, the first date on which there is a binding contract in writing with the Issuer for the sale and purchase of an issue (or of respective obligations of the issue if sold by the Issuer on different dates) on specific terms that are not later modified or adjusted in any material respect.

"Sale Proceeds" means that portion of the Issue Price actually or constructively received by the Issuer upon the sale or other disposition of an issue, including any underwriter's compensation withheld from the Issue Price, but excluding Pre-Issuance Accrued Interest.

"Spendable Proceeds" means the Net Sale Proceeds of an issue.

"Tax-Exempt Obligation" means any obligation or issue of obligations (including bonds, notes and lease obligations treated for federal income tax purposes as evidences of indebtedness) the interest on which is excluded from gross income for federal income tax purposes within the meaning of Section 150, and includes any obligation or any investment treated as a "tax-exempt bond" for the applicable purpose of Section 148.

"Tax-Exempt Organization" means a Governmental Unit or a 501(c)(3) Organization.

"Temporary Period" means the period of time, as set forth in the Tax Compliance Certificate, applicable to particular categories of Proceeds of an issue during which such category of Proceeds may be invested in Higher Yielding Investments without the issue being treated as arbitrage bonds under Section 148.

"Transferred Proceeds" means that portion of the Proceeds of an issue (including any Transferred Proceeds of that issue) that remains unexpended at the time that any portion of the principal of the Refunded Bonds of that issue is discharged with the Proceeds of a Refunding Issue and that thereupon becomes Proceeds of the Refunding Issue as provided in Regulations §1.148-9(b). "Transferred Proceeds" does not include any Replacement Proceeds.

"Unrelated or Disproportionate Use" means Private Business Use that is not related to or is disproportionate to use by a Governmental Unit within the meaning of Section 141(b)(3) and Regulations §1.141-9.

"Variable Yield Issue" means any Issue that is not a Fixed Yield Issue.

"Working Capital Expenditures" means any costs of a type that do not constitute Capital Expenditures, including current operating expenses.

"Yield" has the meaning assigned to it for purposes of Section 148 of the Code, and means that discount rate (stated as an annual percentage) that, when used in computing the present worth of all applicable unconditionally payable payments of Debt Service, all payments for a Qualified Guarantee, if any, and all payments and receipts with respect to a Qualified Hedge, if any, paid and to be paid with respect to an obligation (paid and to be paid during and attributable to the Yield Period in the case of a Variable Yield Issue), produces an amount equal to (a) the Issue Price in the case of a Fixed Yield Issue or the present value of the Issue Price at the commencement of the applicable Yield Period in the case of a Variable Yield Issue, or (b) the purchase price for yield purposes in the case of Investment Property, all subject to the applicable methods of computation provided for under Section 148, including variations from the foregoing. The Yield on Investment Property in which Proceeds or Replacement Proceeds of an issue are invested is computed on a basis consistent with the computation of Yield on that issue, including the same compounding interval of not more than one year selected by the Issuer.

"Yield Period" means, in the case of the first Yield Period, the period that commences on the Issuance Date and ends at the close of business on the first Computation Date and, in the case of each succeeding Yield Period, the period that begins immediately after the end of the immediately preceding Yield Period and ends at the close of business on the next succeeding Computation Date.

The terms "bond", "obligation", "reasonably required reserve or replacement fund", "reserve or replacement fund", "loan", "sinking fund", "purpose investment", "same plan of financing", "other replacement proceeds", and other terms relating to Code provisions used but not defined in this Certificate shall have the meanings given to them for purposes of Sections 103 and 141 to 150 unless the context indicates another meaning.

(End of Attachment A)

ATTACHMENT A-1
to
Tax Compliance Certificate of Local Borrower

INSTRUCTIONS FOR COMPLIANCE WITH REBATE REQUIREMENTS OF SECTION 148(f) OF THE CODE.

The Issuer covenanted in the Loan Agreement and Tax Compliance Certificate to comply with the arbitrage rebate requirement of Section 148(f) of the Code. These Instructions provide guidance for that compliance, including the spending exceptions that free the Issue from all or part of the rebate requirements.

PART I: GENERAL

SECTION 1.01. REBATE GENERALLY.

The Rebate Amount[1] with respect to the Issue must be paid (rebated) to the United States to prevent the bonds of the Issue from being arbitrage bonds, the interest on which is subject to federal income tax. In general, the Rebate Amount is the amount by which the actual earnings on Nonpurpose Investments purchased (or deemed to have been purchased) with Gross Proceeds of the Issue exceed the amount of earnings that would have been received if those Nonpurpose Investments had a Yield equal to the Yield on the Issue.[2]

Stated differently, the Rebate Amount for the Issue as of any date is the excess of the Future Value, as of that date, of all Receipts on Nonpurpose Investments over the Future Value, as of that date, of all Payments on Nonpurpose Investments, computed using the Yield on the Issue as the Future Value rate.[3]

If the Issue is a Fixed Yield Issue, the Yield on the Issue generally is the Yield to maturity, taking into account mandatory redemptions prior to maturity. If the Issue is a Variable Yield Issue, the Yield on the Issue is computed separately for each Yield Period selected by the Issuer.

SECTION 1.02. SPECIAL DEFINITIONS.

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1. Capitalized terms that are not defined in these Instructions are defined in Attachment A to the Tax Compliance Certificate of the Issuer.

2. Amounts earned on the Bona Fide Debt Service Fund for the Issue are not taken into account in determining the Rebate Amount since none of the obligations of the Issue are Private Activity Bonds, the rates of interest on the Issue do not vary and the average maturity of the Issue is at least 5 years.

3. The scope of these Instructions does not permit a detailed description of the computation of the Rebate Amount with respect to the Issue. If you need assistance in computing the Rebate Amount on the Issue, please contact your bond counsel.

For purposes of these Instructions, the following terms shall have the following meanings.

"Available Construction Proceeds" means an amount equal to (a) the sum of (i) the Issue Price of the issue, (ii) Investment Proceeds on that Issue Price, (iii) earnings on any reasonably required reserve or replacement fund allocated to the issue not funded from the Issue Price, and (iv) Investment Proceeds and earnings on (ii) and (iii), (b) reduced by the portions, if any, of the Issue Price of the issue (i) attributable to Pre-Issuance Accrued Interest and earnings thereon, (ii) allocated to the Underwriter's discount, (iii) used to pay other Issuance Costs of the issue, and (iv) deposited in a reasonably required reserve or replacement fund allocated to the issue. Available Construction Proceeds do not include Investment Proceeds or earnings on a reasonably required reserve or replacement fund allocated to the issue for any period after the earlier of (a) the close of the 2-year period that begins on the Issuance Date or (b) the date the construction of the Projects financed by the issue is substantially completed. If the issue consists of a New Money Portion and a Refunding Portion and the New Money Portion is a Construction Issue, this definition shall be applied by substituting "New Money Portion" for "issue" each place the latter term appears. If the issue or the New Money Portion, as applicable, is not a Construction Issue, and the Issuer makes the election under Regulations §1.148-7(j)(1) and Section 148(f)(4)(C)(v) to treat the issue or the New Money Portion as two separate issues consisting of the Construction Portion and the Nonconstruction Portion, this definition shall be applied by substituting "Construction Portion" for "issue" each place the latter term appears.

"Bifurcated Issue" means a New Money Issue or the New Money Portion of a Multipurpose Issue that the Issuer, pursuant to Section 148(f)(4)(C)(v) and Regulations §1.148-7(j), has elected in its Tax Compliance Certificate to bifurcate into a Construction Portion and a Nonconstruction Portion.

"Bond Counsel's Opinion" means an opinion or opinions of a nationally recognized bond counsel firm whose opinion is given with respect to the Issue when issued, or its successors or other nationally recognized bond counsel appointed by the Issuer.

"Bond Year" means the annual period relevant to the application of Section 148(f) to the issue, except that the first and last Bond Years may be less than 12 months long. The last day of a Bond Year shall be the close of business on the day preceding the anniversary of the Issuance Date of the issue unless the Issuer selects another date on which to end a Bond Year in the manner permitted by the Code.

"Computation Date" means each date on which the Rebate Amount for an issue is required to be computed under Regulations §1.148-3(e). In the case of a Fixed Yield Issue, the first Computation Date shall not be later than 5 years after the Issuance Date of the issue. Subsequent Computation Dates shall be not later than 5 years after the immediately preceding Computation Date for which an installment payment of the Rebate Amount was paid. In the case of a Variable Yield Issue, the first Computation Date shall be the last day of any Bond Year irrevocably selected by the Issuer ending on or before the fifth anniversary of the Issuance Date of such issue and

subsequent Computation Dates shall be the last day of each Bond Year thereafter or each fifth Bond Year thereafter, whichever is irrevocably selected by the Issuer after the first date on which any portion of the Rebate Amount is required to be paid to the United States. The final Computation Date is the date an issue is retired.

"Construction Expenditures" means Capital Expenditures allocable to the cost of real property (including the construction or making of improvements to real property, but excluding acquisitions of interests in land or other existing real property) or constructed personal property within the meaning of Regulations §1.148-7(g).

"Construction Issue" means an issue at least 75 percent of the Available Construction Proceeds of which are to be used for Construction Expenditures with respect to property which is or is to be owned by a Governmental Unit or a 501(c)(3) Organization. If an election has been made in the Issuer's Tax Compliance Certificate to bifurcate an issue or the New Money Portion, the Construction Portion (i.e., that portion of the issue or the New Money Portion which satisfies the 75 percent test stated in the preceding sentence and which finances 100% of the Construction Expenditures) is treated as the Construction Issue and the balance of the issue or the New Money Portion is treated as the Nonconstruction Portion.

"Fixed Yield Issue" means an issue of obligations the Yield on which is fixed and determinable on the Issuance Date.

"Future Value" means the value of a Payment or Receipt at the end of a period determined using the economic accrual method as the value of that Payment or Receipt when it is paid or received (or treated as paid or received), plus interest assumed to be earned and compounded over the period at a rate equal to the Yield on the Issue, using the same compounding interval and financial conventions that were used to compute that Yield.

"Guaranteed Investment Contract" means any Nonpurpose Investment that has specifically negotiated withdrawal or retirement provisions and a specifically negotiated interest rate and any agreement to supply investments on two or more future dates (e.g., a forward supply contract).

"Multipurpose Issue" means an issue that consists of a Refunding Portion and a New Money Portion.

"Payment" means payments actually or constructively made to acquire Nonpurpose Investments, as specified in Regulations §1.148-3(d)(1)i) through (v).

"Qualified Administrative Costs" means the reasonable, direct administrative costs, other than carrying costs, of purchasing or selling Nonpurpose Investments such as separately stated brokerage or selling commissions. Qualified Administrative Costs do not include legal and accounting fees, recordkeeping, custody, and similar costs, general overhead costs and similar indirect costs of the Issuer such as employee salaries and office expenses and costs associated with computing the Rebate Amount. In general, Qualified Administrative Costs are not reasonable unless they are comparable to administrative costs that would be charged for the same investment or

a reasonably comparable investment if acquired with a source of funds other than Gross Proceeds of Tax-Exempt Obligations.

"Reasonable Retainage" means an amount, not to exceed 5% of the Net Sale Proceeds of the Issue, that is retained for reasonable business purposes relating to the property financed with Proceeds of the Issue. For example, Reasonable Retainage may include a retention to ensure or promote compliance with a construction contract in circumstances in which the retained amount is not yet payable, or in which the Issuer reasonably determines that a dispute exists regarding completion or payment.

"Rebate Analyst" means an independent individual, firm or entity experienced in the computation of the Rebate Amount pursuant to Section 148(f) of the Code.

"Receipt" means amounts actually or constructively received from Nonpurpose Investments as specified in Regulations §1.148-3(d)(2)(i) through (iii).

"Variable Yield Issue" means any issue that is not a Fixed Yield Issue.

"Yield Period" means, in the case of the first Yield Period, the period that commences on the Issuance Date and ends at the close of business on the first Computation Date and, in the case of each succeeding Yield Period, the period that begins immediately after the end of the immediately preceding Yield Period and ends at the close of business on the next succeeding Computation Date.

PART II: EXCEPTIONS TO REBATE

SECTION 2.01. SPENDING EXCEPTIONS.

The rebate requirements with respect to the Issue are deemed to have been satisfied if any one of three spending exceptions (the 6-Month, the 18-Month, or the 2-Year Spending Exception, collectively, the "Spending Exceptions") is satisfied. The Spending Exceptions are each independent exceptions. The Issue need not meet the requirements of any other exception in order to use any one of the three exceptions. For example, a Construction Issue may qualify for the 6-Month Spending Exception or the 18-Month Spending Exception even though the Issuer makes one or more elections under the 2-Year Exception with respect to the Issue.

The following rules apply for purposes of all of the Spending Exceptions except as otherwise noted.

Refunding Issues. The only spending exception available for a Refunding Issue[4] is the 6-Month Spending Exception.

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4. For purposes of these Instructions, references to "Refunding Issue" include the Refunding Portion of a Multipurpose Issue.

Special Transferred Proceeds Rules. In applying the Spending Exceptions to a Refunding Issue, unspent Proceeds of the Prior Issue that become Transferred Proceeds of the Refunding Issue are ignored. If the Prior Issue satisfies one of the rebate Spending Exceptions, the Proceeds of the Prior Issue that are excepted from rebate under that exception are not subject to rebate either as Proceeds of the Prior Issue or as Transferred Proceeds of the Refunding Issue.

However, if the Prior Issue does not satisfy any of the Spending Exceptions and is not otherwise exempt from rebate, the Transferred Proceeds from the Prior Issue will be subject to rebate, even if the Refunding Issue satisfies the 6-Month Spending Exception. The Rebate Amount will be calculated on the Transferred Proceeds on the basis of the Yield of the Prior Issue up to each transfer date and on the basis of the Yield of the Refunding Issue after each transfer date.

Application of Spending Exceptions to a Multipurpose Issue. If the Issue is a Multipurpose Issue, the Refunding Portion and the New Money Portion are treated for purposes of the rebate Spending Exceptions as separate issues. Thus, the Refunding Portion is eligible to use only the 6-Month Spending Exception. The New Money Portion is eligible to use any of the three Spending Exceptions.

Expenditures for Governmental Purposes of the Issue. Each of the spending exceptions requires that expenditures of Gross Proceeds be for the governmental purposes of the Issue. These purposes include payment of interest (but not principal) on the Issue.

SECTION 2.02. 6-MONTH SPENDING EXCEPTION.

The Issue will be treated as satisfying the rebate requirements if all of the Gross Proceeds of the Issue are allocated to expenditures for the governmental purposes of the Issue within the 6-month period beginning on the Issuance Date and the Rebate Amount, if any, with respect to earnings on amounts deposited in a reasonably required reserve or replacement fund or a Bona Fide Debt Service Fund if and to the extent that such Fund is subject to rebate (see footnote 3) is timely paid to the United States. If no bond of the Issue is a Private Activity Bond (other than a Qualified 501(c)(3) Bond) or a tax or revenue anticipation bond, the 6-month period is extended for an additional 6 months if the unexpended Gross Proceeds of the Issue at the end of the 6-month period do not exceed the lesser of 5% of the Proceeds of the Issue or $100,000.

For purposes of the 6-Month Spending Exception, Gross Proceeds required to be spent within 6 months do not include amounts in a reasonably required reserve or replacement fund for the Issue or in a Bona Fide Debt Service Fund for the Issue.

SECTION 2.03. 18-MONTH SPENDING EXCEPTION.

The Issue (or the New Money Portion if the Issue is a Multipurpose Issue) is treated as satisfying the rebate requirement if the conditions set forth in (A), (B) and (C) are satisfied.

(A) All of the Gross Proceeds of the Issue (excluding amounts in a reasonably required reserve or replacement fund for the Issue or in a Bona Fide Debt Service Fund for the Issue) are allocated to expenditures for the governmental purposes of the Issue in accordance with the following schedule, measured from the Issuance Date:

(1) at least 15% within 6 months;

(2) at least 60% within 12 months; and

(3) 100% within 18 months, subject to the Reasonable Retainage exception described below.

(B) The Rebate Amount, if any, with respect to earnings on amounts deposited in a reasonably required reserve or replacement fund or in a Bona Fide Debt Service Fund for the Issue, to the extent such Fund is subject to rebate (see footnote 3), is timely paid to the United States. And,

(C) The Gross Proceeds of the Issue qualify for the initial 3-year Temporary Period.

If the only unspent Gross Proceeds at the end of the 18th month are Reasonable Retainage, the requirement that 100% of the Gross Proceeds be spent by the end of the 18th month is treated as met if the Reasonable Retainage, and all earnings thereon, are spent for the governmental purposes of the Issue within 30 months of the Issuance Date.

For purposes of determining whether the spend-down requirements have been met as of the end of each of the first two spending periods, the amount of Investment Proceeds that the Issuer reasonably expects as of the Issuance Date to earn on the Sale Proceeds and Investment Proceeds of the Issue during the 18-month period are included in Gross Proceeds of the Issue. The final spend-down requirement includes actual Investment Proceeds for the entire 18 months.

The 18-Month Spending Exception does not apply to the Issue (or the New Money Portion, as applicable) if any portion of the Issue (or New Money Portion) is treated as meeting the rebate requirement under the 2-Year Spending Exception discussed below. This rule prohibits use of the 18-Month Spending Exception for the Nonconstruction Portion of a Bifurcated Issue. The only Spending Exception available for the Nonconstruction Portion of a Bifurcated Issue is the 6-Month Spending Exception.

SECTION 2.04. 2-YEAR SPENDING EXCEPTION FOR CERTAIN CONSTRUCTION ISSUES.

(A) In general. A Construction Issue no bond of which is a Private Activity Bond (other than a Qualified 501(c)(3) Bond or a Bond that finances property to be owned by a Governmental Unit or a 501(c)(3) Organization) is treated as satisfying the rebate requirement if the Available Construction Proceeds of the Issue are allocated to expenditures for the governmental purposes of the Issue in accordance with the following schedule, measured from the Issuance Date:

(1) at least 10% within 6 months;

(2) at least 45% within 1 year;

(3) at least 75% within 18 months; and

(4) 100% within 2 years, subject to the Reasonable Retainage exception described below.

Amounts in a Bona Fide Debt Service Fund or a reasonably required reserve or replacement fund for the Issue are not treated as Gross Proceeds for purposes of the expenditure requirements. However, unless the Issuer has elected otherwise in the Tax Compliance Certificate, earnings on amounts in a reasonably required reserve or replacement fund for the Issue are treated as Available Construction Funds during the 2-year period and therefore must be allocated to expenditures for the governmental purposes of the Issue.

If the Issuer elected in the Tax Compliance Certificate to exclude from Available Construction Proceeds the Investment Proceeds or earnings on a reasonably required reserve or replacement fund for the Issue during the 2-year spend-down period, the Rebate Amount, if any, with respect to such Investment Proceeds or earnings from the Issuance Date must be timely paid to the United States. If the election is not made, the Rebate Amount, if any, with respect to such Investment Proceeds or earnings after the earlier of the date construction is substantially completed or 2 years after the Issuance Date must be timely paid to the United States. The Rebate Amount, if any, with respect to earnings on amounts in a Bona Fide Debt Service Fund must be timely paid to the extent such Fund is subject to the rebate requirements (see footnote 3).

The Issue does not fail to satisfy the spending requirement for the fourth spend-down period (i.e., 100% within 2 years of the Issuance Date) if the only unspent Available Construction Proceeds are amounts for Reasonable Retainage if such amounts (together with all earnings on such amounts) are allocated to expenditures within 3 years of the Issuance Date.

For purposes of determining whether the spend-down requirements have been met as of the end of each of the first 3 spend-down periods, Available Construction Proceeds include the amount of Investment Proceeds or earnings that the Issuer reasonably expected as of the Issuance Date to earn during the 2-year period. For purposes of satisfying the final spend-down requirement,

Available Construction Proceeds include actual Investment Proceeds or earnings from the Issuance Date through the end of the 2-year period.

Available Construction Proceeds do not include Gross Proceeds used to pay Issuance Costs financed by the Issue, but do include earnings on such Proceeds. Thus, an expenditure of Gross Proceeds to pay Issuance Costs does not count toward meeting the spend-down requirements, but expenditures of earnings on such Gross Proceeds to pay Issuance Costs do count.

(B) 1½% penalty in lieu of rebate for Construction Issues. If the Issuer elected in the Tax Compliance Certificate for a Construction Issue, or for the Construction Portion of a Bifurcated Issue, to pay a 1½% penalty in lieu of the Rebate Amount on Available Construction Proceeds in the event that the Construction Issue fails to satisfy any of the spend-down requirements, the 1½% penalty is calculated separately for each spend-down period, including each semi-annual period after the end of the fourth spend-down period until all Available Construction Proceeds have been spent. The penalty is equal to 0.015 times the underexpended Proceeds as of the end of the applicable spend-down period. The fact that no arbitrage is in fact earned during such spend-down period is not relevant. The Rebate Amount with respect to Gross Proceeds other than Available Construction Proceeds (e.g., amounts in a reasonably required reserve or replacement fund or in a Bona Fide Debt Service Fund, to the extent subject to rebate (see footnote 3)) must be timely paid.

PART III: COMPUTATION AND PAYMENT.

SECTION 3.01. COMPUTATION AND PAYMENT OF REBATE AMOUNT.

If none of the Spending Exceptions described above is satisfied (and if the 1-1/2% penalty election for a Construction Issue or the Construction Portion of a Bifurcated Issue has not been made), then within 45 days after each Computation Date, the Issuer shall compute, or cause to be computed, the Rebate Amount as of such Computation Date. The first Computation Date is a date selected by the Issuer, but shall be not later than 5 years after the Issuance Date. Each subsequent Computation Date shall end 5 years after the previous Computation Date except that, in a Variable Yield Issue, the Issuer may select annual Yield Periods. The final Computation Date shall be the date the last obligation of the Issue matures or is finally discharged.

Within 60 days after each Computation Date (except the final Computation Date), the Issuer shall pay to the United States not less than 90% of the Rebate Amount, if any, computed as of such Computation Date. Within 60 days after the final Computation Date, the Issuer shall pay to the United States 100% of the Rebate Amount, if any, computed as of the final Computation Date. In computing the Rebate Amount, a computation credit of $1,000 may be taken into account on the last day of each Bond Year to the Computation Date during which there are unspent Gross Proceeds that are subject to the rebate requirement, and on the final maturity date.

If the operative documents pertaining to the Issue establish a Rebate Fund and require the computation of the Rebate Amount at the end of each Bond Year, the Issuer shall calculate, or cause to be calculated, within 45 days after the end of each Bond Year the Rebate Amount, taking into account the computation credit of $1,000 for each Bond Year. Within 50 days after the end of

each Bond Year, if the Rebate Amount is positive, the Issuer shall deposit in the Rebate Fund such amount as will cause the amount on deposit therein to equal the Rebate Amount, and may withdraw any amount on deposit in the Rebate Fund in excess of the Rebate Amount. Payments of the Rebate Amount to the Internal Revenue Service on a Computation Date shall be made first from amounts on deposit in the Rebate Fund and second from other amounts specified in the operative documents.

Each payment of the Rebate Amount or portion thereof shall be payable to the Internal Revenue Service and shall be made to the Internal Revenue Service Center, Ogden, UT 84201 by certified mail. Each payment shall be accompanied by Internal Revenue Service Form 8038-T and any other form or forms required to be submitted with such remittance.

SECTION 3.02. BOOKS AND RECORDS.

(A) The Issuer or Trustee, as applicable, shall keep proper books of record and accounts containing complete and correct entries of all transactions relating to the receipt, investment, disbursement, allocation and application of the Gross Proceeds of the Issue. Such records shall specify the account or fund to which each Nonpurpose Investment (or portion thereof) held by the Issuer or Trustee is to be allocated and shall set forth as to each Nonpurpose Investment (1) its purchase price, (2) identifying information, including par amount, interest rate, and payments dates, (3) the amount received at maturity or its sales price, as the case may be, including accrued interest, (4) the amounts and dates of any payments made with respect thereto, and (5) the dates of acquisition and disposition or maturity.

The Issuer, Trustee, or Rebate Analyst, as applicable, shall retain the records of all calculations and payments of the Rebate Amount until six years after the retirement of the last obligation that is a part of the Issue.

SECTION 3.03. FAIR MARKET VALUE.

No Nonpurpose Investment shall be acquired for an amount in excess of its fair market value. No Nonpurpose Investment shall be sold or otherwise disposed of for an amount less than its fair market value.

The fair market value of any Nonpurpose Investment shall be the price at which a willing buyer would purchase the Nonpurpose Investment from a willing seller in an arms-length transaction. Fair market value generally is determined on the date on which a contract to purchase or sell the Nonpurpose Investment becomes binding (i.e., the trade date rather than the settlement date). Except as otherwise provided in this Section, a Nonpurpose Investment that is not of a type traded on an established securities market (within the meaning of Section 1273 of the Code) is rebuttably presumed to be acquired or disposed of for a price that is not equal to its fair market value.

(A) Obligations purchased directly from the Treasury. The fair market value of a United States Treasury obligation that is purchased directly from the United States Treasury is its purchase price.

(B) Safe harbor for Guaranteed Investment Contracts. The purchase price of a Guaranteed Investment Contract shall be treated as its fair market value on the purchase date if all the following conditions are met:

(1) The Issuer or broker makes a bona fide solicitation for a specified Guaranteed Investment Contract and receives at least three bona fide bids from reasonably competitive providers (of Guaranteed Investment Contracts) that have no material financial interest in the Issue.

(2) The Issuer purchases the highest-yielding Guaranteed Investment Contract for which a qualifying bid is made (determined net of broker's fees);

(3) The Yield on the Guaranteed Investment Contract (determined net of broker's fees) is not less than the Yield then available from the provider on reasonably comparable Guaranteed Investment Contracts, if any, offered to other persons from a source of funds other than Gross Proceeds of Tax-Exempt Obligations;

(4) The determination of the terms of the Guaranteed Investment Contract takes into account as a significant factor the Issuer's reasonably expected drawdown schedule for the amounts to be invested, exclusive of amounts deposited in a Bona Fide Debt Service Fund and a reasonably required reserve or replacement fund;

(5) The terms of the Guaranteed Investment Contract, including collateral security requirements, are reasonable; and

(6) The obligor on the Guaranteed Investment Contract certifies the administrative costs that it is paying (or expects to pay) to third parties in connection with the Guaranteed Investment Contract.

(C) Safe harbor for certificates of deposit. The purchase price of a certificate of deposit shall be treated as its fair market value on the purchase date if all of the following requirements are met:

(1) The certificate of deposit has a fixed interest rate, a fixed payment schedule, and a substantial penalty for early withdrawal; and

(2) The Yield on the certificate of deposit is not less than (a) the Yield on reasonably comparable direct obligations of the United States, or (b) the highest Yield that is published or posted by the provider to be currently available from the provider on reasonably comparable certificates of deposit offered to the public.

Certificates evidencing the foregoing requirements should be obtained before purchasing any Guaranteed Investment Contract or certificate of deposit.

SECTION 3.04. CONSTRUCTIVE SALE/PURCHASE.

(A) Nonpurpose Investments that are held by the Issuer or Trustee as of any Computation Date (or Bond Year if the computations are required to be done annually) shall be treated for purposes of computing the Rebate Amount as of such date as having been sold for their fair market value as of such date. Investment Property which becomes allocated to Gross Proceeds of the Issue on a date after such Investment Property has actually been purchased shall be treated for purposes of the rebate requirements as having been purchased by the Issuer on such date of allocation at its fair market value on such date.

(B) For purposes of constructive or deemed sales or purchases of Investment Property (other than Investment Property in the Escrow Fund or that is otherwise not invested for a Temporary Period or is not part of a reasonably required reserve or replacement fund for the Issue) must be valued at its fair market value on the date of constructive or deemed sale or purchase

(C) Except as set forth in (B), fixed rate Investment Property that is (1) issued with not more than 2% of original issue discount or original issue premium, (2) issued with original issue premium that is attributable exclusively to reasonable underwriters' compensation or (3) acquired with not more than 2% of market discount or market premium, may be treated as having a fair market value equal to its outstanding stated principal amount, plus accrued interest. Fixed rate Investment Property also may be treated as having a fair market value equal to its present value.

SECTION 3.05. ADMINISTRATIVE COSTS.

(A) Administrative costs shall not be taken into account in determining the payments for or receipts from a Nonpurpose Investment unless such administrative costs are Qualified Administrative Costs. Thus, administrative costs or expenses paid, directly or indirectly, to purchase, carry, sell, or retire Nonpurpose Investments generally do not increase the Payments for, or reduce the Receipts from, Nonpurpose Investments.

(B) Qualified Administrative Costs are taken into account in determining the Payments and Receipts on Nonpurpose Investments and thus increase the Payments for, or decrease the Receipts from, Nonpurpose Investments. In the case of a Guaranteed Investment Contract, a broker's commission or similar fee paid on behalf of either the Issuer or the provider is an administrative cost that is not a Qualified Administrative Cost to the extent that the present value (computed using the taxable discount rate used by the parties to compute the commission or, if not readily ascertainable, a reasonable taxable discount rate) of the commission, as of the date the contract is purchased, exceeds the present value of annual payments equal to 0.05 percent of the weighted average amount reasonably expected to be invested each year during the term of such contract.

PART IV: COMPLIANCE AND AMENDMENT

SECTION 4.01. COMPLIANCE.

The Issuer, Trustee or Rebate Analyst, as applicable, shall take all necessary steps to comply with the requirements of these Instructions in order to ensure that interest on the Issue is excluded from gross income for federal income tax purposes under Section 103(a) of the Code. However, compliance shall not be required in the event and to the extent stated therein the Issuer and the Trustee receive a Bond Counsel's Opinion that either (A) compliance with such requirement is not required to maintain the exclusion from gross income for federal income tax purposes of interest on the Issue, or (B) compliance with some other requirement in lieu of such requirement will comply with Section 148(f) of the Code, in which case compliance with the other requirement specified in the Bond Counsel's Opinion shall constitute compliance with such requirement.

SECTION 4.02. LIABILITY.

If for any reason any requirement of these Instructions is not complied with, the Issuer and the Trustee, if applicable, shall take all necessary and desirable steps to correct such noncompliance within a reasonable period of time after such noncompliance is discovered or should have been discovered with the exercise of reasonable diligence. The Trustee shall have no duty or responsibility to independently verify any of the Issuer's, or the Rebate Analyst's, calculations with respect to the payments of the Rebate Amount due and owing to the United States. Under no circumstances whatsoever shall the Trustee be liable to the Issuer, any bondholder or any other person for any inclusion of the interest on the Issue in gross income for federal income tax purposes, or any claims, demands, damages, liabilities, losses, costs or expenses resulting therefrom or in any way connected therewith, so long as the Trustee acts only in accordance with these Instructions and the operative documents pertaining to the Issue.

(End of Attachment A-1)

LOAN AGREEMENT STANDARD TERMS AND CONDITIONS

Water Infrastructure Finance Authority of Arizona

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This document sets forth Standard Terms and Conditions applicable to the Loan made by the WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA (the "*Authority*") to the Local Borrower. These Standard Terms and Conditions are a part of the Loan Agreement to which this document is attached. Certain terms used herein are defined in Article 8.

Article 1 Covenants of the Local Borrower Relating to the System and the Project.

Section 1.1 **Operation and Maintenance of System**. The Local Borrower covenants and agrees that it shall, in accordance with prudent utility practice, (a) at all times operate the properties of the System and any business in connection therewith in an efficient manner, (b) maintain the System in good repair, working order and operating condition, and (c) from time to time make all necessary and proper repairs, renewals, replacements, additions, betterments and improvements with respect to the System so that at all times the operations carried on in connection therewith shall be properly and advantageously conducted from revenues of the System or, if the Local Borrower so elects, from any other source of funds lawfully available.

Section 1.2 **Additions and Modifications**. The Local Borrower may make any additions, renewals, replacements, modifications or improvements to the System which it deems desirable and which do not materially reduce the operational integrity of any part of the System. All such renewals, replacements, additions, modifications and improvements shall become a part of the System.

Section 1.3 **Disposition of Project and System**.

(a) The Local Borrower shall not sell, lease, abandon or otherwise dispose of all or substantially all or any substantial portion of the Project or the System except upon compliance with the provisions of this Section; provided, however that the requirements of this Section shall not apply to transactions which are capital leases within the meaning of generally accepted accounting principles to finance expansion or improvement of the System and under which the Local Borrower maintains a purchaser's interest or other beneficial ownership, use, possession and control of the System so long as no default exists.

(b) The Local Borrower may sell, lease, abandon or otherwise dispose of all or substantially all or any substantial portion of the Project or the System if the Local Borrower shall give at least ninety (90) days' prior written notice to the Authority of the proposed transaction, and the Authority gives its written consent which shall not be unreasonably withheld. The Local Borrower understands that the Authority, in determining whether or not to give its consent, must determine that the proposed transaction will not adversely affect the Authority's ability to meet its duties, covenants, obligations and agreements or conditions of any grant received by the Authority or the State from the United States of America, which is related to the Capital Grant Facility or any capitalization grants received by the Authority or the State under the Federal Water Pollution Control Act, as amended, and the Federal Safe Drinking Water Act, as amended.

(c) Notwithstanding the provisions of subsection (b) above, the Local Borrower may sell, lease or otherwise dispose of, any of the property comprising part of the System without prior notice to or the consent of the Authority, other than the Project, in either of the following circumstances:

(i) If the Local Borrower determines that such property is not necessary, useful or profitable to the operation of the System; or

(ii) If the value of such property sold, leased or otherwise disposed of in any one year is equal to not more than 5% of the value of the fixed assets of the System.

Section 1.4 **Cost of Project**. The Local Borrower certifies that the estimated Eligible Project Costs as listed in Section 1 of Exhibit B is a reasonable and accurate estimation of the Eligible Project Costs and, upon the direction of the Authority the Local Borrower will supply the Authority with a certificate from its engineer stating that such estimated Eligible Project Costs is a reasonable and accurate estimation.

Article 2 Additional Covenants of the Local Borrower

Section 2.1 **Unconditional Obligations**. The obligation of the Local Borrower to make the Loan Repayments and the obligation to perform and observe the other duties, covenants, obligations and agreements on its part described herein are payable solely from the Source of Repayment described in this Loan Agreement and shall be absolute and unconditional and shall not be abated, rebated, set-off, reduced, abrogated, terminated, waived, diminished, postponed or otherwise modified in any manner or to any extent whatsoever, while any payments hereunder remain unpaid, regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Project or the System, commercial frustration of the purpose, any change in the laws of the United States of America or of the State or any political subdivision of either or in the rules or regulations of any governmental authority, any failure of the Authority to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Project or this Loan Agreement, or any rights of set-off, recoupment, abatement or counterclaim that the Local Borrower might otherwise have against the Authority or any other party or parties; provided, however, that payments under this Loan Agreement shall not constitute a waiver of any such rights. The Local Borrower shall not be obligated to make any payments required to be made by any other local borrowers under separate loan agreements or local borrower bonds. Notwithstanding any other provision of this Section 2.1, or this Loan Agreement, neither the Authority, nor any assignee of the Authority shall have the right or ability to compel the repayment of this Loan Agreement from any source other than the Source of Repayment.

Section 2.2 **Performance Under Loan Agreement**. The Local Borrower covenants and agrees (a) to maintain the System in good repair and operating condition; (b) to cooperate with the Authority to the extent it may lawfully do so, in the observance and performance of the respective duties, covenants, obligations and agreements of such Local Borrower and the Authority under this Loan Agreement; and (c) to comply with the covenants set forth in this Loan Agreement.

Section 2.3 **Disclaimer of Warranties**. The Local Borrower acknowledges and agrees that (i) the Authority makes no warranty or representation, either express or implied as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the System or the Project or any portions thereof or any other warranty or representation with respect thereto; (ii) in no event shall the Authority or its respective agents be liable or responsible for any direct, incidental, indirect, special or consequential damages in connection with or arising out of this Loan Agreement or the Project or the existence, furnishing, functioning or use of the System or the Project; and (iii) are not intended to and shall not be construed as a waiver of any defense or limitation on damages provided for under and pursuant to the laws of the United States or of the State.

Section 2.4 **Loan Repayments; Prepayments; Providing for Payment of the Loan**.

(a) Loan Repayments.

(i) The Local Borrower shall pay to the Authority the amounts set forth in the Loan Repayment Schedule contained in Exhibit A on or before the due dates shown in Exhibit A.

(ii) Each payment made as a Loan Repayment as described in subsection (i) shall be applied first to the combined interest and fee payment then due and payable on the Loan and then to the principal amount of the Loan.

(iii) In addition to the other payments required by this Section, the Local Borrower shall pay a late charge for any payment that is received by the Authority later than the tenth day following its due date, in an amount equal to six percent per annum of the amount of the late payment from its due date to the date it is actually paid; provided, however, that the combined interest and fee rate payable on the Loan including such late charge shall not be in excess of the maximum rate permitted by law or any proceedings or resolution authorizing the execution of this Loan Agreement.

(iv) Upon the final disbursement, if the Loan amount is less than the estimated Eligible Project Costs, the amount of each Principal Installment due as set forth in the Loan Repayment Schedule contained in Exhibit A shall be adjusted to achieve substantially level debt service, and the Authority shall compute the adjusted combined interest and fee amounts to reflect the adjusted principal amounts and shall enter the results in a revised Loan Repayment Schedule delivered to the Local Borrower.

(b) Prepayments.

(i) Optional Prepayment. Other than as described in (ii) below, the Loan is not subject to prepayment prior to the tenth anniversary of the final loan draw. The Local Borrower may prepay the Principal Repayment Amount of the Loan in whole or in part in advance of the due dates on or after the tenth anniversary of the final loan draw without penalty upon written notice delivered to the Authority at least 60 days prior to the prepayment date.

(ii) Extraordinary Optional Prepayment. Notwithstanding (i) above, the Local Borrower may prepay the Loan, in whole or part at any time without premium or penalty upon written notice delivered to the Authority at least 60 days prior to the prepayment date, but only from the net proceeds of any monetary award or settlement received by the Local Borrower from the pending lawsuit City of Tucson and Town of Marana v. 3M Company et al., Pima County Superior Court Case No. C20185523.

(iii) Partial Prepayment Provisions. If the Local Borrower prepays the Repayment Principal Amount in part, the amount of each Principal Installment due as set forth in the Loan Repayment Schedule contained in Exhibit A shall be adjusted to achieve substantially level debt service. Upon such adjustment, the Authority shall compute the adjusted combined interest and fees amounts to reflect the adjusted principal amounts and shall enter the results in the Loan Repayment Schedule with notice to the Local Borrower.

(c) Providing for Payment of the Loan. The Local Borrower may at any time provide for the payment and discharge of the Loan, as provided in this subsection. The Loan shall be deemed to have been paid and discharged if:

(i) the Local Borrower has delivered to the Authority proof satisfactory to the Authority that the Local Borrower has deposited with a financial institution acceptable to the Authority, in trust for and irrevocably committed to payments on the Loan, cash or non-callable direct obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of Treasury of the United States of America) and obligations of any agency or instrumentality of the United States of America the timely payment of the principal of and interest on which are unconditionally guaranteed by the United States of America, which are of such maturities and interest payment dates, and bear such interest, as will be sufficient together with any moneys also deposited, without further investment or reinvestment of either the principal amount or the interest earnings (which earnings are to be held likewise in trust and so committed), to pay all the amounts due under the Loan, as set forth in the Loan Repayment Schedule contained in Exhibit A, as evidenced in a report of an independent firm of nationally recognized certified public accountants addressed to and delivered to the Authority; and

(ii) the Authority has received a bond counsel opinion (as described in Section 6.2(b) and (c) below) to the effect that the deposit of funds and the investment of such deposit, as described in the preceding paragraph, will not, by itself, adversely affect the exclusion from gross income of interest on the Loan or any Authority Bonds for federal income tax purposes.

Section 2.5 **Source of Repayment of Local Borrower's Obligations and Pledge**. The Local Borrower irrevocably pledges the Source of Repayment described in this Loan Agreement for the punctual payment of all amounts due under the Loan Agreement. The Authority and the Local Borrower agree that the amounts payable by the Local Borrower under this Loan Agreement are payable solely from the Source of Repayment described in this Loan Agreement and are not payable from any other source whatsoever, unless the Local Borrower chooses to pay, and pays, any amount due hereunder from any other source lawfully available to it.

Section 2.6 **Insurance**. The Local Borrower shall maintain or cause to be maintained in force, insurance policies with responsible insurers or self-insurance programs or through membership in a risk retention pool, including, but not limited to, the Arizona Municipal Risk Retention Pool (in accordance with the Local Borrower's customary practices) providing against risk of direct physical loss, damage or destruction of the Project and the System, at least to the extent that similar insurance is usually carried by utilities constructing, operating and maintaining system facilities of the nature of the System, including liability coverage, all to the extent available at reasonable cost.

Section 2.7 **No Liens**. Except for:

(a) the debt service on any future bonds, notes or other evidence of indebtedness of the Local Borrower issued or contractual obligations incurred in accordance with this Loan Agreement payable from the funds pledged to the payment of this Loan Agreement which are on parity with the lien and charge on the funds so pledged to pay this Loan Agreement and

(b) as provided in Exhibit D of this Loan Agreement, the debt service on currently outstanding bonds, notes or evidences of indebtedness or contractual obligations of the Local Borrower, if any, payable from the Source of Repayment described in Exhibit D of this Loan Agreement which the Local Borrower has disclosed to the Authority in writing,

the funds so pledged as described in this Loan Agreement after the payment of all costs of operating and maintaining the System, are and will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto which are prior to, or of equal rank with, the obligation of the Local Borrower to pay this Loan Agreement, and all corporate or other action on the part of the Local Borrower to that end has been and will be duly and validly taken.

Section 2.8 **Disadvantaged Business Enterprises**. As applicable, the Local Borrower shall comply with 40 C.F.R Part 33[1]including but not limited to:

Local Borrowers and their prime contractors must follow, document, and maintain documentation of their good faith efforts as listed below to ensure that Disadvantage Business Enterprises (DBEs) have the opportunity to participate in the project by increasing DBE awareness of procurement efforts and outreach.

(a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities; including placing DBEs on solicitation lists and soliciting them whenever they are potential sources.

(b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitation for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.

(c) Consider in the contracting process whether firms competing for large contracts could be subcontracted with DBEs. This will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

(e) Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the U. S. Department of Commerce.

[1] See Article 9 for a full list of applicable federal laws and authorities relating to Participation by Disadvantaged Business Enterprises in Procurement Under Environmental Protection Agency (EPA) Financial Assistance Agreements.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in sections (a) through (e) above.

These conditions must be included in all procurement contracts entered into by the Local Borrower for all DWRF and CWRF projects:

(a) The prime contractor must pay its subcontractor for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the owner.

(b) The prime contractor must notify the owner in writing prior to the termination of any Disadvantage Business Enterprise subcontractor for convenience by the prime contractor.

(c) If a Disadvantage Business Enterprise contractor fails to complete work under the subcontract for any reason, the prime contractor must employ the six good faith efforts if soliciting a replacement contractor.

(d) The prime contractor must continue to employ the six good faith efforts even if the prime contractor has achieved its fair share objectives.

(e) The prime contractor must provide EPA Form 6100-2 DBE Program Subcontractor Participation Form to all of its Disadvantaged Business Enterprise subcontractors. Disadvantaged Business Enterprise subcontractors may send completed Form 6100-2 directly to the Region 9 DBE Coordinator listed below.

Joe Ochab, EPA Region 9, 75 Hawthorne St. (P-22), San Francisco, CA 94105

(f) The prime contractor must have its Disadvantaged Business Enterprise subcontractors complete EPA Form 6100-3 – DBE Program Subcontractor Performance Form. The prime contractor must include all completed forms as part of the prime contractor's bid or proposal package to the Local Borrower.

(g) The prime contractor must complete and submit EPA 6100-4 DBE Program Subcontractor Utilization Form as part of the prime contractor's bid or proposal package to the Local Borrower.

(h) A Local Borrower must ensure that each procurement contract it awards contains the following terms and conditions:

> The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.

Article 3 Representations of Local Borrower

The Local Borrower represents for the benefit of the Authority that the representations contained in this Loan Agreement are true at the time of execution and delivery of this Loan Agreement and, other than with respect to events outside of Local Borrower's control, will be true in all material respects at all times during the term of this Loan Agreement.

Section 3.1 **Organization and Authority**.

(a) The Local Borrower is a Political Subdivision or Indian Tribe as defined in the Authority Act.

(b) The Local Borrower has full legal right and authority and has, or will obtain as and when required, all necessary licenses and permits required to acquire, own, operate and maintain the Project and the System, to carry on its activities relating thereto, to execute and deliver this Loan Agreement, to undertake and complete the Project, to

pledge the Source of Repayment, and to carry out and consummate all transactions contemplated by this Loan Agreement. The Project is a project which the Local Borrower may undertake pursuant to State law and for which the Local Borrower is authorized by law to borrow money.

(c) The proceedings of the Local Borrower's governing body approving this Loan Agreement and authorizing its execution, issuance and delivery on behalf of the Local Borrower, and authorizing the Local Borrower to undertake and complete the Project have been duly and lawfully adopted in accordance with the laws of the State.

(d) This Loan Agreement has been duly authorized, executed and delivered by an Authorized Officer of the Local Borrower; and, assuming that the Authority has all the requisite power and authority to authorize, execute and deliver, and has duly authorized, executed and delivered this Loan Agreement, this Loan Agreement constitutes a legal and valid obligation of the Local Borrower enforceable in accordance with its terms, and the information contained under "Description of the Loan" in this Loan Agreement is true and accurate in all material respects.

Section 3.2 **Full Disclosure**.

(a) To the best of the Local Borrower's knowledge, there is no fact that the Local Borrower has not disclosed to the Authority in writing that materially adversely affects the properties, activities, prospects or condition (financial or otherwise) of the Local Borrower or the System, or the ability of the Local Borrower to make all Loan Repayments due hereunder and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement.

(b) The information relating to the Local Borrower (including without limitation the financial and statistical data contained therein) submitted to the Authority by the Local Borrower in connection with the Authority's approval of the Loan was at the time of the Authority's approval of the Loan and at all times subsequent thereto up to and including the Loan Closing, will be (if necessary by amendment provided by the Local Borrower) true and correct and will not contain an untrue statement of material fact or omit to state a material fact necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading in any adverse respect. To the extent permitted by law, and notwithstanding any other provision of this Loan Agreement, the Local Borrower will indemnify, save and hold harmless the Authority, and each of the Authority's agents, for, from and against any and all claims, damages, liability and court awards including costs, expenses and reasonable attorneys' fees incurred as a result of any omission or misstatement of material fact in the information submitted to the Authority by the Local Borrower in connection with the Authority's approval of the Loan, as it may have been supplemented and amended by the Local Borrower.

Section 3.3 **Pending Litigation**. There are no proceedings pending, or to the knowledge of the Local Borrower, threatened, against or affecting the Local Borrower, in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would materially adversely affect the properties, activities, prospects or condition (financial or otherwise) of the Local Borrower or the System, or the ability of the Local Borrower to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement that have not been disclosed in writing to the Authority in the Local Borrower's application for the Loan or otherwise.

Section 3.4 **Compliance with Existing Laws and Agreements**. The authorization, execution and delivery of this Loan Agreement by the Local Borrower, the observance and performance by the Local Borrower of its duties, covenants, obligations and agreements hereunder and the consummation of the transactions provided for in this Loan Agreement, the compliance by the Local Borrower with the provisions of this Loan Agreement and the undertaking and completion of the Project will not result in any breach of any of the terms, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Local Borrower pursuant to any existing ordinance or resolution, trust agreement, indenture, mortgage, deed of trust, loan agreement or other instrument (other than the lien and charge of this Loan Agreement and any ordinance or resolution or indenture which authorized outstanding obligations of the Local Borrower which are on a parity with this Loan Agreement as to a lien on, or a source and security for, payment thereon from the source of payment that is pledged to the Loan Repayments) to which the Local Borrower is a party or by which the

Local Borrower, the System or any of its property or assets may be bound, nor will such action result in any violation of the provisions of the charter or other document pursuant to which the Local Borrower was established or any laws, ordinances, resolutions, governmental rules, regulations or court orders to which the Local Borrower, the System or its properties or operations are subject.

Section 3.5 **No Defaults**. No event has occurred and no condition exists that, upon authorization, execution and delivery of this Loan Agreement or receipt of the amount of the Loan, would constitute an Event of Default hereunder. The Local Borrower is not in violation of, and has not received notice of any claimed violation of, any term of any agreement or other instrument to which it is a party or by which it may be bound, which violation would materially adversely affect the properties, activities, prospects or condition (financial or otherwise) of the Local Borrower or the ability of the Local Borrower to make all Loan Repayments or otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement.

Section 3.6 **Governmental Consent**. The Local Borrower has or will have obtained prior to the date of the Loan Closing all permits and approvals required to date by any governmental body or officer (and reasonably expects to receive all permits required in the future by any governmental agency) for the making, observance and performance by the Local Borrower of its duties, obligations and agreements under this Loan Agreement or for the undertaking or completion of the Project and the financing thereof, and the Local Borrower has complied with all applicable provisions of law requiring any notification, declaration, filing or registration with any governmental body or officer in connection with the making, observance and performance by the Local Borrower of its duties, covenants, obligations and agreements under this Loan Agreement or with the undertaking or completion of the Project and the financing thereof; and the Local Borrower has complied with all applicable provisions of law requiring any notification, declaration, filing or registration with any governmental body or officer in connection with the making, observance and performance by the Local Borrower of its duties, covenants, obligations and agreements under this Loan Agreement or with the undertaking or completion of the Project and the financing thereof. No consent, approval or authorization of, or filing, registration or qualification with, any governmental body or officer, other than those already obtained or reasonably expected to be obtained, is required on the part of the Local Borrower as a condition to the authorization, execution and delivery of this Loan Agreement, the undertaking or completion of the Project or the consummation of any transaction herein contemplated.

Section 3.7 **Compliance with Law**. The Local Borrower:

(a) is in compliance with all laws, ordinances, governmental rules and regulations to which it is subject and the failure to comply with which would materially adversely affect the ability of the Local Borrower to conduct its activities or undertake or complete the Project or the condition (financial or otherwise) of the Local Borrower or the System; and

(b) has obtained, or will obtain as and when required, all licenses, permits, franchises or other governmental authorizations necessary for the ownership of its property or for the conduct of its activities which, if not obtained, would materially adversely affect the ability of the Local Borrower to undertake or complete the Project or the condition (financial or otherwise) of the Local Borrower or the System.

Article 4 Assignment

Section 4.1 **Assignment and Transfer by Authority**. The Local Borrower hereby approves and consents to any assignment or transfer of this Loan Agreement that the Authority deems to be necessary in connection with the Clean Water Revolving Fund and Drinking Water Revolving Fund programs of the Authority.

Section 4.2 **Assignment by Local Borrower**. This Loan Agreement may not be assigned by the Local Borrower for any reason, unless the following conditions shall be satisfied: (i) the assignee shall be a governmental unit within the meaning of Section 141(c) of the Code or another entity acceptable to the Authority and the assignee shall have expressly assumed in writing the full and faithful observance and performance of the Local Borrower's duties, covenants, agreements and obligations hereunder; (ii) immediately after such assignment, the assignee shall not be in default in the performance or observance of any duties, covenants, obligations or agreements of the Local Borrower hereunder; and (iii) the Authority shall receive an opinion of counsel to the effect that such assignment

will not violate the provisions of any agreement entered into by the Authority with, or condition of any grant received by the Authority from the United States of America relating to the Capital Grant Facility or any capitalization grants received by the Authority or the State under the Federal Water Pollution Control Act and the Federal Safe Drinking Water Act.

No assignment shall relieve the Local Borrower from primary liability for any of its obligations under this Loan Agreement and in the event of such assignment, the Local Borrower shall continue to remain primarily liable for the performance and observance of its obligations to be performed and observed under this Loan Agreement.

Article 5 Defaults and Remedies

Section 5.1 **Events of Default**. If any of the following events occurs, it is hereby defined as and declared to be and to constitute an "*Event of Default*":

(a) failure by the Local Borrower to pay, or cause to be paid, when due any Loan Repayment;

(b) failure by the Local Borrower to make, or cause to be made, any required payments of principal, redemption premium, if any, and interest on any bonds, notes or other obligations of the Local Borrower for borrowed money (other than the Loan), after giving effect to the applicable grace period, the payments of which are secured by the Source of Repayment described in this Loan Agreement;

(c) failure by the Local Borrower to perform any duty, covenant, obligation or agreement on its part to be observed or performed under this Loan Agreement, other than as referred to in paragraphs (a) and (b) of this Section, which failure shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Local Borrower by the Authority, unless the Authority agrees in writing to an extension of such time prior to its expiration, provided, however, that if the failure stated in such notice is correctable but cannot be corrected within the applicable period the Authority may not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Local Borrower and diligently pursued until the Event of Default is corrected;

(d) the institution of any proceeding, with the acquiescence of the Local Borrower, for the purpose of effecting a composition between the Local Borrower and its creditors or for the purpose of adjusting the claims of such creditors, pursuant to any federal or state statute now or hereafter enacted, if the claims of such creditors are payable from the Source of Repayment described in this Loan Agreement;

(e) a determination by the Authority that any material representation made by or on behalf of the Local Borrower contained in this Loan Agreement, or in any instrument furnished in compliance with or with reference to this Loan Agreement, is false or misleading in any material respect; and

(f) the filing of a petition by or against the Local Borrower under any federal or state bankruptcy or insolvency law or other similar law in effect on the date of this Loan Agreement or thereafter enacted, unless in the case of any such petition filed against the Local Borrower such petition shall be dismissed within thirty (30) days after such filing and such dismissal shall be final and not subject to appeal; or the Local Borrower becoming insolvent or bankrupt or making an assignment for the benefit of its creditors; or the appointment of a custodian (including, without limitation, a receiver, liquidator or trustee of the Local Borrower or any of its property including the System) by court order, or possession of the Local Borrower or its property or assets is taken if such order remains in effect or such possession continues for more than thirty (30) days.

Section 5.2 **Notice of Default**. The Local Borrower shall give the Authority prompt telephone notice of the occurrence of any Event of Default referred to in Section 5.1 paragraph (c) hereof, and of the occurrence of any other event or condition that constitutes an Event of Default, at such time as any senior administrative or financial officer of the Local Borrower becomes aware of the existence thereof. Any telephone notice pursuant to this Section shall be confirmed in writing by the end of the next Business Day.

Section 5.3 **Remedies on Default.**

(a) Whenever an Event of Default referred to in Section 5.1 hereof shall have occurred and be continuing, the Authority shall have the right to take any action permitted or required pursuant to this Loan Agreement and to take whatever other action at law or in equity as may appear necessary or desirable to collect the amounts then due and thereafter to become due on their scheduled payment dates or to enforce the performance and observance of any duty, covenant, obligation or agreement of the Local Borrower hereunder, including, without limitation, appointment of a receiver of the System.

(b) Nothing in this Loan Agreement shall be construed to affect the Attorney General taking action to enforce this Loan Agreement in accordance with the Authority Act.

Section 5.4 **Attorney's Fees and Other Expenses**. In the event of a default hereunder by the Local Borrower, the Local Borrower shall on demand and to the extent not prohibited by applicable law pay to the Authority the reasonable fees and expenses of attorneys and other reasonable expenses (including without limitation the reasonably allocated costs of in-house counsel and legal staff) incurred by the Authority in the collection of Loan Repayments or any other sum due hereunder or in the enforcement of performance or observance of any other duties, covenants, obligations or agreements of the Local Borrower to the extent permitted by law.

Section 5.5 **Application of Moneys**. The parties acknowledge that: (a) all amounts coming due hereunder as Loan Repayments shall be treated as principal and combined interest and fees with respect to the Loan which amounts are secured by a pledge of the Source of Repayment in accordance with Exhibit D of this Loan Agreement; and (b) amounts coming due under Section 5.4 hereof shall be secured by the Source of Repayment on a basis subordinate to the Loan Repayments, but on a parity with comparable expenses relating to such Outstanding Parity Obligations and Additional Parity Obligations.

However, any moneys collected by the Authority pursuant to Section 5.3 in the exercise of remedies with respect to amounts due or to become due hereunder shall be applied: (a) first, to pay any attorney's fees or other fees and expenses owed by the Local Borrower pursuant to Section 5.4 hereof, (b) second, to pay delinquent combined interest fees and late charges on the Loan; (c) third, to pay combined interest and fees then due and payable on the Loan; (d) fourth, to pay delinquent principal on the Loan in order of scheduled maturity; (e) fifth, to pay principal then due and payable on the Loan; and (f) sixth, to pay any other amounts due and payable pursuant to this Loan Agreement.

Section 5.6 **No Remedy Exclusive; Waiver; Notice**. No remedy conferred upon or reserved to the Authority hereunder is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. No delay or omission to exercise any right, remedy or power accruing upon any Event of Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such right, remedy or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it as described in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article.

Section 5.7 **Retention of Authority's Rights**. Notwithstanding any assignment or transfer of this Agreement pursuant to the provisions hereof, or anything else to the contrary contained herein, the Authority shall have the right upon the occurrence of an Event of Default to take any action, including (without limitation) bringing an action against the Local Borrower at law or in equity, as the Authority may, in its discretion, deem necessary to enforce the obligations of the Local Borrower to the Authority.

Section 5.8 **Default by the Authority**. In the event of any default by the Authority in any duty, covenant, agreement or obligation described in this Agreement, the Local Borrower's remedy for such default shall be limited to injunction, special action, action for specific performance or any other available equitable remedy designed to enforce the performance or observance of any duty, covenant, obligation or agreement of the Authority described herein as may be necessary or appropriate. The Authority shall on demand pay to the Local Borrower the reasonable fees and expenses of attorneys and other reasonable expenses in the enforcement of such performance or observance.

Article 6 Provisions Applicable to Loans Financed by or Pledged to Secure Authority Bonds

Section 6.1 **General.** The Local Borrower acknowledges that the Authority is entering into this Loan Agreement and agreeing to make the Loan at this time for the benefit of the Local Borrower, and that the Authority may finance the Loan, along with other loans to other local borrowers, through the issuance of Authority Bonds and may pledge the Loan to secure Authority Bonds. If and for so long as the Authority's source of funds to make disbursements on, or to carry, the Loan represented by this Loan Agreement is, or becomes, the proceeds of Authority Bonds, or this Loan Agreement is assigned by the Authority as security for payment of amounts due or to become due on Authority Bonds, the Local Borrower agrees to cooperate with the Authority with respect to the issuance of Authority Bonds by furnishing and certifying information concerning the Local Borrower, the Project, the System and the Source of Repayment, and by agreeing to reasonable modifications and additions to this Loan Agreement necessary or convenient for the Authority Bond transaction. Without limiting the generality of the foregoing, the Local Borrower agrees that if the Authority at any time determines, in its discretion, that it is necessary in connection with the issuance of Authority Bonds or the maintenance of the Authority's bond program, then the provisions set forth in this Article shall be in effect.

Section 6.2 **Tax Covenants**.

(a) General. The Local Borrower acknowledges that, in connection with its state revolving fund programs, the Authority issues its Authority Bonds from time to time to finance loans and the Authority also pledges certain loans to secure and to serve as the source of payment for the Authority Bonds. As a result, and under the provisions of federal tax law applicable to the Authority Bonds, it is in the Authority's interest for the Loan to qualify and be a Tax-Exempt Obligation that is not an AMT Obligation. Therefore, the Local Borrower represents and covenants as follows with respect to the Loan and the Authority Bonds. The Local Borrower covenants that it will not take any action, or fail to take any action, if any such action or failure to take such action would adversely affect the exclusion from gross income of the interest on the Loan or the Authority Bonds under Section 103(a) of the Internal Revenue Code or cause the interest on the Loan or the Authority Bonds to become an AMT Obligation, and in the event of such action or omission, it will, promptly upon having such brought to its attention, take such reasonable actions based upon a bond counsel opinion as may rescind or otherwise negate such action or omission. The Local Borrower will not directly or indirectly use or permit the use of any proceeds of the Loan or any other funds of the Local Borrower or take or omit to take any action that would cause the Loan or the Authority Bonds to be or become "arbitrage bonds" within the meaning of Section 148(a) of the Internal Revenue Code or to fail to meet any other applicable requirement of Sections 103, 141, 148, 149 and 150 of the Internal Revenue Code or cause the interest on the Loan or the Authority Bonds to become an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code. To that end, the Local Borrower will comply with all applicable requirements of Sections 103, 141, 148, 149 and 150 of the Code to the extent applicable to the Loan.

(b) Modification Based on Bond Counsel Opinion. Notwithstanding any provision of this Section, if the Local Borrower provides to the Authority a bond counsel opinion to the effect that any action required under this Section is no longer required, or to the effect that some further action is required, to maintain the exclusion from gross income of interest on the Loan or the Authority Bonds pursuant to Section 103(a) of the Internal Revenue Code, the provisions of this Section and the covenants in this Section shall be deemed to be modified to that extent.

(c) Bond Counsel Opinion. For purposes of this Article, "bond counsel opinion" means an opinion letter of a firm of attorneys of national reputation experienced in the field of municipal bonds whose opinions are generally accepted by purchasers of municipal bonds, and who is acceptable to the Authority.

Section 6.3 **Third Party Beneficiaries**. The Trustee, the owners from time to time of the Authority Bonds, any Credit Enhancer from time to time of the Authority Bonds and any underwriter of the Authority Bonds are each expressly acknowledged to be third party beneficiaries of this Loan Agreement and each representation, agreement, duty, obligation and provision of this Loan Agreement.

Section 6.4 **Additional Documents Relating to Authority Bonds**. The Local Borrower will furnish to the Authority and certify to such information and execute and deliver and cause to be executed and delivered such documents as the Authority, the underwriter or other parties to any Authority Bond transaction may reasonably require, including, without limitation:

(a) a certificate of an Authorized Officer of the Local Borrower to the effect that the information contained in the Final Official Statement (defined in Section 6.5, paragraph (a)) for the Authority Bonds concerning the Local Borrower is correct in all material respects and is an accurate summary of the information which it purports to summarize, and that nothing has come to the Authorized Officer's attention that would lead the Authorized Officer to believe that the information in the Final Official Statement relating to the Local Borrower contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; and

(b) subject to the continuing disclosure requirements of Securities and Exchange Commission Rule 15c2-12 (the "*Disclosure Rule*"), a continuing disclosure undertaking of the Local Borrower meeting the requirements of the Disclosure Rule , and a statement of the Local Borrower as to whether it has failed to provide any information and notices required by the provisions of previous continuing disclosure undertakings, if any, of the Local Borrower under the Disclosure Rule, and if it has not, describing the circumstances and status of such failure; and

(c) an appropriate certificate executed by Authorized Officer of the Local Borrower concerning the reasonable expectations of the Local Borrower as to the use of the proceeds of the Loan and such other matters as may be required on the part of the Local Borrower in order to ensure that the Authority Bonds are and will remain Tax-Exempt Obligations that are not AMT Obligations, and the Local Borrower covenants to comply with the provisions of such certificate; and

(d) such other certificates, documents and information, and supplemental opinions of Local Borrower's counsel, as the Authority, the underwriters of the Authority Bonds or other parties to the Authority Bonds transaction may reasonably require and as are necessary to confirm the continued truth and accuracy of information supplied by or on behalf of the Local Borrower.

Section 6.5 **Disclosure Regarding Authority Bonds**.

(a) The information, if any, relating to the Local Borrower (including without limitation the financial and statistical data contained therein) which has been furnished by the Local Borrower to be included in, and which is included in, a Preliminary Official Statement of the Authority (the "*Preliminary Official Statement*"), or a final Official Statement (the "*Final Official Statement*") of the Authority concerning any Authority Bonds, as of the respective dates of each such document and at all times subsequent thereto up to and including the Bond Closing, will be (if necessary by amendment provided by the Local Borrower) true and correct and will not contain an untrue statement of material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. To the extent permitted by law, and notwithstanding any other provision of this Loan Agreement, the Local Borrower will indemnify, save and hold harmless the Authority and each other local borrower, if any, included in the Final Official Statement, and each of such parties' respective agents, for, from and against any and all claims, damages, liability and court awards including costs, expenses and attorneys fees incurred as a result of any omission or misstatement of a material fact in the Local Borrower's information in the Final Official Statement, as it may have been supplemented or amended by the Local Borrower.

(b) The Local Borrower agrees that from the date of the Final Official Statement and for a period until not later than 25 days after the date of the Bond Closing if and so long as the offering of the Authority Bonds continues (i) the Local Borrower will furnish such information with respect to itself as the Authority (for itself or at the request of the underwriters of the Authority Bonds) may from time to time reasonably request and (ii) if any event shall occur as a result of which it is necessary, in the opinion of Bond Counsel to the Authority, or counsel for the underwriters of the Authority Bonds, to amend or supplement the information in the Final Official Statement relating to the Local Borrower in order to make such information not misleading in light of the circumstances then existing, the Local Borrower will forthwith prepare, and furnish to the Authority and the underwriters such information relating to the Local Borrower as may be necessary to permit the preparation of an amendment of or supplement to the Final Official Statement (in form and substance satisfactory to the Bond Counsel to the Authority and counsel for the

underwriters) which will amend or supplement the Final Official Statement so that it will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances then existing, not misleading.

(c) The Local Borrower agrees that if prior to the 25th day following the end of the underwriting period of the Authority Bonds, as defined for purposes of the Disclosure Rule, any event shall occur which causes the representations contained in Section 6.4, paragraph (a) to be false in any material respect, the Local Borrower shall promptly notify the Authority of such development, and if in the opinion of the Authority and the underwriters of the Authority Bonds such development requires the preparation of a supplement or an amendment to the Preliminary Official Statement or the Final Official Statement, the Local Borrower agrees to cooperate with the Authority and the underwriters for the Authority Bonds in preparing any such supplement or amendment in a form acceptable to such parties and to pay all reasonable expenses incurred by such parties in connection with the preparation thereof.

Section 6.6 **Assignment and Transfer by Authority to Trustee**.

(a) The Local Borrower expressly acknowledges that, other than the right of the Authority to be indemnified by the Local Borrower, all right, title and interest of the Authority in, to and under this Loan Agreement will be assigned to the Trustee as security for the Authority Bonds, as applicable, as provided in the Authority's Master Trust Indenture, and that if any Event of Default shall occur the Trustee, pursuant to the Authority's Master Trust Indenture, shall be entitled to act hereunder in the place and stead of the Authority. The Local Borrower hereby acknowledges the requirements of the Authority's Master Trust Indenture applicable to the Authority Bonds and consents to such assignment and appointment. The Authority shall retain the right to compel or otherwise enforce observance and performance by the Local Borrower of its duties, covenants, obligations and to be indemnified by the Local Borrower; provided, however, that in no event shall the Authority or the Trustee have the right to accelerate the payments under this Loan Agreement.

(b) The Local Borrower hereby approves and consents to any assignment or transfer of this Loan Agreement that the Authority deems to be necessary in connection with any refunding of the Authority Bonds or otherwise in connection with the Clean Water Revolving Fund and Drinking Water Revolving Fund programs of the Authority.

Section 6.7 **Conditions to Assignment by Local Borrower**. Notwithstanding Section 4.2, this Loan Agreement may not be assigned by the Local Borrower for any reason, unless the following conditions shall be satisfied: (i) the Authority, the Trustee and the Credit Enhancer, if any, of the Authority Bonds shall have approved said assignment in writing; (ii) the assignee shall be a governmental unit within the meaning of Section 141(c) of the Internal Revenue Code or another entity acceptable to the Authority and the assignee shall have expressly assumed in writing the full and faithful observance and performance of the Local Borrower's duties, covenants, agreements and obligations hereunder; (iii) immediately after such assignment, the assignee shall not be in default in the performance or observance of any duties, covenants, obligations or agreements of the Local Borrower hereunder; (iv) the Authority and the Trustee shall have received an opinion of bond counsel to the effect that such assignment will not adversely affect the exclusion of interest on the Authority Bonds from gross income for purposes of Federal income taxation under Section 103(a) of the Code or make the Authority Bonds or the Loan AMT Obligations; and (v) the Authority and the Trustee shall receive an opinion of counsel to the effect that such assignment will not violate the provisions of the Master Trust Indenture or any agreement entered into by the Authority with, or condition of any grant received by the Authority from, the United States of America relating to the Capital Grant Facility or any capitalization grants received by the Authority or the State under the Federal Water Pollution Control Act and the Federal Safe Drinking Water Act.

No assignment shall relieve the Local Borrower from primary liability for any of its obligations under this Loan Agreement and in the event of such assignment, the Local Borrower shall continue to remain primarily liable for the performance and observance of its obligations to be performed and observed under this Loan Agreement.

Section 6.8 **Sale or Other Disposition of Project or System**. The Local Borrower agrees that it will not sell, lease, abandon or otherwise dispose of all or substantially all or any substantial portion of the Project or the System unless (i) the transferee assumes the Local Borrower's obligations under this Loan Agreement in accordance with Section 6.6, (ii) the Authority shall by appropriate action determine, in its sole discretion, that such sale, lease, abandonment or other disposition will not adversely affect the Authority's ability to meet its duties, covenants,

obligations and agreements under the Bond Documents, and will not adversely affect the eligibility of interest on Authority Bonds then outstanding or which could be issued in the future for exclusion from gross income for purposes of federal income taxation or cause such Authority Bonds to be AMT Obligations, and (iii) the Credit Enhancer, if any, of the Authority Bonds shall have given its prior written consent to such disposition.

Section 6.9 **Deficiencies Under Bond Documents Caused by Failure to Make Loan Repayment**. The Local Borrower acknowledges that payment of the Authority Bonds by the Authority, including payment from moneys drawn by the Trustee from the Bond Reserves or the CWRF Financial Assistance Account and DWRF Financial Assistance Account~~s~~ established under the Bond Documents, does not constitute payment of the amounts due under this Loan Agreement. If at any time the amounts on deposit in the Bond Reserves or the CWRF Financial Assistance Account and DWRF Financial Assistance Account~~s~~ shall be less than the amounts required by the Bond Documents as the result of any transfer of moneys from the Bond Reserves or the CWRF Financial Assistance Account and DWRF Financial Assistance Account~~s~~ which in turn is the result of a failure by the Local Borrower to make any Loan Repayments required hereunder, the Local Borrower agrees to (i) replenish such moneys so transferred, and (ii) replenish any deficiency arising from losses incurred in making such transfer as the result of the liquidation by the Authority of investment securities acquired as an investment of moneys in the Bond Reserves or the CWRF Financial Assistance Account and DWRF Financial Assistance Account~~s~~, by making payments to the Authority in equal monthly installments for the lesser of six (6) months or the remaining term of the Loan at a combined interest and fee rate to be determined by the Authority necessary to make up any loss caused by such deficiency, provided that the combined interest and fee rate payable on the Loan including such make-up combined interest and fees shall not exceed the maximum rate permitted by the Authorizing Proceedings which authorized this Loan Agreement.

Section 6.10 **Indemnification**. To the extent permitted by law, the Local Borrower shall indemnify, save and hold harmless the Authority against any and all claims, damages, liability and court awards including costs, expenses and attorney fees to the extent incurred as a result of any gross negligence or willful misconduct by the Local Borrower, or its employees, agents or subcontractors pursuant to the terms of this Loan Agreement.

Section 6.11 **Compliance with Master Trust Indenture**. The Local Borrower covenants and agrees to take such action as it may lawfully take and as the Authority shall reasonably request so as to enable the Authority to observe and comply with, all duties, covenants, obligations and agreements contained in the Master Trust Indenture insofar as such duties, covenants, obligations and agreements relate to the obligations of the Local Borrower under this Loan Agreement.

Section 6.12 **Provisions Relating to Default**.

(a) Any notice or information which the Local Borrower is to give to the Authority pursuant to the provisions of Article 5 shall also be given by the Local Borrower to the Trustee and to any Credit Enhancer at the same time.

(b) Notwithstanding the provisions of Section 5.3, paragraph (a) and Section 5.7, so long as a Credit Enhancer is not in default of its obligations with respect to its payment guarantee of the Authority Bonds and such guarantee is in effect, the Credit Enhancer shall have the right to direct the exercise of remedies provided for herein and the Trustee and the Authority shall not pursue any remedy except with the prior written consent of the Credit Enhancer.

(c) In the event of a default hereunder by the Local Borrower, the Local Borrower shall also pay the expenses of the Trustee and of any Credit Enhancer in the same manner as provided in Section 5.4 with respect to the expenses of the Authority.

Section 6.13 **Tax Compliance Certificate**. If the Authority Bonds are issued and sold on the basis that they are Tax-Exempt Obligations, an Authorized Officer of the Local Borrower shall deliver an appropriate certificate concerning the reasonable expectations of the Local Borrower as to the use of the proceeds of the Loan and such other matters as may be required on the part of the Local Borrower in order to ensure that the Authority Bonds are and will remain Tax-Exempt Obligations that are not AMT Obligations, and the Local Borrower covenants to comply with the provisions of such certificate.

Article 7 Miscellaneous

Section 7.1 **Binding Effect**. This Loan Agreement shall inure to the benefit of and shall be binding upon the Authority and the Local Borrower and their respective successors and assigns.

Section 7.2 **Severability**. In the event any provision of this Loan Agreement shall be held illegal, invalid or unenforceable by any Court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

Section 7.3 **Amendments, Supplements and Modifications**. This Loan Agreement may not be amended, supplemented or modified without the prior written consent of the Authority and the Local Borrower.

Section 7.4 **Execution in Counterparts**. This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 7.5 **Captions**. The captions or headings in this Loan Agreement are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions or sections of this Loan Agreement.

Section 7.6 **Further Assurances**. The Local Borrower shall, at the request of the Authority, authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights and agreements granted or intended to be granted by this Loan Agreement.

Section 7.7 **State of Arizona Contract Provisions**.

(a) Books and Records. As required by the provisions of Arizona Revised Statutes Section 35-214, the Local Borrower agrees that all books, accounts, reports, files and other records relating to this Loan Agreement shall be retained and shall be subject at all reasonable times to inspection and audits by the Authority for five years after completion of this Loan Agreement, and that upon request by the Authority such records shall be produced at any of the Authority offices designated herein as the place at which notices to the Authority are to be given.

(b) Prohibition Against Discrimination. In the event that it applies, the parties agree to comply with the Arizona Governor's Executive Order 2009-9, entitled "Prohibition of Discrimination in State Contracts Non-Discrimination in Employment by Government Contractors and Subcontractors," which mandates that all persons, regardless of race, color, religion, sex, age, or national origin shall have equal access to employment opportunities, and all other applicable state and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. The Local Borrower shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.

(c) Governing Law and Forum. This Loan Agreement shall be governed by and construed in accordance with the laws and judicial decisions of the State of Arizona, except as such laws may be preempted by any federal rules or regulations. The parties hereto expressly acknowledge and agree and all Local Borrowers by their acceptance thereof shall be deemed to have acknowledged and agreed that any judicial action to interpret or enforce the terms of this Loan Agreement against the Authority shall be brought and maintained in the Superior Court of the State of Arizona in and for Maricopa County or in the United States District Court in and for the District of Arizona.

(d) Arbitration. In the event of a dispute, the parties agree to use arbitration, after exhausting applicable administrative review, to the extent required by Arizona Revised Statutes Section 12-1518, and the prevailing party shall be entitled to attorney's fees and costs with respect thereto.

(e) Notice of Arizona Revised Statutes Section 38-511 – Cancellation. Notice is hereby given of the provisions of Arizona Revised Statutes Section 38-511, as amended. By this reference, the provisions of said statute are incorporated herein to the extent of their applicability to this Loan Agreement under the law of the State of Arizona.

(f) Additional Warranties and Certifications from the Local Borrower. In compliance with Section 23-214(B) of the Arizona Revised Statutes, the Local Borrower warrants to the Authority that either (i) it is not an "employer" (within the meaning of Arizona Revised Statutes Section 23-214(B)) or (ii) it is registered with and is participating in the employment verification pilot program as jointly administered by the United States department of homeland security and the social security administration or any of its successor programs (the "E-Verify Program") and that the proof submitted to the Authority of that registration and participation is true and correct. The Local Borrower agrees that, until the Loan is fully paid, at all times during which it is an "employer" (within the meaning of Arizona Revised Statutes Section 23-214(B)) it will be registered with and will participate in the E-Verify Program. The breach by the Local Borrower of the foregoing shall be deemed a material breach by the Local Borrower of this Loan Agreement and may result in penalties up to and including the termination of this Loan Agreement. If the Authority determines that the Local Borrower is not so registered and participating when required, the Authority will notify the Local Borrower by certified mail of the determination of noncompliance and the Local Borrower's right to appeal the determination. On a final determination of noncompliance, the Local Borrower shall repay all monies received as an economic development incentive (within the meaning of Arizona Revised Statutes Section 23-214(B)) to the Authority within thirty days of the final determination.

Article 8 Definitions

Section 8.1 **Definitions**. The following terms as used in this Loan Agreement shall, unless the context clearly requires otherwise, have the following meaning:

"*AMT Obligation*" means a Tax-Exempt Obligation the interest on which is an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code.

"*Annual Loan Review Form*" means the loan compliance questionnaire circulated by the Authority to all borrowers as part of the Authority's annual loan portfolio review.

"*Authority*" means the Water Infrastructure Finance Authority of Arizona, a body corporate and politic of the State of Arizona duly created and validly existing under and by virtue of the Authority Act.

"*Authority Act*" means Title 49, Chapter 8 (Section 49-1201 et seq.) of the Arizona Revised Statutes ("A.R.S.").

"*Authority Bonds*" means any bonds of the Authority issued to finance the State's revolving fund established pursuant to the Water Pollution Control Act, as amended, and the Safe Drinking Water Act, as amended.

"*Authorized Officer*" means, (i) with respect to the Local Borrower, the person whose name is set forth in this Loan Agreement or such other person or persons authorized by the Local Borrower to act as an authorized officer of the Local Borrower to perform any act or execute any document relating to the Loan or this Loan Agreement whose name is furnished in writing to the Authority and the Trustee; and (ii) with respect to the Authority, the Chairman, Vice Chairman, Executive Director, or any other person or persons designated by the Board to act on behalf of the Authority with respect to this Loan Agreement; the designation of such person or persons shall be evidenced by a written certificate containing a specimen signature of such person or persons and signed on behalf of the Authority by its Chairman or Vice Chairman.

"*Bond Closing*" means the date of initial delivery of and payment for the Authority Bonds.

"*Bond Documents*" means and includes the Master Trust Indenture, any supplemental indenture and any comparable or related document pursuant to which the Authority Bonds are issued, and all further amendments and supplements thereto adopted in accordance with the provisions thereof.

"Bond Reserves" means reserves established by the Bond Documents for the Authority Bonds to secure timely payment of amounts due on the Authority Bonds even if one or more local borrowers do not make timely payments on their loans.

"*Business Day*" means any day other than a Saturday, Sunday or legal holiday or a day on which banking institutions, in the city in which the designated office of the Authority (being Phoenix, Arizona) is located, are closed.

"*Capital Grant Facility*" means the contractual arrangement established with the Authority by the United States of America Environmental Protection Agency to make capitalization grant payments pursuant to Title VI of the Federal Water Pollution Control Act, as amended (33 U.S.C. § 125 et seq.) and the Federal Safe Drinking Water Act, as amended (particularly 42 U.S.C. § 300j-12 et seq.).

"*Clean Water Act*" means the Federal Water Pollution Control Act amendments of 1972 (P.L. 92-500; 86 Stat. 816), as amended by the Water Quality Act of 1987 (P.L. 100-4; 101 Stat. 7) and the Water Resources Reform and Development Act of 2014 (P.L. 113-21, 128 Stat. 1193).

"*Clean Water Revolving Fund*" means the fund established by A.R.S. § 49-1221.

"*Code*" means the Internal Revenue Code of 1986, the Regulations (whether temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section includes any applicable successor section or provision and such applicable Regulations, rulings, announcements, notices, procedures and determinations pertinent to that Section.

"*Combined Interest and Fee Rate*" means periodic interest and fee payments made by the Borrower, see Exhibit A to this Loan Agreement.

"*Construction Period"* means the period from the date of the Loan Closing until the date of the final disbursement of proceeds of the Loan pursuant to this Loan Agreement, but in no event later than the third anniversary of the Loan Closing.

"*Cost*" means those costs that are eligible to be funded from draws under the Capital Grant Facility and are reasonable, necessary and allocable to the Project and are permitted by generally accepted government auditing standards to be costs of the Project.

"*Credit Enhancer*" means the entity so designated in the Bond Documents, if any, or any successor thereto, that from time to time has issued and outstanding a municipal bond insurance policy or similar payment guarantee relating to the Authority Bonds.

"*CWRF Financial Assistance Account*" means the account so designated in the Master Trust Indenture to which loans funded by the Clean Water Revolving Fund shall be credited.

"*Debt Management Fee*" means the fee component of the combined interest and fee payments made by the Borrower, see Exhibit A to this Loan Agreement.

"*Department*" means the Department of Environmental Quality of the State of Arizona.

"*Drinking Water Facility*" has the meaning given that term in the Authority Act, currently: a community water system or a non-profit noncommunity water system as defined in the Federal Safe Drinking Water Act (P.L. 93-523; 88 Stat. 1660l; P.L. 95-190; 91 Stat. 1393; P.L. 104-182; 110 Stat. 1613) that is located in the State. The term does not include water systems owned by federal agencies.

"*Drinking Water Revolving Fund*" means the fund established by A.R.S. § 49-1241.

"*DWRF Financial Assistance Account*" means the account so designated in the Master Trust Indenture to which loans funded by the Drinking Water Revolving Fund shall be credited.

"*Eligible Project Costs*" means, whether incurred before or after the date of this Loan Agreement, such portion of the Costs as is disbursed by the Authority for the benefit of the Local Borrower. The Local Borrower and the Authority acknowledge that the actual Eligible Project Costs for the Project have not been determined as of the effective date of this Loan Agreement. The final Eligible Project Costs shall be established after all disbursements have been made.

"*Event of Default*" means any occurrence or event specified in Section 5.1 hereof.

"*Indian Tribe*" has the meaning given that term by the Authority Act, currently: any Indian tribe, band, group or community that is recognized by the United States Secretary of the Interior and that exercises governmental authority within the limits of any Indian reservation under the Jurisdiction of the United States government notwithstanding the issuance of any patent and including rights-of-way running through the reservation.

"*Loan*" means (a) during the Construction Period, the commitment to lend to the Local Borrower the Estimated Eligible Project Costs set forth in this Loan Agreement (as it may be amended or revised from time to time), and (b) thereafter, the amount of money equal to the Eligible Project Costs which is actually loaned to the Local Borrower pursuant to this Loan Agreement.

"*Loan Agreement*" or "*Agreement*" means this Loan Agreement, including the Exhibits and these Standard Terms and Conditions attached to this Loan Agreement, as it may be supplemented, modified or amended from time to time in accordance with the terms hereof.

"*Loan Closing*" means the date of execution and delivery of this Loan Agreement.

"*Loan Repayment Date*" means the payment dates commencing and ending on the dates set forth in this Loan Agreement.

"*Loan Repayments*" means the payments payable by the Local Borrower pursuant to this Loan Agreement.

"*Local Borrower*" means the Political Subdivision or Indian Tribe that is a party to and is described in the first paragraph of this Loan Agreement.

"*Master Trust Indenture*" means and includes the Master Trust Indenture dated as of August 1, 1999, as supplemented, and any comparable or related document, pursuant to which the Authority issues Authority Bonds.

"*Political Subdivision*" has the meaning given that term by the Authority Act, currently: a county, city, town or special taxing district authorized by law to construct wastewater treatment facilities.

"*Project*" is the project described in Section 2.1 of the Loan Agreement, all or a portion of the Cost of which is financed from the proceeds of the Loan.

"*Repayment Period*" means the period over which the principal amount of the Loan will be repaid which period begins and ends on the dates set forth in this Loan Agreement.

"*Repayment Principal Amount*" means the amount the Authority agrees to loan to the Local Borrower pursuant to this Loan Agreement or such lesser amount of actual Eligible Project Costs as represents the aggregate amount of the Loan actually made pursuant to this Loan Agreement.

"Reserve Fund Surety" means a surety bond, insurance policy, letter of credit or similar arrangement representing the irrevocable obligation of the issuer thereof to pay to or at the direction of the Local Borrower an amount up to the Reserve Requirement as set forth in Exhibit A.

"*Safe Drinking Water Act*" means the Federal Safe Drinking Water Act (P.L. 93-523; 88 Stat. 1660; P.L. 96-190; 91 Stat . 1393; P.L. 104-182; 110 Stat. 1613), as amended in 1996.

"*Source of Repayment*" means the "source of repayment" set forth in this Loan Agreement as defined in Exhibit D.

"*State*" means the State of Arizona.

"*System*" means the "System" as defined in Section 2.2 of the Loan Agreement.

"*Tax-Exempt Obligation*" means any obligation or issue of obligations (including bonds, notes and lease obligations treated for federal income tax purposes as evidences of indebtedness) the interest on which is excluded from gross income for federal income tax purposes within the meaning of Section 150 of the Code, and includes any obligation or any investment treated as a "tax-exempt bond" for the applicable purpose of Section 148 of the Code

"*Trustee*" means the Trustee appointed by the Authority pursuant to the Bond Documents and its successor or successors and any other corporation which may at any time be substituted in its place as Trustee pursuant to the Bond Documents.

Terms not otherwise defined herein shall have the meanings ascribed to them in Exhibit D to the Loan Agreement.

Section 8.2 **Rules of Interpretation**. For all purposes of this Loan Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) Words of one gender include the corresponding words of other genders; words of neuter include both genders; and words in the singular include words in the plural and vice versa.

(b) Words indicating persons, parties, or entities (and the like) include firms, associations, partnerships (including limited partnerships), limited liability companies (and the like), corporations, trusts and other legal entities, including public and governmental bodies, as well as natural persons.

(c) References to a statute refer to the statute, as amended, and any successor statute, and to all regulations promulgated under or implementing the statute or successor statute, as in effect at the relevant time.

(d) References to a governmental or quasi-governmental entity or representatives thereof also refer to an entity that succeeds to the functions of the governmental or quasi-governmental entity and representatives thereof.

(e) Headings preceding sections of text and any table of contents are solely for convenience of reference and are not part of this Loan Agreement and are not to affect its meaning, interpretation or effect.

(f) Actions permitted under this Loan Agreement may be taken at any time and from time to time in the actor's sole discretion.

(g) The word "including" means "including, but not limited to" and the word "include" means "include, among others."

(h) The terms "hereby," "hereof," "herein," and "hereunder" (and the like) refer to this Loan Agreement.

(i) Indications of time of day mean local time in Phoenix, Arizona.

(j) This Loan Agreement shall be governed by and construed in accordance with the applicable law of the State of Arizona, except for its conflict of law rules and except as preempted by federal.

Article 9 List of Federal Laws and Authorities

By Section 5.4 and Section 5.5 of Exhibit B to the Loan Agreement, the Local Borrower agrees that the Project will comply with applicable provisions of the following federal laws and authorities:

Environmental:

1. Archaeological and Historical Preservation Act of 1974, Pub. L. 93-291; 16 U.S.C. § 469a-1.

2. Clean Air Act, Pub. L. 95-95, as amended; 42 U.S.C. § 7401 et. seq.

3. Clean Water Act, Titles II, IV, and V, Pub. L. 92-500, as amended.

4. Coastal Barrier Resources Act, Pub. L. 97-348; 16 U.S.C. § 3501 et. seq.

5. Coastal Zone Management Act, Pub. L. 92-583, as amended; 16 U.S.C. § 1451 et. seq.

6. Endangered Species Act, Pub. L. 93-205, as amended; 16 U.S.C. § 1531 et seq.

7. Environmental Justice, Executive Order 12898.

8. Farmland Protection Policy Act, Pub. L. 97-98; 7 U.S.C. § 4201 et seq.

9. Fish and Wildlife Coordination Act, Pub. L. 85-624, as amended.

10. Floodplain Management, Executive Order 11988, as amended by Executive Order 12148.

11. Magnunson-Stevens Fishery Conservation and Management Act, Pub L. 94-265, as amended; 16 U.S.C. § 1801 et. seq.

12. National Historic Preservation Act of 1966, Pub. L. 89-665, as amended; 16 U.S.C. § 470 et. seq.

13. Protection and Enhancement of the Cultural Environment, Executive Order 11593.

14. Protection of Wetlands, Executive Order 11990, as amended by Executive Order 12608; Pub. L. 99-645, as codified at 16 U.S.C. § 3901 et. seq.

15. Safe Drinking Water Act, Section 1424(e), Pub. L. 92-523, as amended; 42 U.S.C. § 300f et. seq.

16. Wild and Scenic Rivers Act, Pub. L. 90-542, as amended; 16 U.S.C. § 1271 et. seq.

17. Migratory Bird Treaty Act of 1918, 16 U.S.C. § 703 et. seq.

Social Legislation:

1. Age Discrimination Act, Pub. L. 94-135; 42 U.S.C. § 6102.

2. Civil Rights Act of 1964, Pub. L. 88-352, Title VI; 42 U.S.C. § 2000d.

3. Equal Employment Opportunity, Executive Order 11246, as amended.

4. Participation by Disadvantaged Business Enterprises in Procurement Under Environmental Protection Agency (EPA) Financial Assistance Agreements.

    a. Promoting the use of Small, Minority, and Women-owned Businesses, Executive Orders 11625, 12138 and 12432.

    b. Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Pub. L. 100-590.

    c. Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, Pub. L. 102-389; 42 U.S.C. § 4370d.

d. Title X Clean Air Act, Pub. L. 101-549; 42 U.S.C. § 7601 note.

5. Rehabilitation Act of 1973, Pub. L. 93-112; 29 U.S.C. § 794 (including Executive Order 11914 and 11250).

6. Section 13 of the Federal Water Pollution Control Act, Pub. L. 92-500; 33 U.S.C. § 1251.

7. The Drug Free Workplace Act Of 1988, Pub. L. 100-690.

Economic and Miscellaneous Authority:

1. Anti-Lobbying Provision (40 CFR Part 34) and New Restrictions on Lobbying, Section 319 of Pub. L. 101-121.

2. Debarment and Suspension, Executive Order 12549.

3. Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89-754, as amended; 42 U.S.C. § 3331 et. seq.

4. Preservation of Open Competition and Government Neutrality, Executive Order 13502.

5. Prohibitions relating to violators of the Clean Air Act, Section 306 of the Clean Air Act, 42 U.S.C. § 7505; Section 508 of the Clean Water Act, 33 U.S.C. § 1368; Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans.

6. Uniform Relocation and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, as amended; 42 U.S.C. §§ 4601-4655.

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Council-Regular Meeting **A5**

Meeting Date: 05/05/2020

To: Mayor and Council

From: Keith Brann, Town Engineer

Date: May 5, 2020

Strategic Plan Focus Area:
Not Applicable

Subject: *Resolution No. 2020-041: Relating to Budget; approving the transfer of up to $377,800 in budgeted expenditure authority from the General Fund contingency line item in the fiscal year 2019-2020 budget to the Pines II, Road Stabilization Project to pay for anticipated costs associated with the project (Keith Brann)*

Discussion:

In 2015, an emergency repair was made in the Pines 1 subdivision to arrest settlement of Mountain Stone Pine Way. A section of the Pines 1 subdivision was built over a reclaimed sand and gravel pit. Although no settlement was detected when the streets were constructed in 2007 and homes in 2013, significant settlement occurred as the result of what is now known to be substandard compaction of the reclaimed pit. The 2015 project stabilized the areas experiencing settlement and the repair has remained in excellent condition.

In late 2019, an area in the Pines II subdivision in the southwest quadrant of Continental Links Drive and Douglas Fir Drive started experiencing settlement. Initial field investigation deemed this to be normal localized settlement, but after more time it is apparent that this area is also experiencing settlement related to the former sand and gravel pit. Staff has once again initiated an emergency procurement for deep in situ stabilization of this area. The project will be similar to the 2015 project.

The purpose of tonight's item is to request a transfer of up to $377,800 in General Fund contingency expenditure authority to the Pines II, Road Stabilization Project.The budget for fiscal year 2019-2020 was adopted in June 2019 which set the legal level of budgetary control at the department level. Council approval is required for budgetary transfers.

Financial Impact:

Fiscal Year:	FY2020
Budgeted Y/N:	N
Amount:	$477,000

Total estimated amount of the project is $477,000, including project contingency of approximately $30,000. Of this amount, approximately $99,200 will be covered by existing budget capacity in the Highway User Revenue Fund. The remaining $377,800 will be allocated budget capacity from the General Fund contingency account (10010000-7558).

Staff Recommendation:

Staff recommends approval of the funds transfer.

Suggested Motion:

I move to adopt Resolution No. 2020-041, approving the transfer of up to $377,800 in budgeted expenditure authority from the General Fund contingency line item in the fiscal year 2019-2020 budget to the Pines II, Road Stabilization Project to pay for anticipated costs associated with the project.

Attachments

Resolution No. 2020-041

MARANA RESOLUTION NO. 2020-041

RELATING TO BUDGET; APPROVING THE TRANSFER OF UP TO $377,800 IN BUDGETED EXPENDITURE AUTHORITY FROM THE GENERAL FUND CONTINGENCY LINE ITEM IN THE FISCAL YEAR 2019-2020 BUDGET TO THE PINES II, ROAD STABILIZATION PROJECT TO PAY FOR ANTICIPATED COSTS ASSOCIATED WITH THE PROJECT

WHEREAS on June 18, 2019, the Town Council adopted the fiscal year 2019-2020 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 2019-2020 budget of up to $377,800 from the General Fund contingency line item to the Pines II, Road Stabilization Project; and

WHEREAS transferring budgeted expenditure authority from the contingency fund of up to $377,800 within fiscal year 2019-2020 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 $377,800 in budgeted expenditure authority from the General Fund's budgeted contingency line item in the fiscal year 2019-2020 budget to the Pines II, Road Stabilization Project for anticipated costs associated with the project 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 5th day of May, 2020.

Mayor Ed Honea

ATTEST:

Cherry L. Lawson, Town Clerk

APPROVED AS TO FORM:

Frank Cassidy, Town Attorney

Council-Regular Meeting **D1**

Meeting Date: 05/05/2020

To: Mayor and Council

From: Yiannis Kalaitzidis, Finance Director

Date: May 5, 2020

Strategic Plan Focus Area:
Commerce, Community, Heritage, Recreation, Progress & Innovation

Strategic Plan Focus Area Additional Info:
Financial sustainability, quality public service, strategic partnerships and local resource investment are overriding principles of the Strategic Plan.

Subject: Relating to Budget; presentation, discussion and direction regarding an update to fiscal year 2019-2020 revenues and how the COVID-19 pandemic will impact the framework for development of the fiscal year 2020-2021 budget and its role in the implementation of the Strategic Plan (Jamsheed Mehta and Yiannis Kalaitzidis)

Discussion:

This item brings forward an update to the framework for development of the fiscal year 2020-2021 budget as a tool for implementation of the Town's Strategic Plan. The Marana Strategic Plan is the Council's policy document for the future vision of the community. The initiatives and goals included within the Strategic Plan drive services and programs in future years which will be included in the annual budget documents.

A recession is defined as two consecutive quarters of economic contraction. The economy contracted by 4.8% in the first quarter of the calendar year 2020, ending the longest period of expansion in the country's history. General consensus among economists is that the second quarter contraction will be significantly worse with some varied measure of rebound the final two quarters of 2020.

As previously discussed as part of previous budget cycles, over 90% of the revenues used by the General Fund for primary operations are economically sensitive. Because we are in uncharted territory from a historical financial perspective, it will be

extraordinarily difficult to project the impact to revenues for the remainder of fiscal year 2019-2020 and next fiscal year of 2020-2021. Staff continues to monitor the markets and follow developments at local, state and federal levels to assess the potential impact to our economy and has developed what we believe to be reasonably conservative assumptions on revenue impacts that are used for planning purposes. Our level of precision will increase as more information becomes available and as we begin to see actual sales tax journal, State shared revenue and development related revenues occur. This will require that we continue to maintain a thoughtful investment strategy that continues to place resources in areas that maintain or enhance core services.

The presentation will include the projected impact of the pandemic to the Town's revenues based on currently available information. Discussion will include an update to forecasted revenues for the remainder of fiscal year 2019-2020, along with an estimate of how we will end the current fiscal year, and an update to the preliminary outlook into major revenue sources for fiscal year 2020-2021.

We will discuss key issues going into the fiscal year 2020-2021 budget, as well as any additional issues the Council wishes to discuss. Supplemental materials will be provided at the meeting.

Staff Recommendation:

Council's pleasure.

Suggested Motion:

Council's pleasure.

Attachments

No file(s) attached.

Council-Regular Meeting **D2**

Meeting Date: 05/05/2020

To: Mayor and Council

From: Frank Cassidy, Town Attorney

Date: May 5, 2020

Strategic Plan Focus Area:
Not Applicable

Subject: Relating to Development; Discussion and possible action regarding the status of Adonis Road construction and the request by TMR Investors, LLC for a 120-day postponement of the May 16 start date of the Adonis Road construction under the Villages of Tortolita Development Agreement as amended (Frank Cassidy)

Discussion:

This agenda item is scheduled to facilitate Council Member Ziegler's April 21 future agenda item request for a status discussion of the Adonis Road construction and to discuss a request for a 120-day postponement of the Adonis Road start date by TMR Investors, LLC ("TMR"), the developer of The Villages of Tortolita development project.

Marana Ordinance 2007.09 adopted The Villages of Tortolita Specific Plan and required TMR to design and construct the Tortolita Traffic Interchange prior to occupancy of any house or commercial building in The Villages of Tortolita.

The Villages of Tortolita development project was dormant for ten years until, at the request of TMR, the Town Council adopted Marana Ordinance 2017.023, conditionally amending Ordinance 2007.09 to allow some homes to be occupied in The Villages of Tortolita before completion of the Tortolita Traffic Interchange and conditionally committing the Town to participate in the interchange's design and construction costs.

Ordinance 2017.023 approved and authorized the Town to enter into the 2018 Villages of Tortolita Development Agreement with TMR (the "Original VoT DA"). To obtain the conditional relief provided by Ordinance 2017.023, the Original VoT DA requires TMR to (among other things) build Adonis Road from Grier Road along the north side of Adonis Mobile Home Subdivision to Tangerine Road.

The 2019 First Amendment to Villages of Tortolita Development Agreement between the Town and TMR (the "1st VoT DA Amendment") requires TMR to begin construction of Adonis Road within 120 days after receipt of the Town-approved Adonis Road construction plans. To comply with the 120-day provision of the 1st VoT DA Amendment, TMR is required to begin construction of Adonis Road no later than May 16, 2020.

At the April 21 Council meeting, the Mayor reported that he had a phone conversation with Del Post, TMR's attorney, indicating that a request for extension would be forthcoming. In response, Council Member Ziegler requested and the Mayor agreed that a discussion of Adonis Road be placed on the next Council agenda. On April 22, TMR's attorney submitted a request to the Town Manager for a 120-day postponement of the start date of the Adonis Road construction, due to the current COVID-19 global pandemic and economic consequences associated with it. This agenda item is intended to facilitate Council Member Ziegler's future agenda item request and TMR's request for a 120-day postponement of the Adonis Road start date.

The agenda materials accompanying this item include Del Post's April 22 email requesting the 120-day postponement, the Original VoT DA, and the 1st VoT DA Amendment.

Paragraph 31 (cooperation and alternative dispute resolution) subparagraph b (non-performance; remedies) of the Original VoT DA requires the Town to give TMR a period of time "as may be reasonably required" to cure a non-monetary default that cannot reasonably be cured in 30 days. If the Council decides that TMR's failure to begin construction of Adonis Road by May 16 is a default that falls within this provision and reasonably requires 120 days to cure, the Council can direct Town staff to allow the additional 120-day period as part of a default workout.

An alternative approach to granting TMR's request would be for Council to direct Town staff to prepare a further amendment to the Original VoT DA as amended by the 1st VoT Amendment, extending the Adonis Road construction commencement date by 120 days, or such other period as the Council directs.

If the Council determines not to pursue either of the two approaches above, the Council may direct Town staff to take some other available approach, which may include rejecting TMR's extension request.

Financial Impact:

The Town has previously committed to construct Adonis Road if it is not constructed by TMR. The currently estimated cost to construct Adonis Road is $2,500,000. The funding would be taken from the Town's Transportation fund. This will result in certain roadway capital projects being deferred to a future fiscal year. The majority of expenditures would occur in fiscal year 2020-2021.

Staff Recommendation:
Council's pleasure.

Suggested Motion:
Alternative 1 (extension by default workout): I move to approve TMR Investors' request for a 120-day postponement to begin construction of Adonis Road, and direct Town staff to carry out the postponement as a default workout under the Villages of Tortolita Development Agreement.

Alternative 2 (extension by DA amendment): I move to direct Town staff to prepare a further amendment of the Villages of Tortolita Development Agreement that includes a 120-day postponement to begin construction of Adonis Road.

Alternative 3 (rejection of extension): I move to direct Town staff to reject TMR Investors' request for a 120-day postponement to begin construction of Adonis Road.

Attachments

VoT extension request
Original VoT DA
1st VoT DA Amendment

Frank Cassidy

From: del post <dpost@postlawmt.com>
Sent: Wednesday, April 22, 2020 1:11 PM
To: Jamsheed Mehta
Cc: Frank Cassidy
Subject: Villages of Tortolita - Request for Delay

PLEASE BE CAUTIOUS
THIS MESSAGE AND SENDER COME FROM OUTSIDE THE TOWN OF MARANA. IF YOU DID NOT EXPECT THIS MESSAGE, PROCEED WITH CAUTION. VERIFY THE SENDER'S IDENTITY BEFORE PERFORMING ANY ACTION, SUCH AS CLICKING ON A LINK OR OPENING AN ATTACHMENT.

Jamsheed:

As discussed yesterday, my client is asking for a postponement of the start date of the Adonis Road construction project for up to 120 days. The current start date as per the First Amendment to Villages DA is May 16, 2020. The basis for our request is the current COVD-19 global pandemic and economic consequences associated with it.

There are some very troubling economic indicators that are weighing heavily on this difficult decision, and here are just some of them:

- The inventory/supply of homes for sale nationally and locally is increasing at alarming rates. Just in the Phoenix metro area, the MLS inventory jumped over the last three weeks of March by 40% (8,504 to 11,793). Yesterday, the supply of homes for sale has jumped to 18,163. A similar pattern occurred in late 2007/early 2008 associated with the housing meltdown;
- The pace of home sales across the US for the second quarter is 50% below the 1st quarter;
- Several news outlets across the country are reporting this week that at least 3 million home mortgage borrowers in the US are delinquent (and that's just for federally backed mortgages), and lenders across the country are bracing for at least another 15 million more delinquencies/forbearances in the coming weeks;
- Skyrocketing unemployment claims at levels not seen since the Great Depression;
- Large public homebuilders are putting purchases in escrow on hold or backing out completely, a few have started to lay off employees (including Shea Homes), and some are even suspending land development infrastructure work currently under construction.

The undeniable economic indicators are signaling a troubling near-term future for the housing market. Of course, no one knows what exactly is going to happen, but it appears we may be falling into a sharp economic decline that will certainly have a negative impact on residential development. The national and local economies are under siege right now and there is nothing to reassure that the recovery will be swift when the shutdown is finally over.

At this point, my client simply needs additional time to evaluate the impact of the COVID global pandemic on the Villages of Tortolita development. I want to emphasize that my client is not pulling out completely; rather, my client is simply asking for additional time to evaluate and assess.

I am, of course, aware of and deeply sympathize with the difficult position the Town is now in, not only because of the COVID pandemic but also because of my client's request for this delay. I am hopeful we will be able to work through this difficult situation. I will be available to answer any questions that you or any of the council members may have going forward, and Mike Zipprich has assured me that he will also make himself available if that would be helpful.

Thank you for the Town's serious consideration of this very important request.

Sincerely,

Del M. Post
POST
LAW FIRM
CENTRAL SQUARE BUILDING
201 w. main st., suite 101
Missoula, Montana 59802
(406) 926-3416 office
(406) 926-3418 fax

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F. ANN RODRIGUEZ, RECORDER
Recorded By: LMK
DEPUTY RECORDER
4983

SMARA
TOWN OF MARANA
PICKUP

SEQUENCE: 20181060069
NO. PAGES: 19
04/16/2018
9:43:10

VILLAGES OF TORTOLITA DEVELOPMENT AGREEMENT

Town of Marana, Arizona

THIS VILLAGES OF TORTOLITA DEVELOPMENT AGREEMENT (this "Agreement") is made and entered into by and between the TOWN OF MARANA (the "Town"), an Arizona municipal corporation; and TMR INVESTORS, LLC ("TMR"), an Arizona limited liability company. The Town and TMR are sometimes collectively referred to as the "Parties," either of which is sometimes individually referred to as a "Party."

RECITALS

A. On April 3, 2007, the Town Council created The Villages of Tortolita Specific Plan by its adoption of Marana Ordinance No. 2007.09 ("Ordinance 2007.09"), recorded in the Pima County Recorder's office at Docket 13067, Page 1240 (Sequence 20071060205).

B. The Villages of Tortolita Specific Plan governs the development of approximately 1780.44 acres of land referred to in this Agreement as the "Subject Property," depicted and legally described in Exhibit A and Exhibit B to Ordinance 2007.09, and consisting of land located on the east side of Interstate 10 extending from just northwest of the San Lucas Development project and extending about two-thirds of a mile into Pinal County.

C. TMR is the largest single landowner of the Subject Property.

D. Other landowners of the Subject Property (collectively the "Other Property Owners") are INTERSTATE TEN 18.7 ACRES; KAI TRUST; JOHN KAI, JR.; HERBERT KAI; DANIEL K. WONG & DARRYL K. WONG; DOUGLAS S. HOLSCLAW, JR.; BARNETT FAMILY TRUST; and FAST FORWARD FARMS, LLC, an Arizona limited liability company.

E. Together, TMR and the Other Property Owners own all of the Subject Property and are referred to in this agreement as the "Villages of Tortolita Landowners."

F. This Agreement is intended to satisfy rezoning condition 2 of Ordinance 2007.09, which requires adoption of a development agreement before Town Council approval of the first preliminary plat or development plan.

G. Rezoning condition 14 of Ordinance 2007.09 provides:

> The developer will be responsible for the design and construction of the Tortolita Traffic Interchange prior to occupancy of any house or commercial building. Other roadway improvements as required by the Development Agreement and based on the data and findings of the accepted traffic impact analysis and other traffic studies that will be required at the platting or development plan stages of this project.

H. The Town has a pressing need for the Marana TI Improvements and the Adonis Road Improvements.

I. This Agreement is approved, and the Town's Mayor is authorized to sign it, by virtue of the Town Council's adoption of Marana Ordinance No. 2017.____ (the "Concurrent Ordinance"), which also amends Ordinance 2007.09 so that it is consistent with the terms of this Agreement.

J. In order to satisfy the Villages of Tortolita Landowners about the specific terms of the Concurrent Ordinance, which is an inducement to the Other Property Owners' signing of the Waivers (see paragraph 2 below) and to TMR's signing of this Agreement, TMR has received and reviewed an advance draft copy of the Concurrent Ordinance, and the Other Property Owners have been given the opportunity to delay signing the Waivers and TMR has been given the opportunity to delay signing this Agreement until the Marana Town Council's adoption of the Concurrent Ordinance.

K. The development contemplated by this Agreement is in compliance with the Town's adopted and approved General Plan (as defined in A.R.S. § 9-461).

L. The development contemplated by this Agreement is in compliance with The Villages of Tortolita Specific Plan as amended by the Concurrent Ordinance.

M. The Town is authorized by A.R.S. § 9-500.05 to enter into a development agreement with a land owner or other person or entity having an interest in real property located within the Town to facilitate development of the property by providing for, among other things, the conditions, terms, restrictions, and requirements for development and public infrastructure and the financing of public infrastructure.

N. The Town has determined that the Marana TI Improvements, the Adonis Road Improvements, and the Tortolita TI are in the best interests of the region and will enhance circulation for the broader community.

O. The Marana TI Improvements and the Adonis Road Improvements will benefit the Subject Property and enhance overall traffic circulation within the area.

P. The Marana TI Improvements are in the process of being added to the Town of Marana's infrastructure improvements plan supporting a proposed development impact fee which is proposed to be forwarded to Council for consideration of adoption within the next year.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated into this Agreement as though fully restated here, and the mutual covenants set forth in this Agreement, the Parties hereby agree as follows:

1. *Definitions*. The following definitions shall apply to this Agreement:

a. The "Adonis Road Improvements" means the design and construction and one-year warranty of the two-lane paved roadway extending from the current eastern terminus of Grier Road pavement (located about 770 feet east of Grier Road's intersection with Galleno Avenue) to Tangerine Road, as detailed in Exhibit B. No Tangerine Road signalization costs shall be included in the Adonis Road Improvements.

b. The "Adonis Road Public Improvement Costs" means all costs, expenses, fees, transaction privilege taxes and charges actually incurred and paid by or on behalf of TMR to contractors, architects, engineers, surveyors, governmental agencies, other professionals and consultants, and other third parties for materials, labor, planning, design, engineering, surveying, site

excavation and preparation, governmental permits and payments, payment and performance bonds, other professional services, and all other costs and expenses related or incidental to and reasonably necessary for, the acquisition, improvement, construction, installation, or provision of the Adonis Road Improvements and warranting them for one year after completion. The Adonis Road Public Improvement Costs shall not include and shall not accrue interest.

c. "Construction Sales Tax Revenues" mean those portions of the Town's transaction privilege taxes (currently 4%) generated pursuant to Section 8-415 or 8-416 of the Marana Tax Code (or corresponding sections of successor codes) from construction contracting or speculative builder activities (i) on the Subject Property and (ii) from the construction of the Marana TI Improvements, the Adonis Road Improvements, and the Tortolita TI.

d. "Development Regulations" is defined in paragraph 23 below.

e. The "Marana TI Improvements" means the design and construction and one-year warranty of the roadway improvements to the existing Interstate 10 traffic interchange at Marana Road detailed in Exhibit A.

f. The "Marana TI Public Improvement Costs" means all costs, expenses, fees, transaction privilege taxes and charges actually incurred and paid by or on behalf of TMR to contractors, architects, engineers, surveyors, governmental agencies, other professionals and consultants, and other third parties for materials, labor, planning, design, engineering, surveying, site excavation and preparation, governmental permits and payments, payment and performance bonds, other professional services, and all other costs and expenses related or incidental to and reasonably necessary for, the acquisition, improvement, construction, installation, or provision of the Marana TI Improvements and warranting them for one year after completion. The Marana TI Public Improvement Costs shall not include and shall not accrue interest.

g. The "Northwest Marana Roadway Development Impact Fee" is the fee currently anticipated to be adopted by the Town pursuant to A.R.S. § 9-463.05 to fund public roadway improvements in the northwest area of the jurisdictional limits of the Town of Marana; that is, the geographic area that includes the Marana TI Improvements and the Subject Property.

h. The "Other Property Owners" means the persons or entities other than TMR who own portions of the Subject Property. To the best of the Parties' knowledge and information, the names of the Other Property Owners are listed in recital D above.

i. The "Proportionate DIF Collections" means those portions of the Town's Northwest Marana Roadway Development Impact Fee collections which are attributable to the Marana TI Improvements and the Tortolita TI. For context and reference, the Road Facilities Infrastructure Improvements Plan presented at the Marana Town Council's August 1, 2017 meeting included a $6,000,000 anticipated cost of the Marana TI Improvements (called "Marana Road Interchange, Phase I" in the Road Facilities Infrastructure Improvements Plan) out of total Northwest Marana Roadway costs of $23,452,000 (not including reimbursable expert and financing costs); so as of August 1, 2017, the Parties anticipate that the Proportionate DIF Collections will be less than 26% of the Town's total Northwest Marana Roadway Development Impact Fee collections. Proportionate DIF Collections will not include any Northwest Marana Roadway Development Impact Fee collections attributable to the Tortolita TI until the Town's Road Facilities Infrastructure Improvements Plan is amended to add the Tortolita TI and the

Northwest Marana Roadway Development Impact Fee is readopted pursuant to the Road Facilities Infrastructure Improvements Plan as so amended. See paragraph 13 below

j. "Reimbursement Account" means a separate account within the Town's General Fund or accounted for by an appropriate book or ledger entry designation for the purpose of making Reimbursement Payments.

k. "Reimbursement Payments" is defined in paragraph 9 below.

l. The "Subject Property" is defined in recital B above.

m. The "Tortolita TI" means the Tortolita traffic interchange—the currently-planned freeway interchange, bridge, ramps, and approaches at approximately milepost 233 on Interstate 10 approximately three miles northwest of the existing Marana traffic interchange. The Tortolita TI is currently planned to connect Interstate 10 to the proposed Tortolita Mountain Parkway within the Subject Property.

n. The "Tortolita TI Obligation Date" is the date when all relevant permits and clearances have been granted for the construction of the Tortolita TI, all funding for the Tortolita TI is in place, and a construction contract is in place for the construction of the Tortolita TI in accordance with State of Arizona and Town public infrastructure construction procurement laws and procedures.

o. The "Tortolita TI Public Improvement Costs" means all costs, expenses, fees, transaction privilege taxes and charges actually incurred and paid by or on behalf of TMR to contractors, architects, engineers, surveyors, governmental agencies, other professionals and consultants, and other third parties for materials, labor, planning, design, engineering, surveying, site excavation and preparation, governmental permits and payments, payment and performance bonds, other professional services, and all other costs and expenses related or incidental to and reasonably necessary for, the acquisition, improvement, construction, installation, or provision of the Tortolita TI and warranting them for one year after completion. The Tortolita TI Public Improvement Costs shall not include and shall not accrue interest.

p. The "Villages of Tortolita Landowners" means TMR and the Other Property Owners, collectively (see recital E above)

q. The "Waivers" are waivers of rights under the Private Property Rights Protection Act, A.R.S. § 12-1131 *et seq*., signed by the Other Property Owners in substantially the form attached as Exhibit C to this Agreement (see paragraph 2 below).

2. *Prop 207 Waivers*. By signing this Agreement, TMR waives any and all rights to make a claim for diminution in value under the Private Property Rights Protection Act, A.R.S. § 12-1131 *et seq*., resulting from this Agreement or the Concurrent Ordinance, or resulting from remedies resulting from enforcing the terms of this Agreement or the Concurrent Ordinance. In addition, TMR shall be responsible for obtaining waivers (the "Waivers") of rights under the Private Property Rights Protection Act, A.R.S. § 12-1131 *et seq*., signed by the Other Property Owners in substantially the form attached as Exhibit C to this Agreement. TMR understands that the Town will not sign this Agreement until all of the Waivers have been delivered to the Town.

3. *Construction of the Marana TI Improvements and the Adonis Road Improvements*. As a condition of the Town's amendment of rezoning condition 14 of Ordinance 2007.09 pursuant to the Concurrent Ordinance, and not as a separate legal obligation, TMR shall design and construct

the Marana TI Improvements and the Adonis Road Improvements in accordance with the terms of this Agreement.

a. *Adonis Road Improvements start*. TMR shall submit the design of the Adonis Road Improvements to the Town no later than 150 calendar days after the Town Engineer certifies in writing that the Town has obtained the right-of-way needed for the construction. TMR shall begin construction of the Adonis Road Improvements no later than 180 calendar days after the Town approves the design of the Adonis Road Improvements.

b. *Adonis Road Improvements completion*. Construction of the Adonis Road Improvements shall be substantially completed no later than the first anniversary of the start of construction of the Adonis Road Improvements.

c. *Marana TI Improvements start*. TMR shall begin construction of the Marana TI Improvements no later than the first anniversary of the substantial completion of construction of the Adonis Road Improvements; provided, however, that if by 30 days prior to the first anniversary the Arizona Department of Transportation, Union Pacific Railroad, Cortaro-Marana Irrigation District, or any other entity with approval authority over the Marana TI Improvements has not given approval of the Marana TI Improvements, the start of construction shall occur no later than 30 days after the date of the last such entity's approval of the Marana TI Improvements.

d. *Marana TI Improvements completion*. Construction of the Marana TI Improvements shall be substantially completed no later than the first anniversary of the start of construction of the Marana TI Improvements.

e. *Effect*. The Town will not allow occupancy of any structure authorized by The Villages of Tortolita Specific Plan other than model homes until construction of the Adonis Road Improvements and the Marana TI Improvements has begun and the Town Engineer has approved a traffic study that supports such occupancy. Model home lots may not be sold until they have been released from subdivision assurances. Once construction of the Adonis Road Improvements and the Marana TI Improvements has been completed, and until the fourth anniversary of their completion date, the Town will treat the Marana TI Improvements and the Adonis Road Improvements as having created transportation capacity for up to 400 single family residences even if the actual capacity has by that time been displaced by other development. Nothing in this paragraph shall be interpreted as the Town's waiver of other infrastructure capacity requirements. The Marana Water Department believes that existing water delivery and sewer conveyance capacity in the vicinity of the Subject Property is not sufficient for 400 single family residences without the construction of system improvements. The Parties acknowledge that water and sewer capacity issues are being addressed by separate agreements between the Parties.

4. *Effect of TMR's failure to construct.* TMR's failure to comply with the requirements set forth in paragraph 3 above triggers the Town's right to revert the Concurrent Ordinance's modifications to rezoning conditions 2 and 14 of Ordinance 2007.09, pursuant to the procedure set forth in the Concurrent Ordinance, which shall be the Town's sole remedy for TMR's failure to comply with the requirements set forth in paragraph 3 above.

5. *Marana TI Improvements and Adonis Road Improvements construction and reimbursement.* As a condition precedent to receiving Reimbursement Payments for the Marana TI Public Improvement Costs under paragraph 9 of this Agreement, and not as a separate contractual obligation, TMR shall, in conjunction with development of the Subject Property:

a. Design and construct the Marana TI Improvements in accordance with State of Arizona and Town public infrastructure construction procurement laws and procedures; and

b. Design and construct the Adonis Road Improvements; and

c. Pay all Marana TI Public Improvement Costs and Adonis Road Public Improvement Costs as they become due.

6. *Tortolita TI construction and reimbursement.* As a condition precedent to receiving Reimbursement Payments for up to half of the Tortolita TI Public Improvement Costs under paragraph 9 of this Agreement, and not as a separate contractual obligation, TMR shall, in conjunction with their development of the Subject Property:

a. Design and construct the Tortolita TI in accordance with State of Arizona and Town public infrastructure construction procurement laws and procedures; and

b. Pay all Tortolita TI Public Improvement Costs as they become due.

7. *Reimbursement amount.* The Town shall make Reimbursement Payments to TMR for the Marana TI Public Improvement Costs and up to half of the Tortolita TI Public Improvement Costs pursuant to paragraph 9 below. In no event shall interest accrue on any costs reimbursed by the Town pursuant to this Agreement. TMR shall submit to the Town quarterly statements showing the actual Marana TI Public Improvement Costs and Tortolita TI Public Improvement Costs incurred and paid to date. Quarterly statements shall be provided until (i) the total amount of all Reimbursement Payments to TMR equals the Marana TI Public Improvement Costs plus half of the Tortolita TI Public Improvement Costs or (ii) the 30th anniversary of the Effective Date, whichever first occurs. Within 60 days thereafter, TMR shall provide a final statement to the Town. TMR shall provide the Town with invoices or other backup information reasonably requested by the Town to confirm the accuracy of TMR's quarterly statement of costs and contributions or credits.

8. *Reimbursement Account.* Beginning with the first Construction Sales Tax Revenues generated from the Marana TI Improvements, the Adonis Improvements, and the development of the Subject Property; subject to the limitations of paragraph 10 below; and ending upon the expiration of this Agreement; the Town shall deposit into the Reimbursement Account all of the following:

a. The Construction Sales Tax Revenues as they are received from the Arizona Department of Revenue; and

b. The Proportionate DIF Collections as they are received from all payers of the Northwest Marana Roadway Development Impact Fee.

9. *Reimbursement Payments.* Within the first 30 days of each calendar quarter, the Town shall pay TMR all funds in the Reimbursement Account ("Reimbursement Payments"). Reimbursement Payments shall begin the first calendar quarter after all of the following have occurred: (a) TMR has incurred Marana TI Public Improvement Costs; (b) TMR has submitted the first quarterly statement pursuant to paragraph 7 above; and (c) the Town has received Construction Sales Tax

Revenues generated by the Marana TI Improvements, the Adonis Improvements, or by improvements constructed on the Subject Property. Any funds accrued in the Reimbursement Account and owed to TMR for the Marana TI Public Improvement Costs and half of the Tortolita TI Public Improvement Costs but not yet disbursed to TMR upon the expiration of this Agreement shall be paid to TMR within 30 days after the expiration of this Agreement.

10. *Accounting of Reimbursement Payments*. The following accounting rules apply to the Reimbursement Account and Reimbursement Payments:

a. *Accounting of Proportionate DIF Collections.* Under all circumstances:

i. Marana Roadway Development Impact Fee collections which are attributable to the Marana TI Improvements will be accounted toward repayment of the Marana TI Public Improvement Costs; and

ii. Marana Roadway Development Impact Fee collections which are attributable to the Tortolita TI will be accounted toward repayment of half of the Tortolita TI Public Improvement Costs.

b. *Order of application of Construction Sales Tax Revenues*. All Construction Sales Tax Revenues shall be applied first to repayment of the Marana TI Public Improvement Costs and then to repayment of half of the Tortolita TI Public Improvement Costs.

c. *Termination of development impact fees*. When the Marana TI Public Improvement Costs have been fully paid, the Town will cease Northwest Marana Roadway Development Impact Fee collections attributable to the Marana TI Improvements. When half of the Tortolita TI Public Improvement Costs have been paid, the Town will cease Northwest Marana Roadway Development Impact Fee collections attributable to the Tortolita TI.

d. *Effect of Tortolita TI construction delay*. If the Tortolita TI Obligation Date has not yet occurred when the total funds deposited into the Reimbursement Account equal the Marana TI Public Improvement Costs,

i. the Town will stop making deposits into the Reimbursement Account; and

ii. the Town will treat all Construction Sales Tax Revenues as general revenues of the Town and not subject to the Town's reimbursement obligations to TMR under this Agreement until the Tortolita TI Obligation Date.

e. *Deposits after Tortolita TI Obligation Date*. If the Town has stopped depositing Construction Sales Tax Revenues into the Reimbursement Account by operation of subparagraph 10.d above, the Town shall re-commence deposit of Construction Sales Tax Revenues into the Reimbursement Account beginning with the first Construction Sales Tax Revenues received from the Arizona Department of Revenue after the Tortolita TI Obligation Date. All Construction Sales Tax Revenues received while deposits were not being made into the Reimbursement Account are general revenues of the Town and not subject to the Town's reimbursement obligations to TMR under this Agreement.

11. *Effect of loss of Construction Sales Tax Revenues*. If the laws of the State of Arizona are revised in a way that reduces or eliminates Construction Sales Tax Revenues, the Town shall make deposits into the Reimbursement Account from such funding, if any, that the Town receives under then-existing laws of the State of Arizona to replace the reduced or eliminated Construction Sales Tax Revenues, in an amount that is proportional, in the Town's Finance Director's reasonable

opinion, to the Construction Sales Tax Revenues that the Town would have received if the laws of the State of Arizona had not been so revised.

12. *No Town representation of sufficiency of Reimbursement Payments*. TMR acknowledges and understands that the amount of the Construction Sales Tax Revenues depends on many factors and may be insufficient to pay all of the Marana TI Public Improvement Costs and half of the Tortolita TI Public Improvement Costs.

13. *Development impact fees for Tortolita TI*. The Town must amend the Road Facilities Infrastructure Improvements Plan associated with the Town's Northwest Marana Roadway Development Impact Fee to include the Tortolita TI no later than the first anniversary of the Tortolita TI Obligation Date.

14. *Owners' audit*. Not more than once each calendar year, TMR may, at its own cost, audit Town sales tax returns and other appropriate financial records of the Town to assure prompt and accurate deposit into the Reimbursement Account of all revenues as required pursuant to this Agreement. TMR's audit authorized by this paragraph shall be subject to all applicable laws that may prohibit or limit the dissemination or use of transaction privilege tax and related information. Before TMR's audit occurs, TMR shall obtain and provide to the Town written waivers of confidentiality sufficient to satisfy the requirements of Arizona Revised Statutes § 42-2003(A)(6) from each taxpayer whose sales tax returns and other financial records are provided by the Town in connection with the audit.

15. *Annual report*. Within 45 days following the end of each Town fiscal year, the Town shall deliver to TMR a report of all Construction Sales Tax Revenues which have been utilized by the Town in determining the amount deposited into the Reimbursement Account. The report shall be restricted to information that may be released by the Town without violating applicable laws that may prohibit or limit the dissemination or use of transaction privilege tax and related information. The report will not contain information capable of identifying confidential information of any particular taxpayer unless and until TMR has obtained and provided to the Town written waivers of confidentiality sufficient to satisfy the requirements of Arizona Revised Statutes § 42-2003(A)(6) from each taxpayer whose confidential information is revealed in the report.

16. *Limitations*. During the Term of this Agreement, the Town shall not enter into any agreement or transaction which impairs the Town's ability to make Reimbursement Payments or the rights of TMR under this Agreement, including, without limitation, the right to receive the Reimbursement Payments and the proceeds of the Reimbursement Account in accordance with the procedures established in this Agreement.

17. *Contractor and subcontractor disaggregation of tax information for the Subject Property; release of tax information*. TMR shall require each contractor and subcontractor responsible for the payment of Construction Sales Tax Revenues to separately report construction sales tax attributable to the Subject Property, the Marana TI Improvements, the Adonis Road Improvements, and the Tortolita TI. TMR shall exercise reasonable efforts to obtain from each contractor and subcontractor doing work attributable to the Subject Property, the Marana TI Improvements, the Adonis Road Improvements, or the Tortolita TI a consent to release of tax information in a form reasonably acceptable to the Town. If the separate report required by this paragraph is not provided to the Town, the Town shall make a reasonable estimate of Construction Sales Tax Revenues based on all information available to the Town, including information provided by TMR, and the good faith certification by the Town's Finance Director shall be considered final and binding upon TMR.

The final certification of the Town's Finance Director shall be subject to all applicable laws that may prohibit or limit the dissemination or use of transaction privilege tax and related information.

18. *Water amenities.* TMR may, in its sole and absolute direction, elect to design, construct and develop recreational lakes, water features, and other compatible improvement and amenities (the "Water Amenities"). The Town supports the concept of providing Water Amenities to current and future residents of the Town, so long as TMR provides the permanent water resources necessary for any and all Water Amenities, and that those water resources shall not include treated effluent from the Subject Property (all of which the Town requires for its long-term water resource obligations, separate from and not including any Water Amenities). The Town recognizes the public value created by incorporating Water Amenities into neighborhood and commercial centers of the Town. The Parties acknowledge that future agreements may be necessary to address regulatory, permitting, design, management, and ownership aspects of the Water Amenities. As development of the Subject Property progresses, the Parties agree to cooperate in identifying all agreements necessary to develop the Water Amenities. TMR acknowledges and agrees that any future agreement relating to Water Amenities is subject to federal, state, and county regulatory requirements and approvals and as such would be would be subject to the approval by the Town Council in its sole and absolute discretion.

19. *CFD application fee.* The Town acknowledges receipt of payment of an application fee for a community facilities district (CFD) on the Subject Property pursuant to the Town's CFD policy as it existed at the time the fee was paid. The Town agrees not to charge any additional fees for the Town's consideration of the creation of the first CFD for the Subject Property, and TMR agrees not to seek a refund of fees already paid.

20. *Other future economic incentives.* The absence of language in this Agreement to address a particular form or type of economic incentive is not intended to imply that no such economic incentives will be available or forthcoming. On the contrary, the Parties anticipate that future economic incentives will be the subject of future agreements or amendments to this Agreement if and when the Parties determine the economic incentives are necessary or beneficial (i) to induce one or more retail business facilities to locate on the Subject Property, (ii) to assist in the creation or retention of jobs, and/or (iii) to otherwise improve or enhance the economic welfare of the Town's inhabitants.

21. *Term*. This Agreement shall become effective (the "Effective Date") upon the later of (i) its date of recording pursuant to paragraph 33 below and (ii) the effective date of the Concurrent Ordinance. The term of this Agreement shall begin on the Effective Date and, unless sooner terminated by the mutual consent of the Parties, shall automatically terminate and shall thereafter be void for all purposes on the 30th anniversary of the Effective Date. The Town's reimbursement obligations under paragraph 9 above shall terminate on the earlier of (i) the date the Town has reimbursed TMR for all of the Marana TI Public Improvement Costs and half of the Tortolita TI Public Improvement Costs or (ii) the 30th anniversary of the Effective Date.

22. *Maintenance*. Once the Marana TI Improvements and the Adonis Road Improvements are completed by TMR and accepted by the Town, and the one-year warranty applicable to each has expired, the Town shall have full maintenance responsibility for the Marana TI Improvements and the Adonis Road Improvements. The Parties anticipate that the Arizona Department of Transportation will have full maintenance responsibility for the Tortolita TI after it is completed by TMR

and accepted by the Arizona Department of Transportation, and the one-year warranty applicable to its construction has expired.

23. *Development regulations*. The Subject Property shall be governed by The Villages of Tortolita Specific Plan and this Agreement. The Marana Land Development Code, including the written rules, regulations, substantive procedures, and policies relating to development of land, adopted or approved by the Mayor and Council (collectively the "Marana Development Code") in effect on the Effective Date shall apply to the extent not covered by The Villages of Tortolita Specific Plan or this Agreement. The requirements of this paragraph are collectively referred to as the "Development Regulations." In the event of any express conflict, the following rules shall apply:

a. The Villages of Tortolita Specific Plan as amended by the Concurrent Ordinance shall control over the terms of the Marana Development Code on all matters.

b. The Villages of Tortolita Specific Plan as amended by the Concurrent Ordinance and the Marana Development Code shall control over the terms of this Agreement as to any zoning or other legislative matter.

c. This Agreement shall control over the terms of The Villages of Tortolita Specific Plan as amended by the Concurrent Ordinance and the Marana Development Code as to any administrative or procedural matter.

24. *Development review*. The Subject Property shall be developed in a manner consistent with the Development Regulations and this Agreement, which together establish the basic land uses, and the densities, intensities and development regulations that apply to the land uses authorized for the Subject Property. Upon the Villages of Tortolita Landowners' compliance with the applicable development review and approval procedures and substantive requirements of the Development Regulations, the Town agrees to issue such permits or approvals for the Subject Property as may be requested by the Villages of Tortolita Landowners.

25. *Permit and review fee waiver.* The Town will waive all Town plan review fees and inspection and construction permit fees for the Marana TI Improvements, the Adonis Road Improvements, and the Tortolita TI. TMR will be responsible to pay all applicable fees to other government entities, including the Arizona Department of Transportation.

26. *Town review and approval of plans*. Except as expressly provided in this Agreement, the development and construction of the Marana TI Improvements, the Adonis Road Improvements, and the Tortolita TI are subject to the Town's normal plan submittal, review and approval procedures and construction inspection requirements.

27. *Development impact fees*. Nothing in this Agreement shall be construed as a waiver or reduction of development impact fees properly adopted by the Town pursuant to A.R.S. § 9-463.05 and applicable to the Subject Property.

28. *No partnership or joint venture*. Nothing in this Agreement shall be understood or construed to create or imply a partnership or joint venture between or among TMR, the Town, and any of the Other Property Owners.

29. *Other development agreements*. Subject to the limitations set forth in paragraph 16 above, nothing in this Agreement shall preclude the Other Property Owners from entering into one or

more development agreements with the Town to facilitate development on the real property owned by the Other Property Owners.

30. *Effect on other properties; exercise of eminent domain.* This Agreement shall not be construed to convey any interest in real property owned by the Other Property Owners to TMR, nor shall it be construed to obligate TMR to construct any improvements on real property owned by the Other Property Owners. If TMR and the Town mutually determine that acquisition of third-party property rights are necessary and appropriate for the construction of public infrastructure contemplated by this Agreement or by The Villages of Tortolita Specific Plan as amended by the Concurrent Ordinance, TMR will use commercially reasonable efforts to acquire the third-party property rights. TMR shall not construct public infrastructure requiring acquisition of third-party property rights until either (i) TMR has acquired the necessary third-party property rights pursuant to this paragraph or, (ii) the Town has obtained possession of the necessary third-party property rights by eminent domain, which the Town shall exercise by filing a condemnation lawsuit in the Superior Court of the county where the third-party property rights are located within 180 days after TMR advises the Town in writing that it has been unable to obtain the necessary third-party property rights. If the Town exercises its power of eminent domain pursuant to this paragraph, TMR shall pay all of the Town's costs of condemnation, including but not limited to the condemnation award to the property owners, costs of litigation, and the Town's reasonable attorneys' fees. If the Town settles a condemnation lawsuit, TMR shall pay the settlement costs, provided that those costs do not exceed the higher of (a) 120% of the appraised value of the third-party property rights acquired or (b) an amount approved by TMR.

31. *Cooperation and alternative dispute resolution.*

a. *Appointment of representatives.* To further the commitment of the Parties to cooperate in the development of the Subject Property and the construction of the public improvements discussed in this Agreement, the Town and TMR each shall designate and appoint a representative to act as a liaison between the Town and its various departments and TMR. The initial representative for the Town (the "Town Representative") shall be the Town Manager, and the initial representative for TMR shall be Michael B. Zipprich or a replacement to be selected by TMR. The representatives shall be available at all reasonable times to discuss and review the performance of the Parties in the development of the Subject Property and the construction of the public improvements discussed in this Agreement.

b. *Non-performance; remedies.* If any Party does not perform under this Agreement (the "Non-Performing Party") with respect to any of that Party's obligations under this Agreement, any other Party (the "Demanding Party") shall be entitled to give written notice in the manner prescribed in paragraph 32 below to the Non-Performing Party, which notice shall state the nature of the non-performance claimed and make demand that such non-performance be corrected. The Non-Performing Party shall then have (i) 15 days from the date of the notice within which to correct the non-performance if it can reasonably be corrected by the payment of money, or (ii) 30 days from the date of the notice to cure the non-performance if action other than the payment of money is reasonably required, or if the non-monetary non-performance cannot reasonably be cured within 30 days, then such longer period as may be reasonably required, provided and so long as the cure is promptly commenced within 30 days and thereafter diligently prosecuted to completion. If any non-performance is not cured within the applicable time period set forth in this paragraph, then the Demanding Party shall be entitled to begin the mediation and arbitration proceedings set forth in this paragraph. The Parties agree that due to

the size, nature and scope of the Subject Property and the construction of the public improvements discussed in this Agreement, and due to the fact that it may not be practical or possible to restore the property to its condition prior to TMR's development and improvement work, once implementation of this Agreement has begun, money damages and remedies at law will likely be inadequate and that specific performance will likely be appropriate for the non-performance of a covenant contained in this Agreement. This paragraph shall not limit any contract or other rights, remedies, or causes of action that any Party may have at law or in equity.

c. *Mediation.* If there is a dispute under this Agreement which the Parties cannot resolve between themselves, the Parties agree that there shall be a 45-day moratorium on arbitration during which time the Parties agree to attempt to settle the dispute by nonbinding mediation before commencement of arbitration. The mediation shall be held under the commercial mediation rules of the American Arbitration Association. The matter in dispute shall be submitted to a mediator mutually selected by TMR and the Town. If the Parties cannot agree upon the selection of a mediator within seven days, then within three days thereafter the Town and TMR shall request the presiding judge of the Superior Court in and for the County of Pima, State of Arizona, to appoint an independent mediator. The mediator selected shall have at least five years' experience in mediating or arbitrating disputes relating to real estate development. The cost of any such mediation shall be divided equally between the Town and TMR. The results of the mediation shall be nonbinding on the Parties, and any Party shall be free to initiate arbitration after the moratorium.

d. *Arbitration.* After mediation, as provided for in subparagraph 31.c above, any dispute, controversy, claim or cause of action arising out of or relating to this Agreement shall be settled by submission of the matter by both Parties to binding arbitration in accordance with the rules of the American Arbitration Association and the Arizona Uniform Arbitration Act, A.R.S. § 12-501 *et seq.*, and judgment upon the award rendered by the arbitrator(s) may be entered in a court having jurisdiction.

32. *Notices.* All notices, requests and other communications under this Agreement shall be given in writing and either (i) personally served on the party to whom it is given, or (ii) mailed by registered or certified mail, postage prepaid, return receipt requested, or (iii) sent by private overnight courier such as Federal Express or Airborne, addressed as follows:

If to the Town:

TOWN OF MARANA
11555 W. Civic Center Drive, Bldg. A3
Marana, Arizona 85653-7006
Telephone: (520) 382-1900

If to TMR:

TMR INVESTORS, LLC
7377 E. Doubletree Ranch Rd., Suite 190
Scottsdale, AZ 85258
Attn: Michael B. Zipprich
Telephone: (480) 947-5900

All notices shall be deemed given when delivered or, if mailed as provided above, on the second day after the day of mailing, and if sent by overnight courier, on the next day after the date of

deposit with the courier. Any party may change its address for the receipt of notices at any time by giving written notice thereof to the other parties in accordance with the terms of this section. The inability to deliver notice because of a changed address of which no notice was given, or rejection or other refusal to accept any notice, shall be deemed to be the effective receipt of the notice as of the date of such inability to deliver or rejection or refusal to accept.

33. *Recordation.* After this Agreement has been executed by the Parties, the Town shall, as concurrently as reasonably possible, record this Agreement in the offices of the Pima County Recorder and the Pinal County Recorder. If recording does not occur on the same day, the date of recording for purposes of this Agreement shall be the later of the two recording dates. To facilitate concurrent recording of this Agreement, the Parties may sign two identical originals of this Agreement.

34. *Miscellaneous.*

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

b. Time is of the essence of this Agreement.

c. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Arizona, and any lawsuit to enforce any provision of this Agreement or to obtain any remedy with respect to this Agreement shall be brought in the Pima County Superior Court, and for this purpose the Parties expressly and irrevocably consent to the jurisdiction of the Pima County Superior Court.

d. If any Party fails to perform any of its obligations under this Agreement or if a dispute arises concerning the meaning or interpretation of any provision of this Agreement, the prevailing Party shall be entitled to its reasonable attorneys' fees and costs consistent with A.R.S. § 12-341.01.

e. This Agreement may be executed in identical counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument. In addition, this Agreement may contain more than one counterpart of the signature pages and this Agreement may be executed by the affixing of the signature pages, and all of such counterpart signature pages shall be read as though one, and they shall have the same force and effect as though all the signers had signed a single signature page.

f. Exhibits referred to in and attached to this Agreement are incorporated by reference as if set forth in full in the text of this Agreement.

g. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors in interest and assigns; provided, however, that (i) upon the conveyance of all of TMR's holdings in the Subject Property to a single grantee, TMR shall automatically be released from any further obligation or liability under this Agreement and this Agreement shall thereafter bind the grantee; and (ii) in no event shall this Agreement be binding on or burden the property of a purchaser of a home on the Subject Property.

h. This Agreement is subject to A.R.S. § 38-511, which provides for cancellation of contracts in certain instances involving conflicts of interest.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the last date set forth below their respective signatures, with an Effective Date determined as set forth in paragraph 21 above.

THE "TOWN":

TOWN OF MARANA, an Arizona municipal corporation

By: _____
Ed Honea, Mayor

Date: 4-3-18

ATTEST:

_____
Jocelyn C. Bronson, Town Clerk

APPROVED AS TO FORM:

_____
Frank Cassidy, Town Attorney

"TMR":

TMR INVESTORS, LLC, an Arizona limited liability company ("TMR")
By: TMR MANAGEMENT, LLC, an Arizona limited liability company, its Manager
By: ZIPPRICH GROUP, LLC, an Arizona limited liability company, its Member

By: _____
Michael B. Zipprich, Manager

Date: 02/21/2018

By: INCA CAPITAL I, LLC, an Arizona limited liability company, its Member

By: _____
William Cleverly, Manager

Date: 02/22/18

STATE OF ARIZONA)
ss
County of Maricopa)

The foregoing instrument was acknowledged before me on February 21, 2018 by Michael B. Zipprich, Manager of ZIPPRICH GROUP, LLC, an Arizona limited liability company, a Member of TMR MANAGEMENT, LLC, an Arizona limited liability company, Manager of TMR INVESTORS, LLC, an Arizona limited liability company, on behalf of TMR.

(Seal)

CHARLES LINDGREN
Notary Public - Arizona
Maricopa County
My Comm. Expires Apr 29, 2019

_____
Notary Public

STATE OF ARIZONA)
ss
County of Maricopa)

The foregoing instrument was acknowledged before me on February 22, 2018 by William Cleverly, Manager of INCA CAPITAL I, LLC, an Arizona limited liability company, a Member of

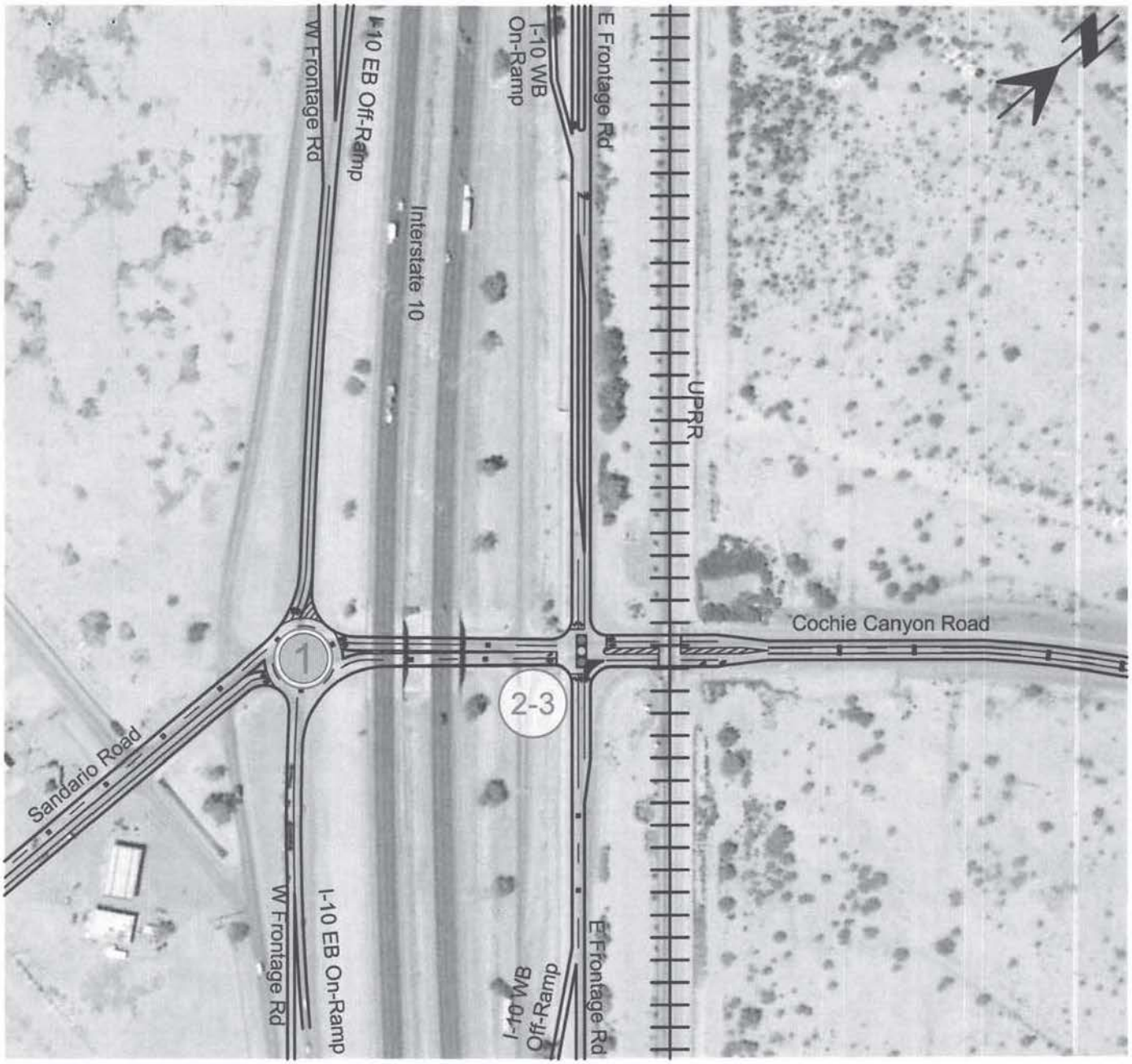
TMR MANAGEMENT, LLC, an Arizona limited liability company, Manager of TMR INVESTORS, LLC, an Arizona limited liability company, on behalf of TMR.

(Seal) Pamela J. Harris
Notary Public - Arizona
Maricopa County
My Commission Expires
July 24, 2020

Pamela J. Harris
Notary Public

LIST OF EXHIBITS

Exhibit A	Detailed description of the Marana TI Improvements
Exhibit B	Detailed description of the Adonis Road Improvements
Exhibit C	Form of Waiver to be signed by the Other Property Owners



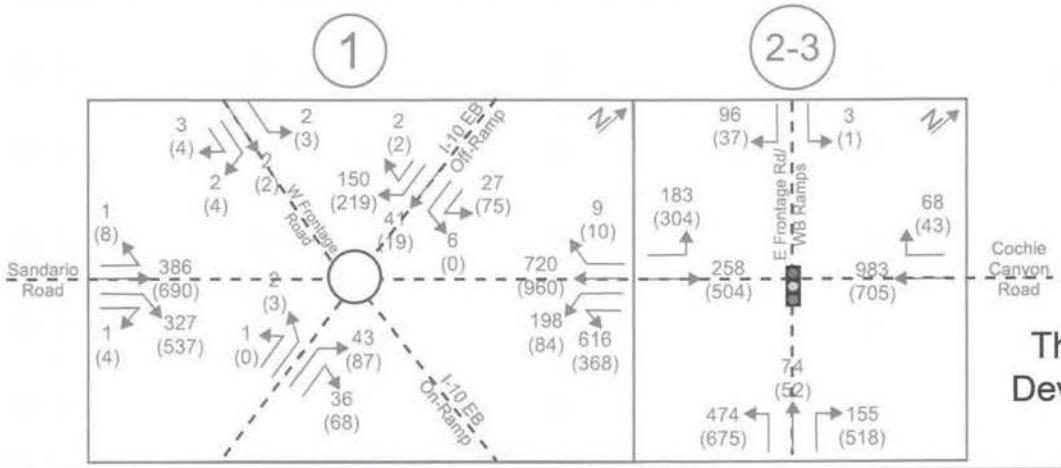


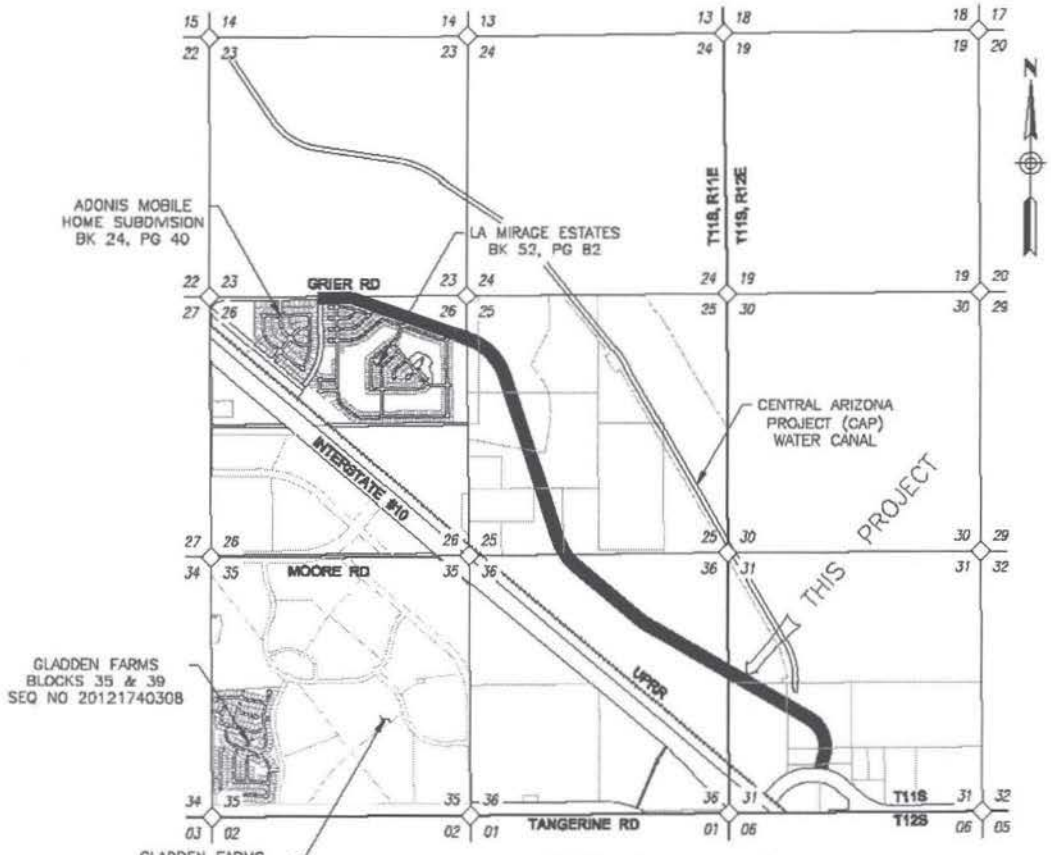
Exhibit A to
The Villages of Tortolita
Development Agreement

VILLAGES OF TORTOLITA - MARANA TI EVALUATION	FIGURE 5. SCENARIO 3 TRAFFIC VOLUMES	PSOMAS JULY 2017

Exhibit B to The Villages of Tortolita Development Agreement

Description of the Adonis Road Improvements

1. A minimum two-inch asphalt road on a six-inch aggregate base, subject to findings from a geotechnical report.
2. A 30-foot wide pavement cross-section.
3. Drainage crossings will be handled at-grade with concrete header curbing three feet deep or to scour depth, and with a design that includes armored drainage crossings, and compliance with all town, state and federal regulations pertaining to roadway design.
4. Alignment per "Right-of-Way Plans for Adonis Road Grier Road to Tangerine Road" prepared by Dibble Engineering, as follows:



LOCATION MAP

A PORTION OF SECTIONS 25, 26 & 36, TOWNSHIP 11 SOUTH, RANGE 11 EAST, AND A PORTION OF SECTION 31, TOWNSHIP 11 SOUTH, RANGE 12 EAST, G&SRM, PIMA COUNTY, ARIZONA

LAT: 32° 26' 06.01" N
LONG: -111° 10' 09.21" W
3" = 1 MILE

00054820.DOCX /1

WAIVER OF CLAIMS FOR POSSIBLE DIMINUTION OF VALUE RESULTING FROM TOWN OF MARANA ORDINANCE NO. 2007.09 (ADOPTING THE VILLAGES OF TORTOLITA SPECIFIC PLAN) AND TOWN OF MARANA ORDINANCE NO. 2017.___ (AMENDING THE CONDITIONS OF APPROVAL OF THE VILLAGES OF TORTOLITA SPECIFIC PLAN AND APPROVING THE VILLAGES OF TORTOLITA DEVELOPMENT AGREEMENT)

The undersigned (the "Owner") owns an interest in a portion of the "Subject Property," which is the land that is the subject of The Villages of Tortolita Specific Plan adopted by Marana Ordinance No. 2007.09 ("Ordinance 2007.09"), recorded in the Pima County Recorder's office at Docket 13067, Page 1240 (Sequence 20071060205). The Subject Property is depicted and legally described in Exhibit A and Exhibit B to Ordinance 2007.09.

On November 7, 2017, the Marana Town Council is scheduled to consider the adoption of Marana Ordinance No. 2017.___ (the "Concurrent Ordinance"). If adopted, the Concurrent Ordinance will approve The Villages of Tortolita Development Agreement and will modify certain conditions of Ordinance 2007.09. The modifications include a provision that would allow TMR INVESTORS, LLC ("TMR"), the owner of most of the Subject Property, to construct up to 1,000 homes on the Subject Property before the construction of the new Tortolita traffic interchange, proposed to be constructed at about milepost 233 on Interstate 10—approximately three miles northwest of the existing Marana traffic interchange. The Villages of Tortolita Development Agreement allows TMR to be reimbursed up to half of the costs of designing and constructing the new Tortolita traffic interchange. As a condition of the modification and the reimbursement, TMR is required to design and construct transportation infrastructure improvements to the existing Marana traffic interchange and roadway improvements referred to as the Adonis Road Improvements in The Villages of Tortolita Development Agreement.

The Owner hereby acknowledges receipt of pre-adoption drafts of the Concurrent Ordinance and The Villages of Tortolita Development Agreement, and further acknowledges that the Owner was given the opportunity to delay signing this waiver until after the Marana Town Council's adoption of the Concurrent Ordinance.

The Owner hereby agrees and consents to Ordinance 2007.09 as amended by the Concurrent Ordinance, including all stipulations adopted by the Marana Town Council in conjunction with Ordinance 2007.09 as amended by the Concurrent Ordinance.

The Owner waives any right to compensation for diminution in value pursuant to Arizona Revised Statutes § 12-1134 that may now or in the future exist as a result of the approval of Ordinance 2007.09 or the Concurrent Ordinance, or as a result of the approval and execution of The Villages of Tortolita Development Agreement.

The Owner acknowledges that the Concurrent Ordinance may be modified by the Town Council, in its sole discretion, prior to its approval. The Owner agrees and understands that its

waiver of claims as set forth in this Waiver shall be deemed to extend to cover any amendments to the Concurrent Ordinance approved by the Town Council unless, not later than 48 hours following the Town Council's approval of the Concurrent Ordinance, the Owner notifies the Town Clerk, in writing, of the Owner's disagreement with the amendment. If the Owner timely notifies the Town Clerk of such disagreement, the Owner shall not be deemed to have waived claims with respect only to the amendments; provided, however, that the Town may then rescind the Concurrent Ordinance, and if so rescinded, this Waiver shall act as a bar to a claim for diminished value based upon rescission of the Concurrent Ordinance.

This instrument shall not be effective and shall be of no further force and effect if the Town Council disapproves the Concurrent Ordinance.

The Owner also consents to the recording of this document in the office of the Pima County Recorder [change to Pinal County Recorder for portions of the Subject Property located in Pinal County], to give notice of this instrument and its effects to successors in interest of the Subject Property, who shall also be bound by it.

Dated this ___ day of _____, 2017.

The "OWNER":

[ENTITY OR PERSON'S NAME], [entity or person's type; for example, "an Arizona limited liability company"]

By: _____
[Signer's name and title]

STATE OF _____)
) ss
County of _____)

The foregoing instrument was acknowledged before me on [Date], 2017, by [Signer's name and title] of [ENTITY OR PERSON'S NAME], [entity or person's type], on its behalf.

(Seal)

_____
Notary Public

F. ANN RODRIGUEZ, RECORDER
Recorded By: LW
DEPUTY RECORDER
41

SMARA
TOWN OF MARANA
PICKUP

SEQUENCE: 20193220672
NO. PAGES: 19
11/18/2019
15:26:07

FIRST AMENDMENT TO VILLAGES OF TORTOLITA DEVELOPMENT AGREEMENT

Town of Marana, Arizona

THIS FIRST AMENDMENT TO VILLAGES OF TORTOLITA DEVELOPMENT AGREEMENT (this "Amendment") is made and entered into by and between the TOWN OF MARANA (the "Town"), an Arizona municipal corporation; and TMR INVESTORS, LLC ("TMR"), an Arizona limited liability company. The Town and TMR are sometimes collectively referred to as the "Parties," either of which is sometimes individually referred to as a "Party."

RECITALS

A. The Parties entered into the "VILLAGES OF TORTOLITA DEVELOPMENT AGREEMENT" (the "Original Agreement"), which was recorded in the Pima County Recorder's office on April 16, 2018 at Sequence 20181060069 and recorded in the Pinal County Recorder's office on April 17, 2018 at Fee Number 2018-028230.

B. Among other things, the Original Agreement provided for TMR's construction of the "Adonis Road Improvements" as defined and described in the Original Agreement, which included construction of Adonis Road as a "two-lane paved roadway extending from the current eastern terminus of Grier Road pavement (located about 770 feet east of Grier Road's intersection with Galleno Avenue) to Tangerine Road, as detailed in Exhibit B" to the Original Agreement.

C. TMR timely submitted the design plans for the Adonis Road Improvements in accordance with subparagraph 3.a. of the Original Agreement, but final approval of the plans has been delayed by unanticipated and expensive design requirements imposed by a third party for approval to have the Adonis Road Improvements cross the Central Arizona Project (CAP) siphon.

D. TMR's submission of the design plans included stock-tight fencing along the new portions of Adonis Road through properties being used for grazing, but follow-up discussions between representatives of TMR and the Town have revealed a disagreement between the Parties about whether the stock-tight fencing is appurtenant to construction and is TMR's responsibility or is appurtenant to right-of-way acquisition and is the Town's responsibility.

E. TMR's submission of the design plans did not include relocation of an irrigation ditch along a new portion of Adonis Road through a property being used for farming, but TMR has agreed in follow-up discussions to relocate the irrigation ditch.

F. TMR's submission of the design plans did not include sufficient geotechnical information for the Town Engineer to determine whether the roadway construction will require more than a two-inch asphalt road on a six-inch aggregate base.

G. The unanticipated and expensive design requirements to cross the CAP siphon have revealed a disagreement between the Parties about whether the costs to design and construct the CAP siphon crossing should be borne by TMR or the Town.

H. Mandarina LLC ("Mandarina") is the owner of land in the alignment of the Adonis Road Improvements as described in the Original Agreement. Mandarina's land is depicted in Exhibit E and is referred to in this Amendment as the "Mandarina Property."

I. A proposed settlement of pending litigation between the Town and Mandarina provides for an adjustment of the Adonis Road Improvements alignment through the Mandarina Property, and provides additional right-of-way for the "Mandarina Road Link," a road linking Adonis Road to Tangerine Road near the eastern border of the Mandarina Property, west of the CAP siphon.

J. By realigning the Adonis Road Improvements on the Mandarina Property and constructing the Mandarina Road Link, Adonis Road can be connected to Tangerine Road without the need to cross the CAP siphon.

K. The Parties enter into this Amendment to break the stalemate in moving forward with the construction of the Adonis Road Improvements and to clarify the obligations of the Parties in light of the changed circumstances that have occurred since the Original Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated into this Amendment as though fully restated here, and the mutual covenants set forth in the Original Agreement as amended by this Amendment, the Parties hereby agree as follows:

1. *Revision to "Adonis Road Improvements" definition.* The definition of the "Adonis Road Improvements" in paragraph 1.a. of the Original Agreement is hereby modified to read as follows:

> The "Adonis Road Improvements" means the design and construction and one-year warranty of the two-lane paved Adonis Road and Mandarina Road Link roadways extending as follows, as detailed in Exhibit A to the First Amendment to Villages of Tortolita Development Agreement:
>
> i. From the current eastern terminus of Grier Road pavement (located about 770 feet east of Grier Road's intersection with Galleno Avenue) to the eastern border of the Mandarina Property; and
>
> ii. From Adonis Road as constructed pursuant to subparagraph i. above to Tangerine Road, near the eastern border of the Mandarina Property, west of

the CAP siphon. This segment of roadway is referred to in this Amendment as the "Mandarina Road Link" and is depicted on Exhibit E with the label "Mandarina Blvd."

The "Adonis Road Improvements" shall include all of the following:

i. The installation of stock-tight fencing on both edges of the 75-foot Adonis Road right-of-way from the Patton Road alignment (the north-south section line shared by sections 25 and 26, Township 11 South, Range 11 East) to the north property line of the Mandarina Property, where it shall connect to the stock-tight fencing in subparagraph ii below.

ii. The installation of stock-tight fencing on both edges of the 150-foot Adonis Road right-of-way from the north boundary of the Mandarina property to Mandarina Link Road (as shown on Exhibit E).

iii. The installation of stock-tight fencing on both edges of the 51-foot Mandarina Road Link right-of-way from Adonis Road to Tangerine Road (as shown on Exhibit E).

iv. Relocating the irrigation ditch from its current location near the north boundary of the land currently being used for farming (specifically, the land covered by the subdivision plat of La Mirage Estates, Pima County Recorder's office Book 52 of maps and plats at page 82) to a new location along the south right-of-way line of Adonis Road.

The "Adonis Road Improvements" shall exclude all of the following:

i. Any additional costs to design and construct the Adonis Road crossing of the CAP siphon.

ii. Any additional costs to design and construct Adonis Road east of the CAP siphon to Tangerine Road.

iii. All Tangerine Road signalization costs.

2. *Town contribution toward the cost to install stock-tight fencing*. In settlement of the Parties' dispute about who is responsible to install stock-tight fencing, the Town shall pay TMR $85,000 within 30 days after the Effective Date of this Amendment toward the cost of installing stock-tight fencing.

3. *TMR submission of geotechnical information*. Within 30 days after the Effective Date of this Amendment, TMR shall submit to the Town Engineer sufficient geotechnical information to determine whether the roadway construction will require more than a two-inch asphalt road on a six-inch aggregate base, as provided in Exhibit B to the Original Agreement and Exhibit A to this Amendment.

4. *No TMR responsibility for the design of the realigned portion of Adonis Road or the Mandarina Road Link*. TMR has no responsibility to design the realigned portion of Adonis

Road or the Mandarina Road Link. The Town's settlement with Mandarina requires Mandarina to design those road segments to standards consistent with those found in the Adonis Road design plans submitted by TMR (see recital C above) and consistent with Exhibit B to the Original Agreement. The Town will provide copies of Mandarina's design plans to TMR during the Town's review of the design plans, and will take TMR's timely comments regarding the design plans into account when responding to, approving, or requesting modifications of the design plans.

5. *Adonis Road Improvements start.* The last sentence of paragraph 3.a. of the Original Agreement is hereby modified to read as follows:

> TMR shall begin construction of the Adonis Road Improvements as soon as possible, but in any event no later than 120 calendar days after TMR's receipt of the Town-approved design of the Adonis Road Improvements, including those portions of the Adonis Road Improvements revised to accommodate realignment of Adonis Road through the Mandarina Property and to include the Mandarina Road Link.

6. *Remainder of the Original Agreement unchanged.* Except as revised in this Amendment, the Original Agreement shall remain unchanged.

7. *Term.* This Amendment shall become effective (the "Effective Date") upon the date of recording pursuant to paragraph 8 below. The term of this Amendment shall begin on the Effective Date and shall terminate concurrently with the termination of the Original Agreement. The Parties agree and acknowledge that, by operation of paragraphs 21 ("Term") and 33 ("Recordation") of the Original Agreement, the Original Agreement was effective on April 17, 2018 (the date the Original Agreement was recorded in Pinal County), and automatically terminates on April 17, 2048, unless sooner terminated by the mutual consent of the Parties.

8. *Recordation.* After this Amendment has been executed by the Parties, the Town shall, as concurrently as reasonably possible, record this Amendment in the offices of the Pima County Recorder and the Pinal County Recorder. If recording does not occur on the same day, the date of recording for purposes of this Amendment shall be the later of the two recording dates. To facilitate concurrent recording of this Amendment, the Parties may sign two identical originals of this Amendment.

9. *Miscellaneous.*

a. The Original Agreement as amended by this Amendment may not be modified except in a writing signed by the Parties.

b. This Amendment may be executed in identical counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument. In addition, this Amendment may contain more than one counterpart of the signature pages and this Amendment may be executed by the affixing of the signature pages, and all of such counterpart signature pages shall be read as though one, and

they shall have the same force and effect as though all the signers had signed a single signature page.

c. Exhibits referred to in and attached to this Amendment are incorporated by reference as if set forth in full in the text of this Amendment.

d. This Amendment is subject to A.R.S. § 38-511, which provides for cancellation of contracts in certain instances involving conflicts of interest.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment as of the last date set forth below their respective signatures, with an Effective Date determined as set forth in paragraph 7 above.

THE "TOWN":

TOWN OF MARANA, an Arizona municipal corporation

By: _____
Ed Honea, Mayor

Date: 10/30/19

ATTEST:

_____
Cherry L. Lawson, Town Clerk

APPROVED AS TO FORM:

_____
Frank Cassidy, Town Attorney

"TMR":

TMR INVESTORS, LLC, an Arizona limited liability company ("TMR")

By: TMR MANAGEMENT, LLC, an Arizona limited liability company, its Manager

By: ZIPPRICH GROUP, LLC, an Arizona limited liability company, its Member

By: _____
Michael B. Zipprich, Manager

Date: _____

By: INCA CAPITAL I, LLC, an Arizona limited liability company, its Member

By: _____
William Cleverly, Manager

Date: _____

STATE OF ARIZONA)
ss
County of _____)

The foregoing instrument was acknowledged before me on _____ by Michael B. Zipprich, Manager of ZIPPRICH GROUP, LLC, an Arizona limited liability company, a Member of TMR MANAGEMENT, LLC, an Arizona limited liability company,

they shall have the same force and effect as though all the signers had signed a single signature page.

c. Exhibits referred to in and attached to this Amendment are incorporated by reference as if set forth in full in the text of this Amendment.

d. This Amendment is subject to A.R.S. § 38-511, which provides for cancellation of contracts in certain instances involving conflicts of interest.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment as of the last date set forth below their respective signatures, with an Effective Date determined as set forth in paragraph 7 above.

THE "TOWN":

TOWN OF MARANA, an Arizona municipal corporation

By:_____
Ed Honea, Mayor

Date: _____

ATTEST:

_____
Cherry L. Lawson, Town Clerk

APPROVED AS TO FORM:

_____
Frank Cassidy, Town Attorney

"TMR":

TMR INVESTORS, LLC, an Arizona limited liability company ("TMR")
By: TMR MANAGEMENT, LLC, an Arizona limited liability company, its Manager
By: ZIPPRICH GROUP, LLC, an Arizona limited liability company, its Member

By: _____
Michael B. Zipprich, Manager
Date: 11/1/19

By: INCA CAPITAL I, LLC, an Arizona limited liability company, its Member

By: _____
William Cleverly, Manager
Date: 11.1.19

STATE OF ARIZONA)
ss
County of Maricopa)

The foregoing instrument was acknowledged before me on November 1, 2019 by Michael B. Zipprich, Manager of ZIPPRICH GROUP, LLC, an Arizona limited liability company, a Member of TMR MANAGEMENT, LLC, an Arizona limited liability company,

Manager of TMR INVESTORS, LLC, an Arizona limited liability company, on behalf of TMR.

(Seal)

Pamela J. Harris
Notary Public - Arizona
Maricopa County
My Commission Expires
July 24, 2020

Pamela J. Harris
Notary Public

STATE OF ARIZONA)
ss
County of Maricopa)

The foregoing instrument was acknowledged before me on November 1, 2019 by William Cleverly, Manager of INCA CAPITAL I, LLC, an Arizona limited liability company, a Member of TMR MANAGEMENT, LLC, an Arizona limited liability company, Manager of TMR INVESTORS, LLC, an Arizona limited liability company, on behalf of TMR.

(Seal)

Pamela J. Harris
Notary Public - Arizona
Maricopa County
My Commission Expires
July 24, 2020

Pamela J. Harris
Notary Public

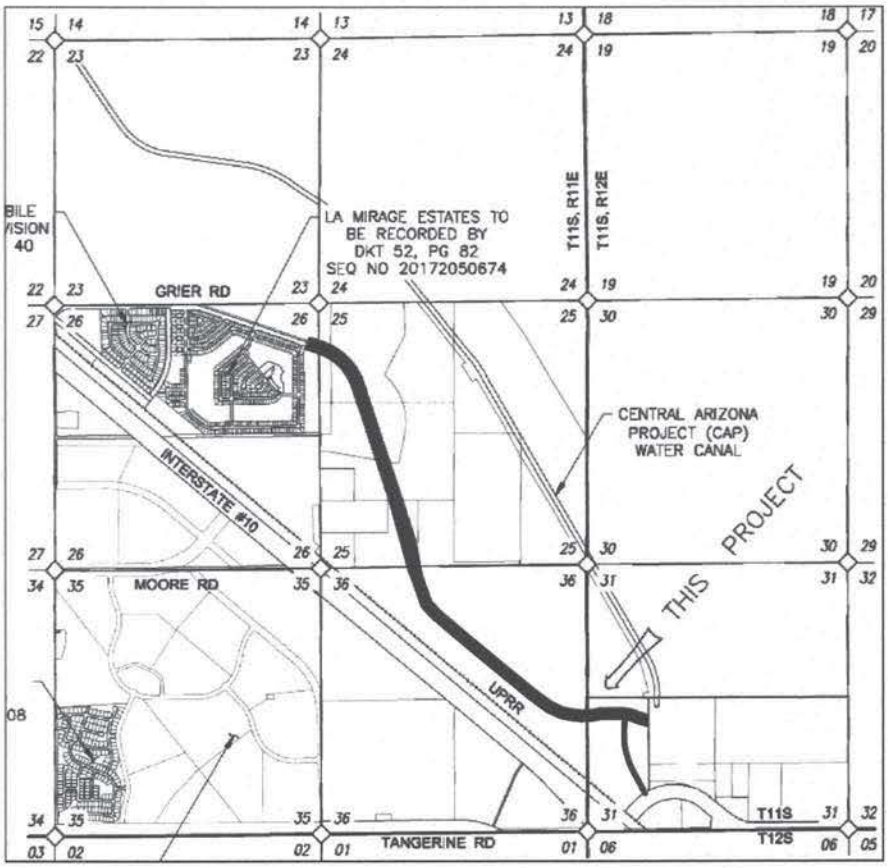
LIST OF EXHIBITS

Exhibit A	Detailed description of the Adonis Road Improvements (as revised by this Amendment)
Exhibit B	Legal description and depiction of the Adonis Road right-of-way transition immediately north of the Mandarina Property (Note: Reference to this exhibit is found in Exhibit A)
Exhibit C	Legal description and depiction of Adonis Road right-of-way through the Mandarina Property (Note: Reference to this exhibit is found in Exhibit A)
Exhibit D	Legal description and depiction of Mandarina Road Link right-of-way through the Mandarina Property (Note: Reference to this exhibit is found in Exhibit A)
Exhibit E	Map of stock-tight fence locations on the Mandarina Property

Exhibit A to First Amendment to
The Villages of Tortolita Development Agreement

Description of the Adonis Road Improvements

1. A minimum two-inch asphalt road on a six-inch aggregate base, subject to findings from a geotechnical report.
2. A 30-foot wide pavement cross-section.
3. Drainage crossings will be handled at-grade with concrete header curbing three feet deep or to scour depth, and with a design that includes armored drainage crossings, and compliance with all town, state and federal regulations pertaining to roadway design.
4. Alignment per "Right-of-Way Plans for Adonis Road Grier Road to Tangerine Road" prepared by Dibble Engineering, as modified by the alignments attached as Exhibit B (the Adonis Road transition north of Mandarina), Exhibit C (the Adonis Road alignment through Mandarina), and Exhibit D (the Mandarina Road Link alignment), as follows:



September 23, 2019
Psomas #7MAN190101

EXHIBIT A
LEGAL DESCRIPTION
RIGHT-OF-WAY

A portion of that parcel recorded in Docket 10814, Page 781, records of Pima County, Arizona, located in the southwest one-quarter of Section 25, Township 11 South, Range 11 East, Gila and Salt River Meridian, Pima County, Arizona, described as follows:

COMMENCING at the southwest corner of said Section 25, monumented by a 3-1/4" aluminum cap, marked "T11S, R11E, S26|S25/S35|S36, PSOMAS 2006, RLS 18557", from which the south one-quarter corner of said section, monumented by a lead capped pipe, marked "X", bears N 89°31'27" E (basis of bearing for this legal description) a distance of 2646.83 feet as shown in Record of Survey Book 55, Page 84, records of said Pima County;

THENCE along the south line of the southwest one-quarter of said Section 25, N 89°31'27" E a distance of 1838.62 feet to the **POINT OF BEGINNING**;

THENCE N 18°35'38" W a distance of 296.30 feet to a point of cusp on the westerly line of that 75-foot-wide right-of-way recorded in Seq. No. 20181800820 and record of survey Seq. No. 20190660153, said point being on a tangent curve, concave to the northeast;

THENCE upon said westerly line, southeasterly upon the arc of said curve, to the left, having a radius of 1275.00 feet and a central angle of 14°00'43" for an arc distance of 311.81 feet to the south line of said southwest one-quarter;

THENCE upon said south line, S 89°31'27" W a distance of 39.92 feet to the **POINT OF BEGINNING.**

Containing an area of 3,645 square feet, more or less.

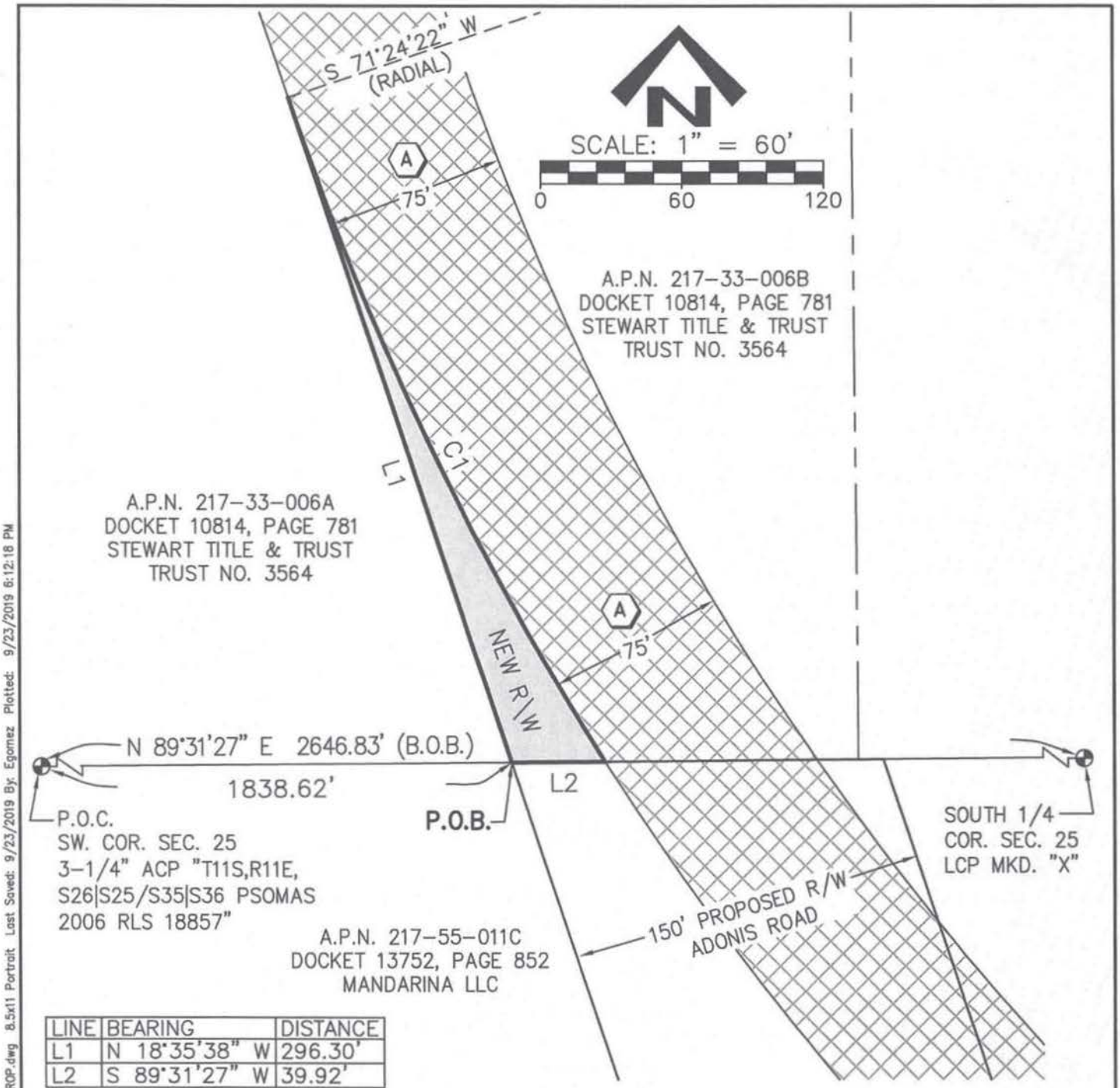
See Exhibit B attached hereto and made a part hereof.

Prepared By:
Psomas



Ernest Gomez, AZ. R.L.S. 27739

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LINE	BEARING	DISTANCE
L1	N 18°35'38" W	296.30'
L2	S 89°31'27" W	39.92'

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	311.81'	1275.00'	14°00'43"	S 25°35'59" E	311.03'

KEY NOTE:

(A) 75' WIDE R/W – T.O.M. SEQ. NO. 20181800820 AND RECORD OF SURVEY SEQ. NO. 20190660153

ACP = ALUMINUM CAPPED PIN
LCP = LEAD CAPPED PIPE

EXHIBIT B

RIGHT-OF-WAY

A PORTION OF THAT PARCEL RECORDED IN DK. 10814, PG. 781, RECORDS OF PIMA COUNTY, ARIZONA, LOCATED IN THE SOUTHWEST 1/4 OF SECTION 25, T-11- S, R-11-E, GILA & SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA

PSOMAS
333 E. Wetmore Road, Suite 450
Tucson, AZ 85705
(520) 292-2300 (520) 292-1290 fax
www.psomas.com

7MAN190101

DATE: SEPTEMBER, 2019 • DRAWN BY: SM

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September 18, 2019
Psomas #7MAN190101

EXHIBIT A

LEGAL DESCRIPTION
RIGHT-OF-WAY

A portion of those parcels recorded in Docket 13752, Page 852, records of Pima County, Arizona, located in Section 36, Township 11 South, Range 11 East, and in General Land Office Lot 3 of the southwest one-quarter of Section 31, Township 11 South, Range 12 East, Gila & Salt River Meridian, Pima County, Arizona, described as follows:

COMMENCING at the northwest corner of said Section 36, monumented by a 3-1/4" aluminum cap, marked "T11S, R11E, S26|S25/S35|S36, PSOMAS 2006, RLS 18557", from which the north one-quarter corner of said section, monumented by a lead capped pipe, marked "X", bears N 89°31'27" E (basis of bearing for this legal description) a distance of 2646.83 feet as shown in Record of Survey Book 55, Page 84, records of said Pima County;

THENCE along the north line of the northwest one-quarter of said Section 36, N 89°31'27" E a distance of 1838.62 feet to the **POINT OF BEGINNING**;

THENCE continue along the said north line, N 89°31'27" E a distance of 157.83 feet;

THENCE S 18°35'38" E a distance of 531.22 feet to a point of curvature of a tangent curve concave to the northeast;

THENCE southeasterly upon the arc of said curve, to the left, having a radius of 1325.00 feet and a central angle of 31°36'36" for an arc length of 731.00 feet;

THENCE S 50°12'14" E a distance of 2417.41 feet to a point of curvature of a tangent curve concave northerly;

THENCE easterly upon the arc of said curve, to the left, having a radius of 1325.00 feet and a central angle of 45°05'29" for an arc length of 1042.77 feet;

THENCE N 84°42'17" E a distance of 255.19 feet to a point of curvature of a tangent curve, concave southerly;

THENCE easterly upon the arc of said curve, to the right, having a radius of 1475.00 feet and a central angle of 35°01'09" for an arc length of 901.52 feet to the east line of said parcel recorded in Docket 13752, Page 852 and shown in said record of survey;

THENCE upon said east line, S 00°37'06" E a distance of 176.31 feet;

THENCE N 58°27'44" W a distance of 47.15 feet to a point curvature of tangent curve, concave southerly;

THENCE westerly upon the arc of said curve, to the left, having a radius of 1325.00 feet and a central angle of 36°49'59" for an arc length of 851.79 feet;

THENCE S 84°42'17" W a distance of 255.19 feet to a point of curvature of a tangent curve, concave northerly;

THENCE westerly upon the arc of said curve, to the right, having a radius of 1475.00 feet and a central angle of 45°05'29" for an arc length of 1160.81 feet;

THENCE N 50°12'14" W a distance of 2417.41 feet to a point of curvature of a tangent curve, concave northeasterly;

THENCE northwesterly upon the arc of said curve, to the right, having a radius of 1475.00 feet and a central angle of 31°36'36" for an arc length of 813.76 feet;

THENCE N 18°35'38" W a distance of 580.30 feet to the **POINT OF BEGINNING.**

Containing an area of 20.67 acres, more or less.

See Exhibits B-1 & B-2 attached hereto and made a part hereof.

Prepared By:
Psomas



Ernest Gomez, AZ. R.L.S. 27739

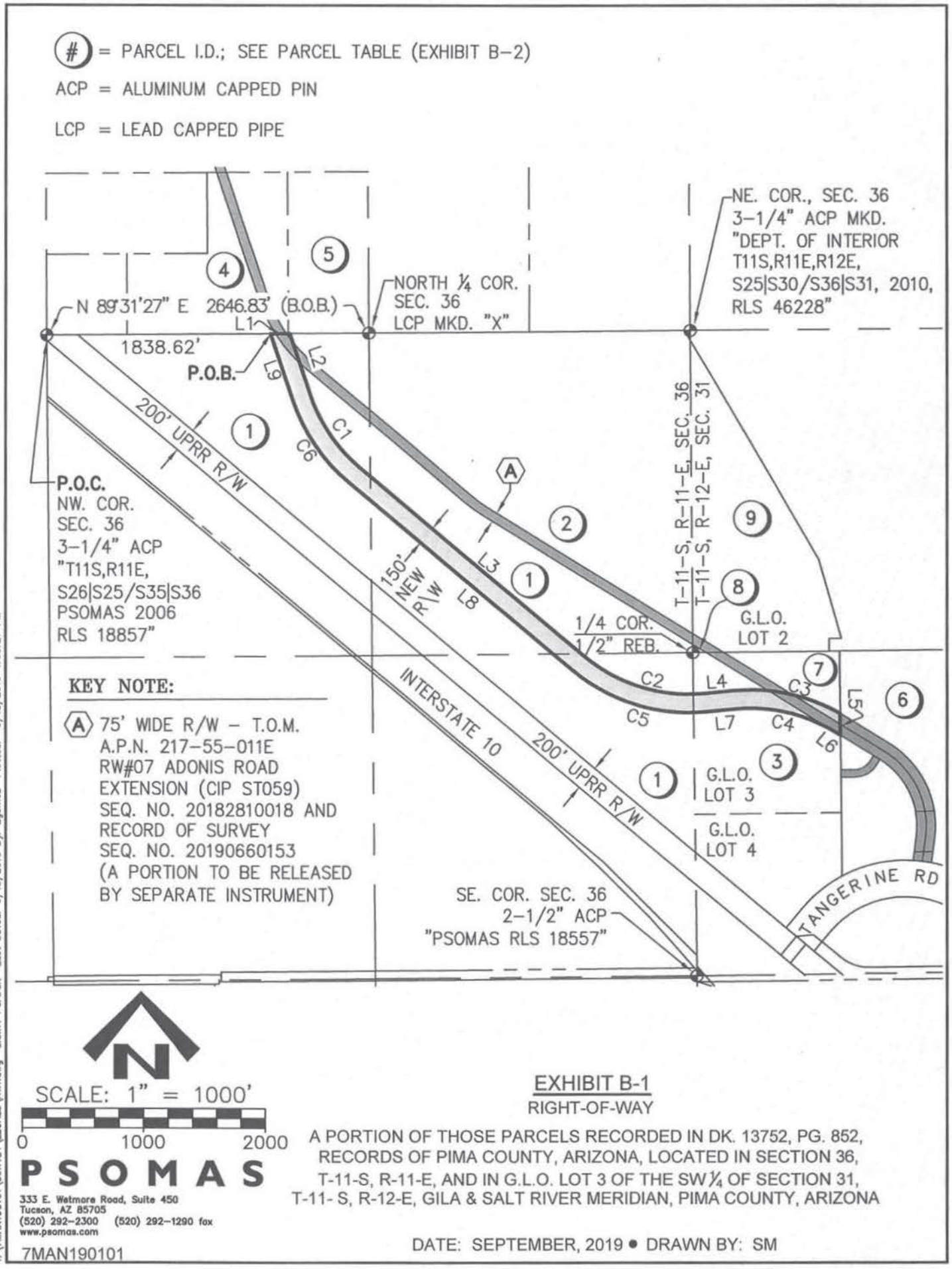


EXHIBIT B-1

RIGHT-OF-WAY

A PORTION OF THOSE PARCELS RECORDED IN DK. 13752, PG. 852, RECORDS OF PIMA COUNTY, ARIZONA, LOCATED IN SECTION 36, T-11-S, R-11-E, AND IN G.L.O. LOT 3 OF THE SW 1/4 OF SECTION 31, T-11- S, R-12-E, GILA & SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA

DATE: SEPTEMBER, 2019 • DRAWN BY: SM

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333 E. Watmore Road, Suite 450
Tucson, AZ 85705
(520) 292-2300 (520) 292-1290 fax
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PARCEL TABLE

KEYNOTE	APN	OWNER	DOCKET	PAGE	SEQUENCE NO.
1	217-55-011C	MANDARINA LLC	13752	852	20100360173
2	217-55-011D	MANDARINA LLC	13752	852	20100360173
3	218-49-002B	MANDARINA LLC	13752	852	20100360173
4	217-33-006A/B	STEWART TITLE & TRUST No. 3564	10814	781	19980910339
5	217-33-0070	STEWART TITLE & TRUST No. 3564	10814	781	19980910339
6	218-49-003C/D/E	TANGERINE INVESTMENT PARTNERS LLC	7347	207	20101210571
7	218-49-002C	MANDARINA LLC	13752	852	20100360173
8	218-49-001F	MANDARINA LLC	13752	852	20100360173
9	218-49-001E	MANDARINA LLC	13752	852	20100360173

CURVE TABLE

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	731.00'	1325.00'	31°36'36"	S 34°23'56" E	721.77'
C2	1042.77	1325.00'	45°05'29"	S 72°44'58" E	1016.06'
C3	901.52'	1475.00'	35°01'09"	S 77°47'08" E	887.55'
C4	851.79'	1325.00'	36°49'59"	N 76°52'43" W	837.19'
C5	1160.81'	1475.00'	45°05'29"	N 72°44'58" W	1131.09'
C6	813.76'	1475.00'	31°36'36"	N 34°23'56" E	803.48'

LINE TABLE

LINE	BEARING	DISTANCE
L1	N 89°31'27" E	157.83'
L2	S 18°35'38" E	531.22'
L3	S 50°12'14" E	2417.41'
L4	N 84°42'17" E	255.19'
L5	S 00°37'06" E	176.31'
L6	N 58°27'44" W	47.15'
L7	S 84°42'17" W	255.19'
L8	N 50°12'14" W	2417.41'
L9	N 18°35'38" W	580.30'

EXHIBIT B-2

LINE, CURVE & PARCEL TABLES

A PORTION OF THOSE PARCELS RECORDED IN DK. 13752, PG. 852, RECORDS OF PIMA COUNTY, ARIZONA, LOCATED IN SECTION 36, T-11-S, R-11-E, AND IN G.L.O. LOT 3 OF THE SW¼ OF SECTION 31, T-11- S, R-12-E, GILA & SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA

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DATE: SEPTEMBER, 2019 • DRAWN BY: SM

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September 23, 2019
Psomas #7MAN190101

EXHIBIT A

LEGAL DESCRIPTION
RIGHT-OF-WAY

A portion of those parcels recorded in Docket 13752, Page 852, records of Pima County, Arizona, located in General Land Office Lot 3 and Lot 4 of the southwest one-quarter of Section 31, Township 11 South, Range 12 East, Gila & Salt River Meridian, Pima County, Arizona, described as follows:

COMMENCING at the southwest corner of said Section 31, monumented by a 2-1/2" aluminum cap, marked "T11S, R11E, S1|S6/S36|S31, T12S, R12E, PSOMAS, RLS 18557", from which the west one-quarter corner of said section, monumented by a 1/2" rebar, bears N 00°42'58" W (basis of bearing for this legal description) a distance of 2644.10 feet as shown in Record of Survey Book 55, Page 84, records of said Pima County;

THENCE upon the west line of said southwest one-quarter of Section 31, N 00°42'58" W a distance of 2153.73 feet to the proposed southerly right-of-way of Adonis Rd, lying on the arc of a non-tangent curve, concave northerly, a radial line of said curve through said point having a bearing of S 01°36'41" E;

THENCE easterly upon the arc of said curve, to the left, having a radius of 1475.00 feet and a central angle of 3°41'02" for an arc length of 94.84 feet;

THENCE N 84°42'17" E a distance of 255.19 feet to a point of curvature of a tangent curve, concave southerly;

THENCE easterly upon the arc of said curve, to the right, having a radius of 1325.00 feet and a central angle of 10°25'33" for an arc length of 241.10 feet to the **POINT OF BEGINNING**;

THENCE continue easterly upon the arc of said curve, to the right, having a radius of 1325.00 feet and a central angle of 4°27'30" for an arc length of 103.10 feet to a point of cusp of a radial curve, concave southeasterly;

THENCE southwesterly upon the arc of said curve, to the left, having a radius of 25.00 feet and a central angle of 95°09'29" for an arc length of 41.52 feet;

THENCE S 4°25'51" W a distance of 164.10 feet to a point of curvature of a tangent curve, concave easterly;

THENCE southerly upon the arc of said curve, to the left, having a radius of 1500.50 feet and a central angle of 32°25'16" for an arc length of 849.07 feet;

THENCE S 27°59'25" E a distance of 509.28 feet to the northerly right-of-way of Tangerine Road, recorded in Docket 11487, Page 2029, records of said Pima County, lying on the arc of a non-tangent curve, concave southeasterly, a radial line of said curve through said point having a bearing of N 37°36'17" W;

THENCE southwesterly upon the arc of said curve, to the left, having a radius of 1104.95 feet and a central angle of 2°41'38" for an arc length of 51.95 feet;

THENCE N 27°59'25" W a distance of 519.16 feet to a point of curvature of a tangent curve, concave easterly;

THENCE northerly upon the arc of said curve, to the right, having a radius of 1551.50 feet and a central angle of 32°25'16" for an arc length of 877.92 feet;

THENCE N 4°25'51" E a distance of 169.27 feet to a point of curvature of a tangent curve, concave southwesterly;

THENCE northwesterly upon the arc of said curve, to the left, having a radius of 25.00 feet and a central angle of 89°18'01" for an arc length of 38.96 feet to the **POINT OF BEGINNING.**

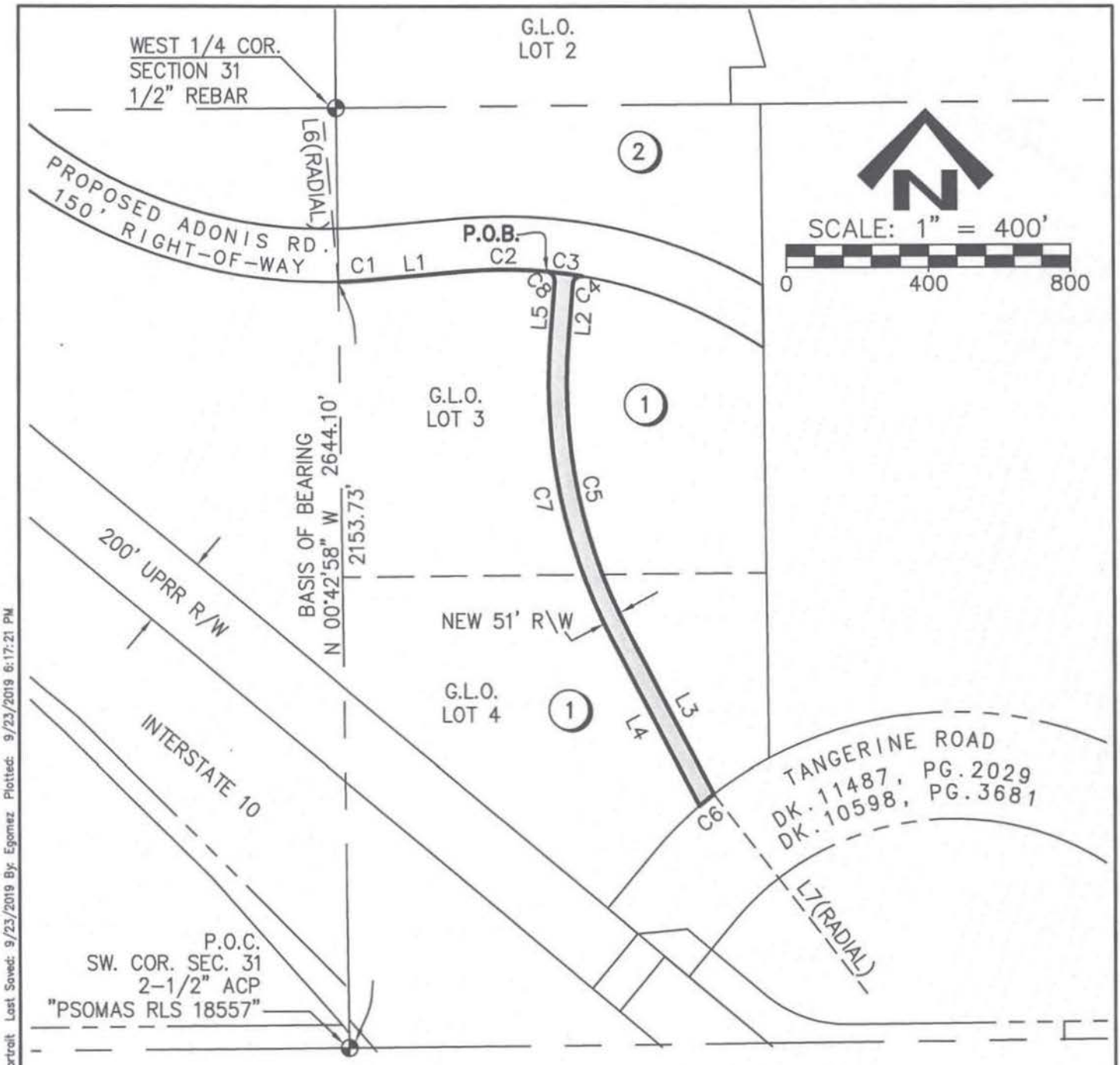
Containing an area of 1.85 acres, more or less.

See Exhibits B-1 & B-2 attached hereto and made a part hereof.

Prepared By:
Psomas



Ernest Gomez, AZ. R.L.S. 27739



(#) = PARCEL I.D.; SEE PARCEL TABLE (EXHIBIT B-2)

ACP = ALUMINUM CAPPED PIN

SEE LINE\CURVE TABLES EXHIBIT B-2

EXHIBIT B-1

RIGHT-OF-WAY

A PORTION OF THOSE PARCELS RECORDED IN DK. 13752, PG. 852, RECORDS OF PIMA COUNTY, ARIZONA, LOCATED IN G.L.O. LOT 3 AND LOT 4 OF THE SW¼ OF SECTION 31, T-11- S, R-12-E, GILA & SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA

DATE: SEPTEMBER, 2019 • DRAWN BY: SM

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PARCEL TABLE

KEYNOTE	APN	OWNER	DOCKET	PAGE	SEQUENCE NO.
(1)	218-49-002B	MANDARINA LLC	13752	852	20100360173
(2)	218-49-002C	MANDARINA LLC	13752	852	20100360173

CURVE TABLE

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	94.84'	1475.00'	3°41'02"	N 86°32'48" E	94.82'
C2	241.10'	1325.00'	10°25'33"	N 89°55'04" E	240.77'
C3	103.10'	1325.00'	4°27'30"	S 82°38'25" E	103.08'
C4	41.52'	25.00'	95°09'29"	S 52°00'35" W	36.91'
C5	849.07'	1500.50'	32°25'16"	S 11°46'47" E	837.78'
C6	51.95'	1104.95'	2°41'38"	S 51°02'54" W	51.95'
C7	877.92'	1551.50'	32°25'16"	N 11°46'47" W	866.26'
C8	38.96'	25.00'	89°18'01"	N 40°13'10" W	35.14'

LINE TABLE

LINE	BEARING	DISTANCE
L1	N 84°42'17" E	255.19'
L2	S 04°25'51" W	164.10'
L3	S 27°59'25" E	509.28'
L4	N 27°59'25" W	519.16'
L5	N 04°25'51" E	169.27'
L6	S 01°36'41" E	1475.00' RADIAL
L7	N 37°36'17" W	1104.95' RADIAL

EXHIBIT B-2

LINE, CURVE & PARCEL TABLES

A PORTION OF THOSE PARCELS RECORDED IN DK. 13752, PG. 852, RECORDS OF PIMA COUNTY, ARIZONA, LOCATED IN G.L.O. LOT 3 AND LOT 4 OF THE SW¼ OF SECTION 31, T-11- S, R-12-E, GILA & SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA

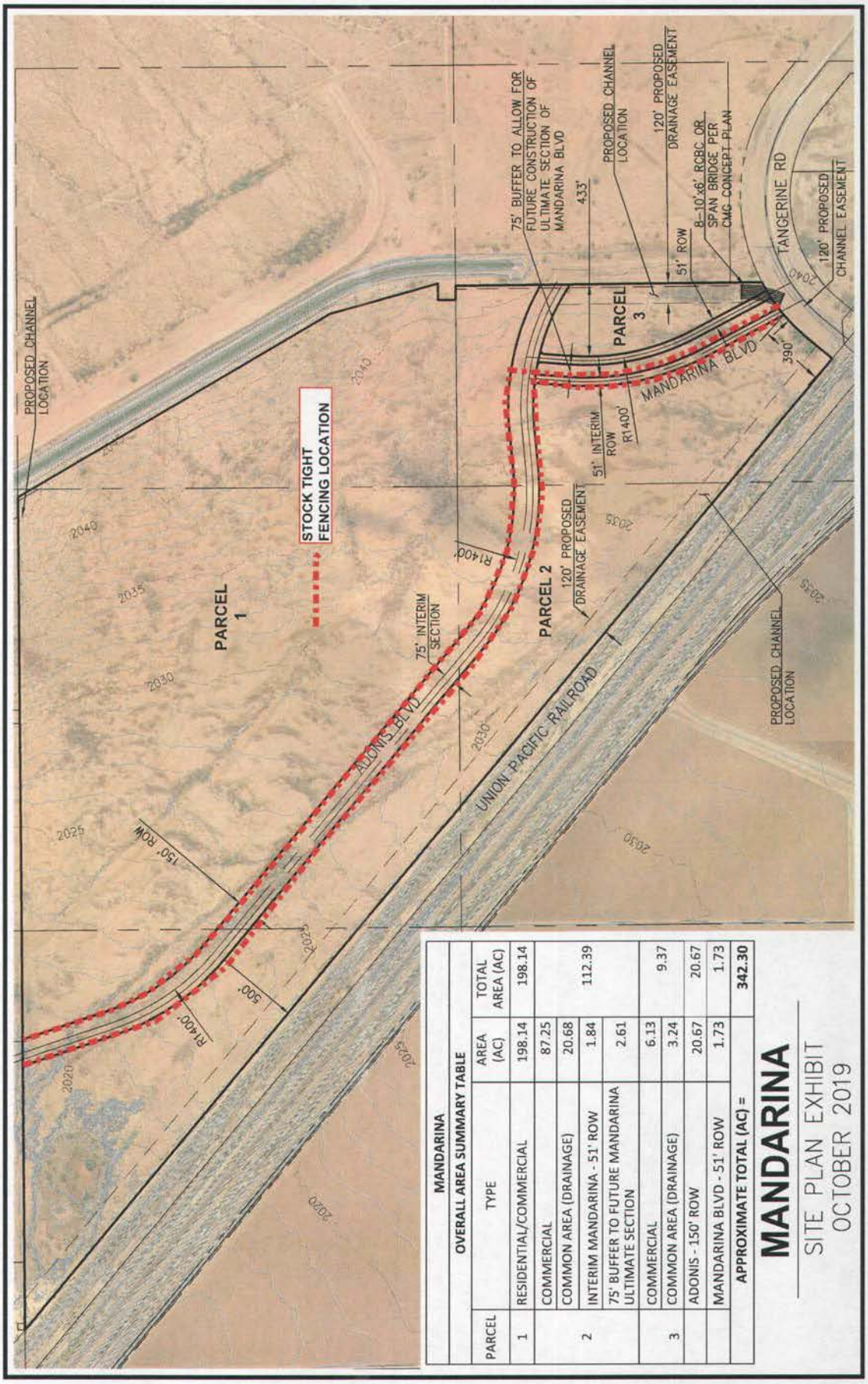
DATE: SEPTEMBER, 2019 • DRAWN BY: SM

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T:\7MAN190101\SURVEY\LEGALS\RW2 MANDARINA BLVD.dwg 8.5x11 Portrait (2) Last Saved: 9/23/2019 By: Egomez Plotted: 9/23/2019 6:17:33 PM

EXHIBIT E TO FIRST AMENDMENT TO DEVELOPMENT AGREEMENT



MANDARINA			
OVERALL AREA SUMMARY TABLE			
PARCEL	TYPE	AREA (AC)	TOTAL AREA (AC)
1	RESIDENTIAL/COMMERCIAL	198.14	198.14
2	COMMERCIAL	87.25	112.39
	COMMON AREA (DRAINAGE)	20.68	
	INTERIM MANDARINA - 51' ROW	1.84	
	75' BUFFER TO FUTURE MANDARINA ULTIMATE SECTION	2.61	
3	COMMERCIAL	6.13	9.37
	COMMON AREA (DRAINAGE)	3.24	
	ADONIS - 150' ROW	20.67	20.67
	MANDARINA BLVD - 51' ROW	1.73	1.73
	APPROXIMATE TOTAL (AC) =		342.30

MANDARINA

SITE PLAN EXHIBIT
OCTOBER 2019