NOTICE OF WORK SESSION

In accordance with §38-431.01 of the Arizona Revised Statutes of the State of Arizona, notice is hereby given to the Members of City Council and to the general public that the Mayor and Council of the City of San Luis, Arizona, will hold a Work Session meeting at 6:30 p.m., Wednesday, February 3, 2021. The Work Session will take place at the City Council Chambers, located at 1090 E. Union Street, San Luis, Arizona, 85349. Everyone from the public is invited to attend the open meeting.

In accordance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, the City of San Luis does not discriminate on the basis of disability in the admission of or access to, or treatment of employment in its programs, activities, or services. For information regarding rights and provisions of the ADA or Section 504, or to request reasonable accommodations for participation in City programs, activities or services contact: ADA/Section 504 Coordinator, City of San Luis Human Resources Department, 1090 E. Union Street, San Luis, Arizona, 85349; (928) 341-8520.

Notice is hereby given that pursuant to A.R.S. §1-602.A.9, subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the City Council are audio and/or video recorded, and, as a result, proceedings in which children are present may be subject to such recordings. Parents in order to exercise their rights may either file written consent with the City Clerk to such recordings, or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the City will assume that the rights afforded parents pursuant to A.R.S. §1-602.A.9 have been waived.

THIS NOTICE IS GIVEN BY:

/s/ Melissa Lopez, Deputy City Clerk

AVISO DE SESION DE TRABAJO

De acuerdo con los Estatutos del Estado de Arizona A.R.S. §38-431.01, se le informa a los miembros del Cabildo y al público en general que el Alcalde y el Cabildo, tendrán una Sesion de Trabajo a las 6:30 p.m., el día Miercoles 3 Febrero del 2021. La junta se llevará a cabo en la Sala del Cabildo, ubicada en el 1090 E. Union Street, San Luis, Arizona, 85349. El público está cordialmente invitado a la junta.

De acuerdo con el Acta de Americanos con Discapacidades y la Sección 504 del Acta de Rehabilitación del 1973, la Ciudad de San Luis, Arizona no discrimina por causa de discapacidad la admisión y acceso a sus programas, actividades, servicios o en el trato en cuanto a empleo. Para más información referente a derechos y provisiones del Acta de Americanos con Discapacidades o Sección 504, o para solicitar adaptaciones que sean razonables para la participación en programas, actividades o servicios de la Ciudad, contactar al: Coordinador del Acta de Americanos con Discapacidades/Sección 504, Departamento de Recursos Humanos de la Ciudad de San Luis, Arizona, ubicado en el 1090 E. Union Street, San Luis, Arizona, 85349; (928) 341-8520.

Por medio de este aviso y de acuerdo con los Estatutos del Estado de Arizona A.R.S §1-602.A.9, sujeto a ciertas excepciones reglamentarias, los padres de familia tienen el derecho de dar el consentimiento ante el Estado o cualquiera de sus subdivisiones políticas para hacer una grabación de audio o video de su hijo menor de edad. Las juntas del Cabildo se graban en audio y/o video y como resultado, el hecho de que haya menores presentes puede ser sujeto a que sean grabados. Para que los padres de familia puedan ejercer sus derechos pueden dar el consentimiento por escrito con la Secretaria de la Ciudad a tal grabación, o tomar acción personal para asegurarse que su hijo menor no esté presente cuando la grabación se lleve a cabo. Si un menor de edad está presente en el momento de la grabación, la Ciudad asumirá que los padres de familia están cediendo los derechos sobre una posible grabación de acuerdo con los Estatutos del Estado de Arizona A.R.S. §1-602.A.9.

ESTE AVISO ES DADO POR:

/f/ Melissa Lopez, Asistente a la Actuaria de la Ciudad

AGENDA
Work Session
San Luis City Council
San Luis Council Chambers
1090 E. Union Street
San Luis, AZ 85349
February 3, 2021
6:30 p.m.

The February 3, 2021 Work Session, for the safety of the public during the COVID-19 pandemic, will not have in-person attendance for members of the public. However, members of the public may listen to the meeting's live audio stream on the City of San Luis website https://sanluisaz.gov/listenlive. Recordings of the meetings will be available on the City's website https://sanluisaz.gov/listenlive after the meeting.

Open meetings conducted remotely through technological means are permissible under the March 13, 2020, Arizona Attorney General opinion titled, "Re: Concerns Relating to Arizona's Open Meeting Law and COVID-19" and following the Mayor's March 18, 2020, Continued Declaration of Emergency and Amended Order-Coronavirus Disease-19 and City Council's Order 2020-7 which closed all city buildings and facilities (except the Municipal Court) to public access.

Por la seguridad del público durante la pandemia COVID-19, no habrá asistencia en persona para los miembros del público en la sesion de trabajo del Cabildo del 3 de Febrero del 2021. Sin embargo, los miembros del público pueden escuchar el audio en vivo de la reunión transmitido en el sitio web de la Ciudad de San Luis https://sanluisaz.gov/listenlive. Las grabaciones de las reuniones estarán disponibles en el sitio web de la ciudad https://sanluisaz.gov/listenlive después de la reunión.

Las reuniones abiertas realizadas de forma remota a través de medios tecnológicos están permitidas bajo la opinión del Fiscal General de Arizona del 13 de marzo de 2020 titulada "Re: Preocupaciones relacionadas con Open Meeting Law de Arizona y COVID-19" y después de la Declaración de Emergencia Continua del 18 de marzo de 2020 del alcalde y Orden modificada-Enfermedad de Coronavirus-19 y Orden del Ayuntamiento 2020-7 la cual cerró todos los edificios e instalaciones de la ciudad (excepto en la Corte Municipal) al acceso público, para proteger la salud y la seguridad pública y reducir la transmisión de la Enfermedad de Coronavirus 2019 (COVID-19).

PLEASE TAKE NOTICE THAT MEMBERS OF THE CITY COUNCIL WILL ATTEND EITHER IN PERSON, TELEPHONE, OR VIDEO CONFERENCE COMMUNICATION; THE MAYOR OR ACTING MAYOR FOR THIS MEETING MAY CHANGE THE ORDER OF THE ITEMS.

1. CALL TO ORDER/ROLL CALL

2. ITEMS FOR DISCUSSION ONLY

2. A. Presentation followed by discussion and possible directions to staff on any and all matters regarding the Public Safety Personnel Retirement System (PSPRS) unfunded liability and related options for consideration. **(Mark Reader, Managing Director at Stifel)**

2. B. Discussion and possible directions to staff on any and all matters regarding an update on the Request for Qualifications (RFQ) for the Build Discretionary Grant Assistance for the Cesar Chavez Boulevard project. **(Jenny Torres, Economic Development Manager)**

2. C. Discussion and possible directions to staff on any and all matters regarding the purchase of a new Self Contained Breathing Apparatus (SCBA) fill station. **(Angel Ramirez, Fire Chief)**

2. D. Discussion and possible directions to staff on any and all matters regarding off-site signs on Archibald Street. **(Jose A. Guzman, Director of Planning and Zoning)**

2. E. Discussion and possible directions to staff on any and all matters regarding the approval and adoption of Order No. 2021-3. An order of the Mayor and City Council of the City of San Luis, Arizona to authorize the City of San Luis Police Department to receive funding for overtime and mileage by approving an Intergovernmental Agreement and authorizing execution of Subrecipient Agreement Operation Stonegarden Grant Program Award - Overtime and Mileage between the State of Arizona through the Arizona Department of Homeland Security and the City of San Luis, Arizona through the San Luis Police Department. **(Richard Jessup, Chief of Police)**

2. F. Discussion and possible directions to staff on any and all matters regarding Proposition 207 passed by the voters on November 3, 2020, and amending the city's recreational marijuana ordinances under No. 403, and 404 to eliminate the need for dual licenses for medical and recreational marijuana, while maintaining the places that either type of business may be located and adjusting the license fee. **(Glenn J. Gimbut, Assistant City Attorney)**

2. G. Discussion and possible directions to staff on any and all matters regarding Resolution No. 2153. A resolution of the Mayor and City Council of the City of San Luis, Arizona authorizing and directing the entering into an Intergovernmental Agreement with the Yuma Union High School District #70 for joint athletic and recreational facilities use through the City's Parks and Recreation Department and San Luis High School. **(Kay Marion Macuil, City Attorney and Lizandro Galaviz, Parks and Recreation Director)**

2. H. Discussion and possible directions to staff on any all matters regarding a proposed resolution of the Mayor and City Council of the City of San Luis, Arizona approving and adopting the Inmate Work Intergovernmental Agreement with the Arizona Department of Corrections. **(Kay Marion Macuil, City Attorney, Lizandro Galaviz, Department of Parks and Recreation Director and Eulogio Vera, Public Works Director)**

2. I. Discussion and possible directions to staff on any and all matters regarding a Business Grant Program to assist small local businesses impacted by the pandemic. **(Council Member Luis E. Cabrera; Jenny Torres, Economic Development Manager; and Monica Castro, Director of Finance)**

2. J. Discussion and possible directions to staff on any and all matters regarding a citywide Beautification Program. **(Council Member Luis E. Cabrera; Lizandro Galaviz, Director of Parks & Recreation; Eulogio Vera, Director of Public Works; and Richard Jessup, Chief of Police)**

2. K. Discussion and possible directions to staff on any and all matters regarding the speed limit on Urtuzuastegui Street. **(Council Member Luis E. Cabrera; Richard Jessup, Chief of Police; and Eulogio Vera, Director of Public Works)**

3. ADJOURNMENT

IN THE EVENT A MAJORITY OF THE COUNCIL IS NOT PRESENT, AN INFORMAL WORK SESSION MAY BE HELD.

AGENDA ITEM REVIEW FORM

Work Session **2. A.**

Meeting Date: 02/03/2021

Department Head: Monica Castro, Director of Finance, Finance Department

Submitted By: Monica Castro, Director of Finance, Finance Department

Action Requested: Discussion Item - No Action to be Taken

ITEM:

Presentation followed by discussion and possible directions to staff on any and all matters regarding the Public Safety Personnel Retirement System (PSPRS) unfunded liability and related options for consideration. **(Mark Reader, Managing Director at Stifel)**

SUMMARY:

The City of San Luis participates in the Arizona (Public Safety Personnel Retirement System (PSPRS) for its police and fire department employees and those departments' retirees. The police plan is funded below 65% as of the 2019 valuation, while the fire plan is funded at over 86%.

The State Legislature implemented much-needed reforms a few years ago to curb liability growth. However, the legacy costs associated with Tier I and Tier II personnel remain and crowd out other expenses for PSPRS employers, creating budget instability and uncertainty. Funding options to address the legacy unfunded liabilities which are limited. But in light of favorable market conditions, many PSPRS employers are looking at fixed rate pension obligation bonds (“POBs”) as a viable funding option to either reduce or pay off their Unfunded Actuarial Accrued Liabilities (“UAAL”).

The Public Finance Advisors at Stifel will present information on how PBO's can be utilized as a part of an overall strategy to fund the unfunded pension liability by creating debt.

RECOMMENDATION / SUGGESTED MOTION:

Discussion and possible directions to staff only, no action.

Fiscal Impact

IS THERE FISCAL IMPACT ASSOCIATED WITH THIS ITEM:	No
CITY/STATE/FEDERAL FUNDS:	N/A
TOTAL:	N/A
BUDGETED AMOUNT:	N/A
AVAILABLE AMOUNT TO TRANSFER:	N/A
ACCT NAME & GL#/REMAINING BALANCE BEFORE PURCHASE:	N/A

FISCAL IMPACT STATEMENT (IF THIS IS A BUDGET TRANSFER, YOU MUST ATTACH THE BUDGET ADJUSTMENT FORM):

No fiscal impact. Informational presentation.

Attachments

Presentation

STIFEL

City of San Luis, AZ – Work Session Meeting

Police and Fire Pension Plan Liability Management

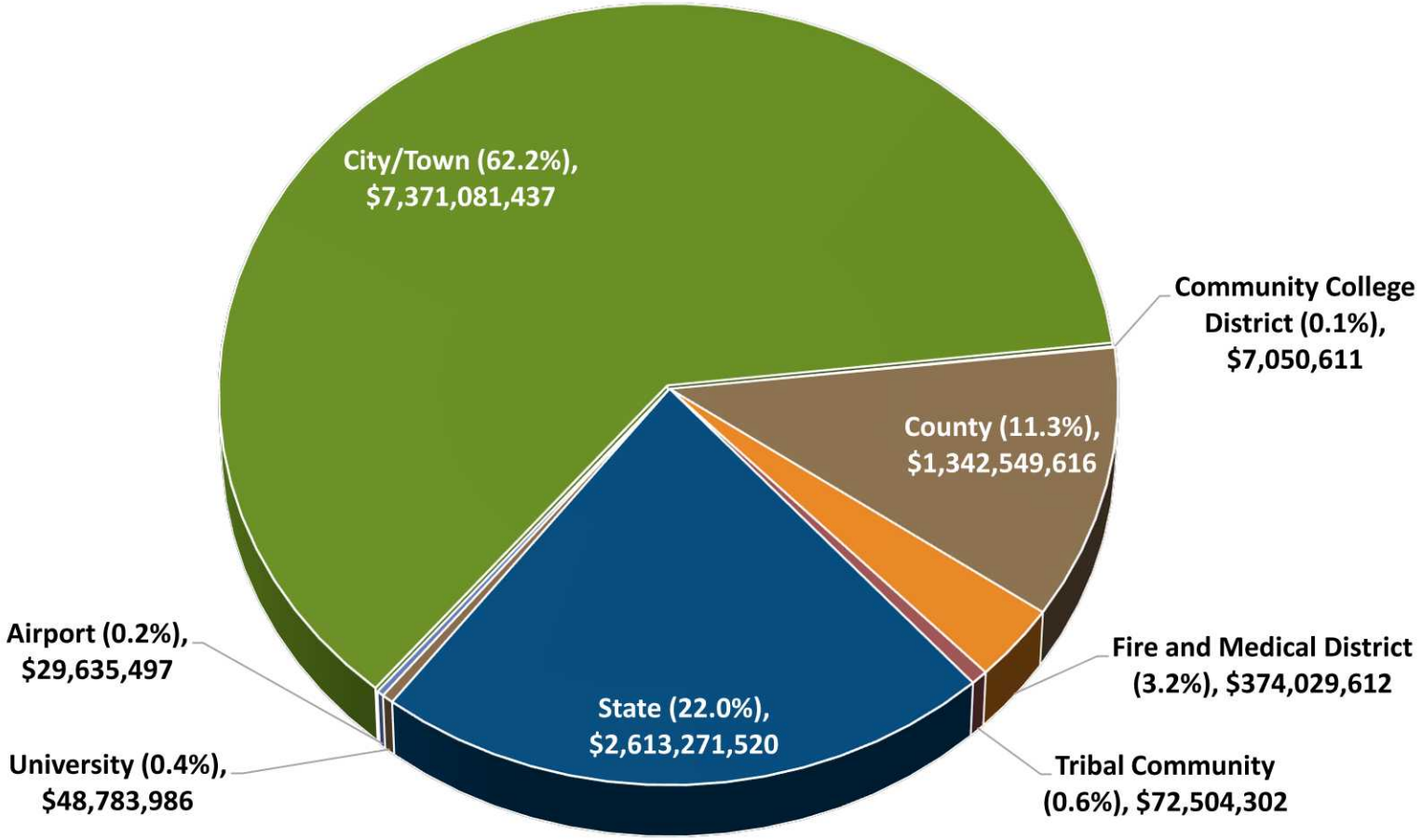
February 3, 2020

Arizona Tier 1 & 2 Unfunded Pension Liabilities

STIFEL

Unfunded Pension Liability by Entity Type

PSPRS & CORP Tiers 1 & 2



1. *'City/Town' category does not include City of Cottonwood Fire Department, which is included in the Fire and Medical District Entity Type classification.*
2. *'State' category includes unfunded liability amounts for Arizona State University, Northern Arizona University and University of Arizona.*
3. *Source: Arizona Corrections Officer Retirement Plan Actuarial Valuation as of June 30, 2020 and Arizona Corrections Officer Retirement Plan Actuarial Valuation as of June 30, 2020, Foster & Foster Actuaries and Consultants.*

City of San Luis PSPRS Pension Debt Profile: Tier 1 and Tier 2 Legacy Costs

STIFEL

Pension Plan	June 30, 2020 Recognized Unfunded Liability	June 30, 2020 Unrecognized Unfunded Liability	Timing Adjustment (6/30/2020 to 4/16/2021)	PSPRS Amortization
PSPRS – Police Department	$4,784,124 (61.9% Funded) Accrual Rate: 7.3%	$892,303 Accrual Rate: 7.3%	$29,786 Accrual Rate: 7.3%	1. 17 Years, 2038 2. Escalating annual amortization ranging from $320,268 (2020/21) - $1,285,173 (2037/38)
PSPRS – Fire Department	$1,952,387 (78.7% Funded) Accrual Rate: 7.3%	$504,287 Accrual Rate: 7.3%	$58,049 Accrual Rate: 7.3%	1. 16 years, 2037 2. Escalating annual amortization ranging from $115,221 (2020/21) - $780,737 (2036/37)
Total	**$6,736,511**	**$1,396,590**	**$87,835**	**$8,220,936**

1. *Source: Annual Actuarial Reports and GASB 68 Reports made publicly available by PSPRS.*
2. *Timing adjustment estimates the difference between the total unfunded liability as of the last actuarial report date (June 30, 2020) versus April 16, 2021. Calculation based on PSPRS's 7.3% assumed rate of return and annual payment projections provided by PSPRS for comparable employers to the City. In order to fully fund the City's PSPRS liabilities on January 1, 2021 and offset liabilities that are expected to be recognized over the next 7 years, the City would need to make an estimated payment of $8,220,936 to PSPRS. This amount is an estimate calculated by Stifel based on limited information from PSPRS and publicly available information, and such estimate had not been independently verified. Preliminary and subject to change.*

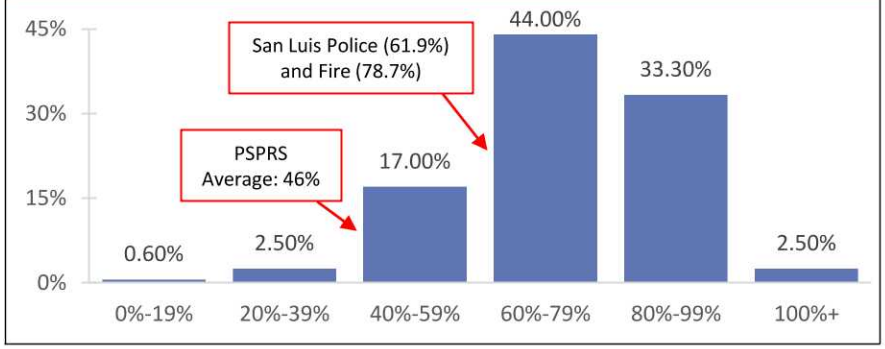
City of San Luis PSPRS Pension Debt Profile: How do we compare to our peers?

STIFEL

Accruing at 7.30%, the City's pension payments are among the fastest escalating costs on the City's budget

- City of San Luis participates in Arizona PSPRS for its Police and Fire Department employees and retirees
- The Police plan is funded at 61.9% as of the 2020 valuation, while the Fire plan is funded at 78.7%
- Both plans accrue at an assumed rate of 7.30%, well above what the City might pay on its debt (approximately 3.09%)
  - The actuarial rate was revised from 7.40% to 7.30% in the 2019 valuation, causing the UAAL to increase

Public Pensions: National Distribution of Funding Levels[2]



Overview of Key Terms.

- **Actuarially Accrued Liability ("AAL").** The present value of all future benefit payments payable to current and future retirees
- **Actuarial Value of Assets ("AVA").** The current value of all assets held/invested by PSPRS to generate returns and make benefit payments to retirees
- **Funded Ratio.** The ratio of AVA to AAL; 100% funding implies Assets = Liabilities
- **Unfunded Actuarially Accrued Liability ("UAAL").** The difference between the AAL and AVA

City of San Luis Plan Statistics (as of 6/30/2020)[1]	Police	Fire	Arizona PSPRS[1]
AAL	$12,548,722	$9,177,094	$17,393,828,992
AVA	$7,764,598	$7,224,707	$8,079,039,739
UAAL	$4,784,124	$1,952,387	$9,325,730,005
Actuarial Rate	7.30%	7.30%	7.30%
Funded Ratio	61.9%	78.7%	46.4%

Recommendation:

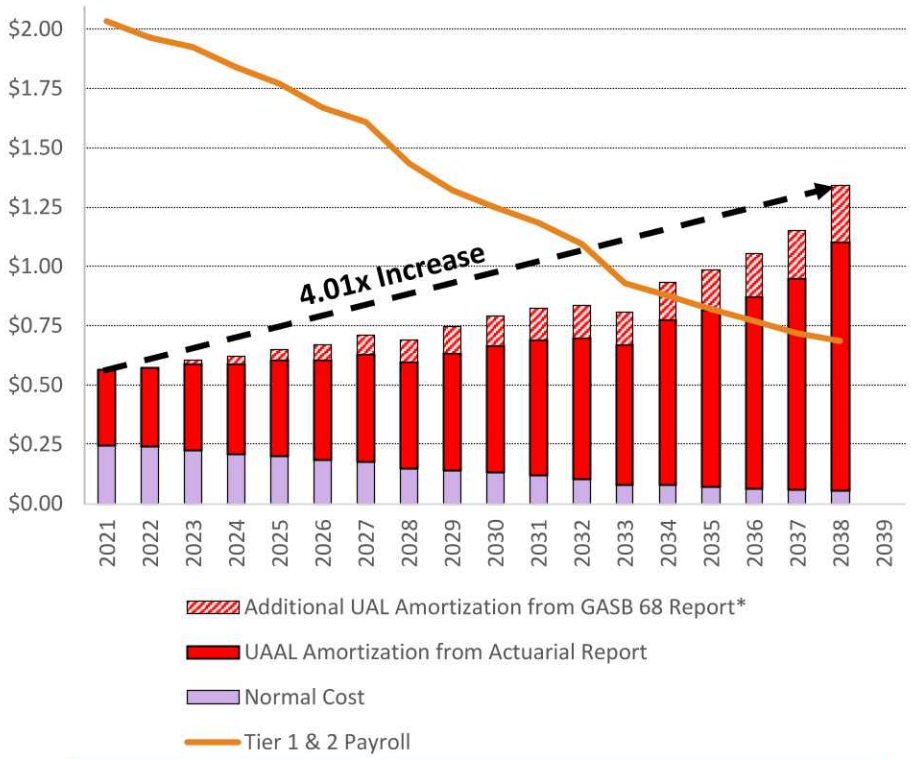
- **Refinance pension liability using other debt instruments to:**
  - **Achieve 100% funding levels (top 2.5% percentile nationally); greater assets will also allow the pension funds to improve investment efficiency and liquidity for paying benefits**
  - **Lower borrowing rate on $8.2 million UAAL from 7.30% to approximately 3.09% (depending on market conditions)**
  - **Generate budgetary stability and potential savings to address other needs and prevent crowding out of other priorities by escalating pension expenses**

1. *Source: Arizona Public Safety Personnel Retirement System Actuarial Valuation as of June 30, 2020.*
2. *Center for Retirement Research at Boston College, "The Funding of State and Local Pensions: 2015-2020." Alicia H. Munnell and Jean-Pierre Aubry.*

Status Quo: What are we currently paying? (San Luis Police)

STIFEL

City of San Luis Projected Tier 1 & 2 Police Pension Payments per PSPRS (Graph in $mil)[1]



FY	Total Payroll	Normal Cost	% of Payroll	Total UAL Amortization[2]	% of Payroll
2021	$2,032,471	$242,067	11.91%	$320,268	15.76%
2022	1,963,604	239,560	12.20%	335,199	17.07%
2023	1,923,758	224,503	11.67%	379,875	19.75%
2024	1,840,429	209,257	11.37%	410,526	22.31%
2025	1,769,851	199,462	11.27%	452,004	25.54%
2026	1,669,462	186,312	11.16%	482,832	28.92%
2027	1,609,324	176,060	10.94%	534,882	33.24%
2028	1,435,460	148,283	10.33%	541,221	37.70%
2029	1,321,705	139,704	10.57%	606,704	45.90%
2030	1,247,971	128,541	10.30%	659,830	52.87%
2031	1,182,001	119,737	10.13%	701,196	59.32%
2032	1,096,278	103,489	9.44%	731,872	66.76%
2033	929,018	79,059	8.51%	725,984	78.15%
2034	877,072	76,481	8.72%	858,042	97.83%
2035	820,609	69,259	8.44%	913,695	111.34%
2036	769,025	63,368	8.24%	993,155	129.14%
2037	718,994	59,245	8.24%	1,093,162	152.04%
2038	685,037	55,008	8.03%	1,285,173	187.61%
Total	**$23,892,069**	**$2,519,395**	**10.54%**	**$12,025,619**	**50.33%**

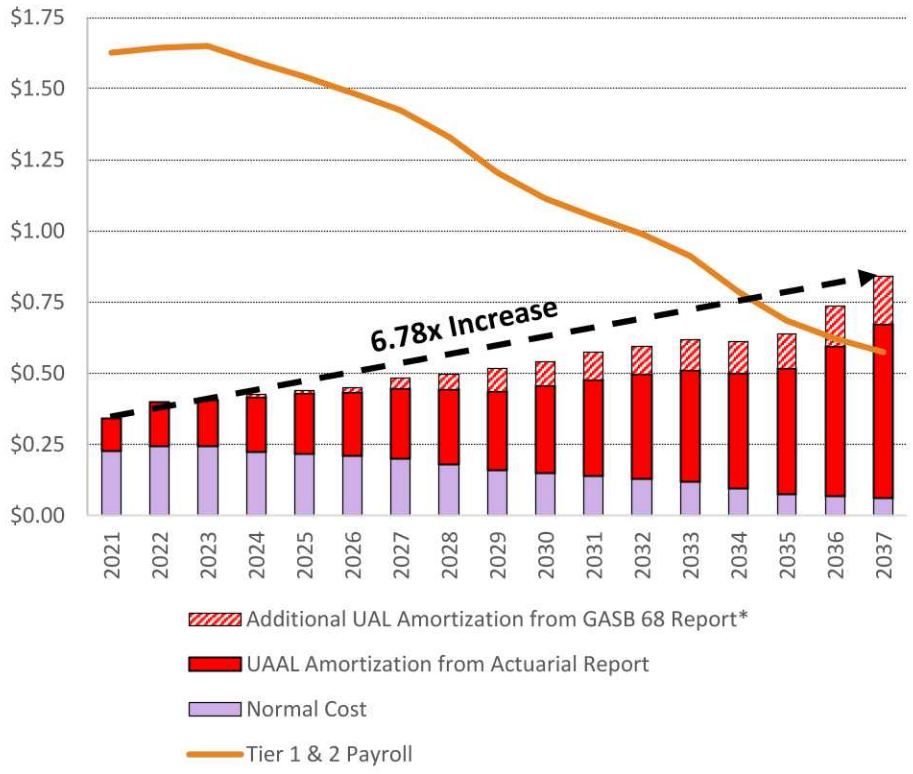
**The Governmental Accounting Standards Board (GASB) 68 Report identifies liabilities that will be recognized by the pension fund in the coming years. By funding these known, but not yet recognized, liabilities now, the City would avoid these additional UAL amortization payments.*

1. *Source: Arizona Public Safety Personnel Retirement System Actuarial Valuation as of June 30, 2019.*
2. *Total UAAL Amortization is an estimate calculated by Stifel based on actuarial reports provided by PSPRS as of June 30, 2020, and GASB 68 reports provided by PSPRS as of June 30, 2019.*

Status Quo: What are we currently paying? (San Luis Fire)

STIFEL

City of San Luis Projected Tier 1 & 2 Fire Pension Payments per PSPRS (Graph in $mil)[1]



FY	Total Payroll	Normal Cost	% of Payroll	Total UAL Amortization[2]	% of Payroll
2021	$1,628,095	$227,282	13.96%	$115,221	7.08%
2022	1,643,382	243,878	14.84%	155,798	9.48%
2023	1,651,514	244,094	14.78%	162,195	9.82%
2024	1,593,264	225,447	14.15%	198,738	12.47%
2025	1,543,806	216,905	14.05%	221,606	14.35%
2026	1,485,624	208,582	14.04%	239,997	16.15%
2027	1,424,627	199,590	14.01%	282,955	19.86%
2028	1,329,221	179,046	13.47%	317,387	23.88%
2029	1,203,556	160,675	13.35%	354,386	29.44%
2030	1,114,386	148,771	13.35%	393,757	35.33%
2031	1,051,712	139,352	13.25%	433,092	41.18%
2032	990,849	129,999	13.12%	466,861	47.12%
2033	913,169	119,351	13.07%	497,069	54.43%
2034	787,916	94,629	12.01%	518,924	65.86%
2035	686,458	77,089	11.23%	560,758	81.69%
2036	621,952	69,161	11.12%	668,891	107.55%
2037	573,299	60,712	10.59%	780,737	136.18%
Total	**$20,242,830**	**$2,744,563**	**13.56%**	**$6,368,371**	**31.46%**

1. *Source: Arizona Public Safety Personnel Retirement System Actuarial Valuation as of June 30, 2019.*
2. *Total UAAL Amortization is an estimate calculated by Stifel based on actuarial reports provided by PSPRS as of June 30, 2020, and GASB 68 reports provided by PSPRS as of June 30, 2019.*

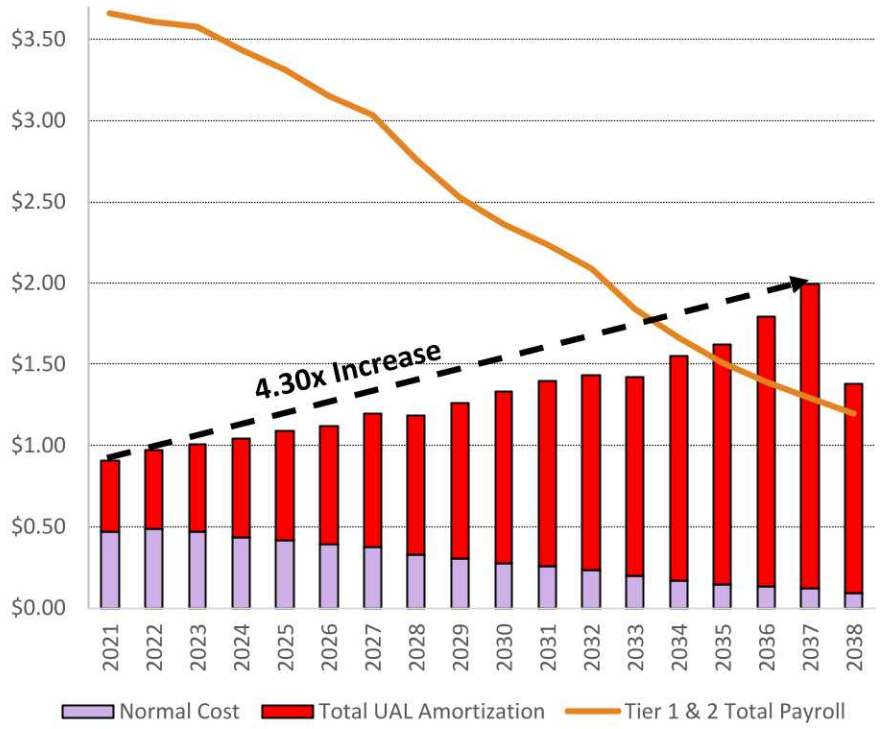
Status Quo: What are we currently paying? (Combined Police and Fire)

STIFEL

The City is essentially borrowing from PSPRS to support its pension plans and this cost continues to grow as plan assumptions evolve

- ***This ongoing liability creates significant pressure on near- and mid-term structural balance***
- As can be observed below, UAAL amortization payments will continue escalating above total employee payroll for Tiers 1 & 2

City of San Luis Projected Tier 1 & 2 Police and Fire Pension Payments per PSPRS (Graph in $mil)[1,2]



Fiscal Year	Tier 1 & 2 Payroll	Normal Cost	% of Payroll	Total UAL Amortization[2]	% of Payroll
2021	$3,660,566	$469,349	12.82%	435,489	11.90%
2022	3,606,986	483,438	13.40%	490,997	13.61%
2023	3,575,272	468,597	13.11%	542,070	15.16%
2024	3,433,693	434,704	12.66%	609,264	17.74%
2025	3,313,657	416,367	12.57%	673,610	20.33%
2026	3,155,086	394,894	12.52%	722,829	22.91%
2027	3,033,951	375,650	12.38%	817,837	26.96%
2028	2,764,681	327,329	11.84%	858,608	31.06%
2029	2,525,261	300,379	11.89%	961,090	38.06%
2030	2,362,357	277,312	11.74%	1,053,587	44.60%
2031	2,233,713	259,089	11.60%	1,134,288	50.78%
2032	2,087,127	233,488	11.19%	1,198,733	57.43%
2033	1,842,187	198,410	10.77%	1,223,052	66.39%
2034	1,664,988	171,110	10.28%	1,376,966	82.70%
2035	1,507,067	146,348	9.71%	1,474,453	97.84%
2036	1,390,977	132,529	9.53%	1,662,045	119.49%
2037	1,292,293	119,957	9.28%	1,873,899	145.01%
2038	1,195,446	92,216	7.71%	1,285,173	107.51%
Total	**$44,645,308**	**$5,301,166**	**11.87%**	**$18,393,991**	**41.20%**

Recommendation:

- **The City can issue Obligations to refinance this liability, reduce ongoing annual payments, create a more level annual payment structure that provides greater budget stability, and increase its funded ratio to 100%**

1. *Source: Arizona Public Safety Personnel Retirement System Actuarial Valuation as of June 30, 2019.*
2. *Total UAAL Amortization is an estimate calculated by Stifel based on actuarial reports provided by PSPRS as of June 30, 2020, and GASB 68 reports provided by PSPRS as of June 30, 2019.*

PSPRS Unfunded Liability and Related Options for Consideration

STIFEL

1. **Do nothing**
   - Continue to pay accelerating payments to PSPRS resulting in possible tax increase in the future, need to cut expenses, or potentially a combination of both

2. **Amend current PSPRS policy and budget more dollars towards the Unfunded Liability**
   - Separate tax policy or other revenue increase, and/or cuts to essential City services

3. **Refinance debt to PSPRS accruing at 7.3% with taxable Obligations yielding approximately 3.09%**
   - Address the legacy trajectory by "chopping down the future mountain" with fixed debt service payments and consider implementing a Contingency Reserve Fund to help manage future liability.

Low Interest Rate Environment

STIFEL

10-Year US Treasury Note: Past 12 Months[1]

(Data through January 21, 2021)

1. *Source: U.S. Department of the Treasury, as of January 21, 2021.*

Smooth Pension Legacy Liability[1,2]

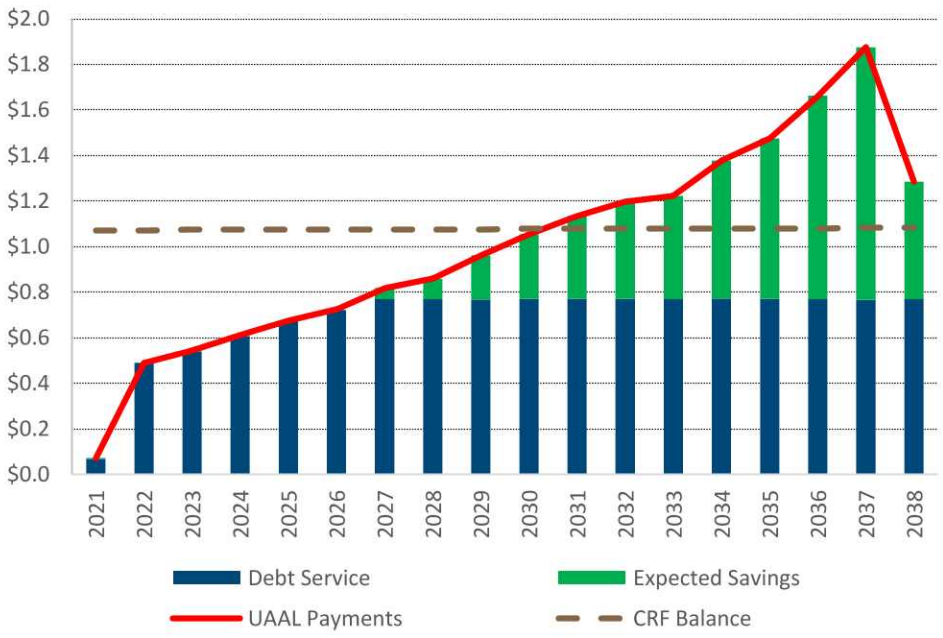
STIFEL

Issuing pension Obligations to fully fund the City's unfunded pension liabilities could allow the City to generate expected net present value benefit totaling $5.05 million (61.46% of pension fund deposit), including establishing Contingency Reserve Funds ("CRFs") while leveling out year-over-year payments

- Replacing the City's upward curving pension UAAL amortizations with level debt Obligations could reduce the cost and life of the City's pension liability, and we expect the level debt amortization in particular would be well-received by rating agencies
- Our structure is designed to produce level debt service but ***without exceeding the current UAAL amortization in any year***
- As summarized below, ***this scenario could produce $5,052,254 of total expected NPV savings***, including $3,972,635 from reduced annual UAAL payments, $1,072,296 from the creation of a Contingency Reserve Fund, and $7,323 from interest on the CRF assumed at 0.05%

Summary Statistics: Funding Police and Fire Pension Plan UAAL[1]	
Dated Date	4/16/2021
Final Maturity Date	7/1/2038
All-In TIC	3.09%
Arbitrage ("Arb") Yield	2.71%
Average Life	10.32 years
Par Amount	$9,610,000
Pension Fund Deposit	**$8,220,937**
Contingency Reserve Fund Deposit	**$1,072,296**
Total Interest on CRF @ 0.05% Return	$9,264
NPV of CRF Interest @ 2.71%	**$7,323**
Expected Cost Savings (UAAL – Debt Service)	**$5,703,159**
NPV of Expected Annual Savings @ 2.71%	**$3,972,635**
Total Expected NPV Benefit (CRF Deposits + NPV of CRF Interest + NPV of Expected Annual Savings)	***$5,052,254***
Total Expected NPV Benefit (as % of Pension Fund Deposit)	***61.46%***
Expected Actuarial Funding Status after Obligations	***100.00%***

Results: Impact on Annual Pension Plan UAAL Payments ($mil)[1]



1. *Market conditions as of January 26, 2021. Spreads based on comparable recent transactions. Stifel does not guarantee to underwrite at these levels. All NPV values are discounted to April 16, 2021 (assumed transaction closing date) at a discount rate of 2.71%, the arbitrage yield. Please refer to Stifel's risk disclaimers in this presentation. UAAL and amortization computed by Stifel using assumptions from the 2019 Actuarial Reports, annual UAAL payment data provided by PSPRS as of 6/30/2019, actuarial reports as of 6/30/2020 from PSPRS, and other Stifel calculations and assumptions.. UAAL payments shown are adjusted to reflect estimated payments made per fiscal year based on Stifel's calculations and assumptions. Expected savings are based on PSPRS achieving the assumed 7.3% rate of return. Please refer to Stifel's risk disclaimer for additional information.*

Smooth Pension Legacy Liability – Analysis Results[1,2]

STIFEL

Fiscal Year Ending	Budgeted UAAL Payments	Debt Service	Expected Annual Savings	Expected Cash Flow Benefit	Expected NPV Benefit @ 2.71%
	[A]	*[B]*	*[C] = [A]-[B]*	*[D]=[C]+[CRF Interest]*	*[E]=PV[D]*
Dated Date				$1,072,296	$1,072,296
6/30/2021	$72,582	$67,881	$4,700	$4,812	$4,785
6/30/2022	$490,997	$489,756	$1,241	$1,777	$1,721
6/30/2023	$542,070	$538,136	$3,934	$4,470	$4,214
6/30/2024	$609,264	$605,740	$3,524	$4,061	$3,727
6/30/2025	$673,610	$671,826	$1,784	$2,321	$2,074
6/30/2026	$722,829	$721,156	$1,673	$2,211	$1,923
6/30/2027	$817,837	$768,783	$49,054	$49,592	$41,999
6/30/2028	$858,608	$769,128	$89,480	$90,018	$74,222
6/30/2029	$961,090	$767,876	$193,213	$193,751	$155,532
6/30/2030	$1,053,587	$770,180	$283,407	$283,945	$221,914
6/30/2031	$1,134,288	$770,668	$363,620	$364,159	$277,087
6/30/2032	$1,198,733	$770,790	$427,943	$428,482	$317,419
6/30/2033	$1,223,052	$768,984	$454,068	$454,607	$327,878
6/30/2034	$1,376,966	$771,774	$605,191	$605,731	$425,334
6/30/2035	$1,474,453	$770,727	$703,726	$704,266	$481,462
6/30/2036	$1,662,046	$769,042	$893,004	$893,544	$594,725
6/30/2037	$1,873,899	$766,719	$1,107,180	$1,107,720	$717,803
6/30/2038	$1,285,173	$768,758	$516,415	$516,956	$326,139
Total	**$18,031,083**	**$12,327,925**	**$5,703,159**	**$6,784,718**	**$5,052,254**

1. *Market conditions as of January 26, 2021. Spreads based on comparable recent transactions. Stifel does not guarantee to underwrite at these levels. All NPV values are discounted to April 16, 2021 (assumed transaction closing date) at a discount rate of 2.71%, the arbitrage yield. Please refer to Stifel's risk disclaimers in this presentation. UAAL and amortization computed by Stifel using assumptions from the 2019 Actuarial Reports, annual UAAL payment data provided by PSPRS as of 6/30/2019, actuarial reports as of 6/30/2020 from PSPRS, and other Stifel calculations and assumptions.. UAAL payments shown are adjusted to reflect estimated payments made per fiscal year based on Stifel's calculations and assumptions. Expected savings are based on PSPRS achieving the assumed 7.3% rate of return. Please refer to Stifel's risk disclaimer for additional information.*
2. *If the City earns interest on its Contingency Reserve Fund deposit at 0.05%, it will earn $9,264 of interest through the life of the Obligations and the balance will grow to $1,081,560 by 2038 if not drawn upon. Stifel is not providing investment advice.*

Potential Pension Obligations Risks

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Pension liability management carries three distinct types of risks: i) actuarial risk, ii) market risk, and iii) other risks

Risk Description	Status Quo	Pension Obligations
Market Risk. *All pension plans are subject to changes in market conditions and year-over-year investment return performance. The assumed rate of return should ideally approximate a plan's long-term historical average returns*	• Performance studies allow actuaries to examine whether current return assumptions remain in line with actual performance. For example, many plans nationally have revised their actuarial rate to 7.00%	• Primary risk is investment return performance over lifetime of Obligations • An issuer of Obligations will remain better off for doing so as long as investment returns remain above the Obligations' total interest cost
Actuarial Risk. *Any retirement system's independent actuaries calculate projections for plan assets and liabilities, and these projections are premised on a variety of assumptions such as investment returns, payroll increase, COLA, mortality, early retirement, and benefit payments. Annual employer contributions are calculated based on these assumptions*	• Actuarial risk is inherent to all pension funds, and all projections of future contributions and payouts • Any revision or variance from these assumptions will alter projections and required contributions, regardless of the issuance of Obligations	• Obligations address the unfunded liability at a given point in time by swapping the assumed rate of return with a market-based borrowing rate that is locked in at the time of issuance. Any new liability created by new actuarial assumptions will have to be amortized separately
Funding Target Risk. *The Obligations proceeds amount is calculated to achieve a specified funding target defined by the issuer. This amount is calculated based on known components of the issuer's unfunded liability at the time of pricing, which is subject to achieving defined assumptions in an actuarial report; actual experience may vary*	• The funded ratio is subject to actuarial risk	• If the actual unfunded liability upon closing of the Obligations is higher or lower than the projected unfunded liability, the issuance of the Obligations may result in a funding level that is above or below the target level defined
Other Risks. *Other risks may also exist*	• Changes in statutory and/or constitutional provisions, bankruptcy filing by a municipality, etc.	• Changes a soft liability (pension) into hard liability (debt); could enhance the impact of statutory/ constitutional/bankruptcy changes

Mitigating Risks: Contingency Reserve Fund

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The City can apply a portion of Obligations proceeds to create a Contingency Reserve Fund that helps manage market and actuarial risks associated with pension Obligations

- **What?** Helps mitigate risks associated with year-over-year volatility in investment earnings as well as changes in actuarial assumptions, such as assumed rate of return, COLA, mortality
- **How?** Use a portion of Obligations proceeds to establish an initial balance in CRFs for the Police and Fire Plans, respectively
  - Apply a defined portion of ongoing year-over-year budgetary savings from the pension Obligations (difference between what UAAL payments would have been versus debt service costs) to continue funding CRF
- **Why?** In years where investment returns do not meet defined/established benchmarks, and/or changes in actuarial assumptions cause a significant change in projected annual payments, the City can draw on the CRF to smooth the budgetary impact of funding additional contributions for the newly created UAAL
- **Why not?** Negative carry of issuing additional debt to fund an upfront deposit

Rules for Investment of Proceeds. This is akin to permitted investment guidelines for reserve/escrow funds

- Proceeds should only be invested in liquid and/or short-term products to ensure prompt availability of funds

Rules for CRF Draws. While there may be greater flexibility to accord broader rules for draws on an CRF absent Obligations proceeds, in practice, permitting draws for any/every possible increase in payments could deplete the balance too soon

- The City may consider establishing a minimum fund balance threshold before which draws on the balance of the CRF could occur
- Draws may also be restricted to draws of investment income only, while the balance is untouched
- Establish periodic funded ratio thresholds, where CRF balance above a pre-defined level is drawn to supplement ARC

Rules for Contingency Replenishment. Could use ongoing pension Obligations savings or use *sell the float* on other City held funds for periodic inflows

- The City must also consider mechanisms to build up and/or maintain the CRFs balance by securing a stream of steady cash flow beyond the initial deposit
- This entails defining the revenue and investment sources for fiscal transparency, and redirecting investment returns in excess of an established benchmark to the Contingency Reserve Fund

Debt Service Coverage Analysis: Smooth Pension Legacy Liability

STIFEL

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
			$9,610,000 Pledged Excise Tax Revenue Obligations Series 2021 (Taxable) Dated: 4/16/2021				
Fiscal Year	Pledged Excise Tax Revenues (a)	Pledged Excise Tax Revenue Debt Service Outstanding	Estimated Principal *(b)*	Estimated Interest *(b)*	Estimated Total	Total Estimated Annual Debt Service Requirements	Projected Maximum Annual Debt Service Coverage (c)
2018/19	$19,881,321						
2019/20	21,665,519						
2020/21		$ 3,592,025	$ 20,000	$ 47,881	$ 67,881	$ 3,659,906	
2021/22		3,587,925	260,000	229,756	489,756	4,077,681	
2022/23		3,588,788	310,000	228,136	538,136	4,126,924	
2023/24		3,584,163	380,000	225,740	605,740	4,189,903	
2024/25		3,593,838	450,000	221,826	671,826	4,265,664	
2025/26		3,588,138	505,000	216,156	721,156	4,309,294	
2026/27		3,582,738	560,000	208,783	768,783	4,351,521	4.98 x
2027/28		3,226,956	570,000	199,128	769,128	3,996,084	
2028/29		3,228,069	580,000	187,876	767,876	3,995,945	
2029/30		3,233,750	595,000	175,180	770,180	4,003,930	
2030/31		2,793,500	610,000	160,668	770,668	3,564,168	
2031/32		2,174,000	625,000	145,790	770,790	2,944,790	
2032/33		2,176,750	640,000	128,984	768,984	2,945,734	
2033/34		2,180,500	660,000	111,774	771,774	2,952,274	
2034/35		2,170,000	680,000	90,727	770,727	2,940,727	
2035/36		2,170,750	700,000	69,042	769,042	2,939,792	
2036/37		2,172,000	720,000	46,719	766,719	2,938,719	
2037/38		2,173,500	745,000	23,758	768,758	2,942,258	
		$ 52,817,390	$ 9,610,000	$ 2,717,925	$ 12,327,925	$65,145,315	

(a) Based on Pledged Excise Tax Revenue collections information provided to the Electronic Municipal Market Access system for FY 2020.
(b) Preliminary, subject to change.
(c) City Pledged Excise Tax Revenue collections for FY 2020 used to complete the Maximum Annual Debt Service coverage.

Pension Risk Disclaimer and Underwriter/Placement Agent Disclosure

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Pension Obligation Bonds ("POBs") are a source of financing for unfunded actuarial liabilities of pension funds and can serve a valuable function. However, the success of a POB financing is dependent on a number of assumptions proving to be accurate, and the failure of any of these assumptions is a risk that a government issuing POBs should consider.

Among the assumptions that are important to a POB financing, and the risks associated with those assumptions providing to be inaccurate, are the following:

- Assumption: The POB proceeds amount is calculated to achieve a specified funding target defined by the issuer. **Risk: This amount is calculated based on known components of the issuer's unfunded liability at the time of pricing. The projected unfunded liability at any given point in time is subject to achieving defined assumptions in an actuarial report, and actual experience may vary. If the actual unfunded liability upon closing of the bonds is higher or lower than the projected unfunded liability, the issuance of the POBs may result in a funding level that is above or below the target level defined.**
- Assumption: The investment yield on the POB proceeds once deposited in the pension fund will equal or exceed the yield on the POBs. **Risk: If the investment yield on the POB proceeds is less than the yield on the POBs, and the decline is not offset by positive changes in other assumptions, the issuance of the POBs may actually increase the unfunded actuarial liability.**
- Assumption: Payroll increases during the term of the POBs will be as anticipated when the unfunded actuarial liability was estimated at POB issuance. **Risk: If payroll increases during the term of the POBs exceed expectations, and the increases are not offset by positive changes in other assumptions, the POB proceeds will not suffice to cover the unfunded actuarial liability.**
- Assumption: Cost of living adjustments ("COLAs") will be as anticipated when the unfunded actuarial liability was estimated at POB issuance. **Risk: If COLAs exceed expectations during the term of the POBs, and the increases are not offset by positive changes in other assumptions, the POB proceeds will not suffice to cover the unfunded actuarial liability.**
- Assumption: Various assumptions used in calculating the unfunded actuarial liability -- such as mortality rates, early retirement incentives, types of payrolls covered by the pension fund -- will be as anticipated at the time of POB issuance. **Risk: If there are reductions in mortality rates, increases in early retirement incentives, expansions of the payrolls covered by the pension plan during the term of the POBs, and these changes are not offset by positive changes to other assumptions, the POB proceeds will not suffice to cover the unfunded actuarial liability.**

In addition to analyzing potential benefits that are based on achieving assumptions made in estimating the unfunded actuarial liability, we will also analyze potential budgetary benefits or losses based on various prospective levels of the pension systems' earnings to assist you in gauging the likelihood of success of a POB transaction. It should be noted that potential budgetary benefits vary from year to year. Actual benefits or losses and the success of the POB financing cannot be known until the POBs have been paid in full.

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AGENDA ITEM REVIEW FORM

Work Session **2. B.**

Meeting Date: 02/03/2021

Department Head: Jenny Torres, Economic Development Manager, Administration, Economic Development

Submitted By: Yigal Duarte, Economic Development Assistant, Administration, Economic Development

Action Requested: Board of Adjustment

ITEM:

Discussion and possible directions to staff on any and all matters regarding an update on the Request for Qualifications (RFQ) for the Build Discretionary Grant Assistance for the Cesar Chavez Boulevard project. **(Jenny Torres, Economic Development Manager)**

SUMMARY:

On December 22, 2020, the City of San Luis released a Request for Qualifications (RFQ) soliciting firms to submit proposals to describe their qualifications to provide technical assistance for the development of the BUILD grant application for the Cesar Chavez Boulevard project. The City received one (1) proposal.

The evaluation committed comprise of three (3) city employees and one (1) external engineer reviewed the qualifications based on the following criteria:

- Proposer qualifications (30 points)
- Relative experience and references (40 points)
- Technical approach (30 points)

Based on the evaluation results, staff will begin negotiating the fee and contract with the top firm and will present the item at the regular council meeting scheduled for February 10, 2021.

RECOMMENDATION / SUGGESTED MOTION:

Discussion and possible directions to staff only, no action.

Fiscal Impact

IS THERE FISCAL IMPACT ASSOCIATED WITH THIS ITEM:	Yes
CITY/STATE/FEDERAL FUNDS:	City
TOTAL:	See fiscal impact stment
BUDGETED AMOUNT:	See fiscal impact stmt
AVAILABLE AMOUNT TO TRANSFER:	N/A
ACCT NAME & GL#/REMAINING BALANCE BEFORE PURCHASE:	Council Contingency GL# 100-110-81000 with remaining funds $268,000.00

FISCAL IMPACT STATEMENT (IF THIS IS A BUDGET TRANSFER, YOU MUST ATTACH THE BUDGET ADJUSTMENT FORM):

This item was not budgeted for this fiscal year since there were delays with this project, City council directed staff to request the funding from the council contingency fund should the project move forward this year. We are asking the City Council to approve the transfer of contingency funds account 100-110-81000 to account 100-999-90015 to fund these services. We estimate these services will total $50,000.00.

Attachments

San Luis BUILD Discretionary Assist

CITY OF SAN LUIS BUILD DISCRETIONARY GRANT ASSISTANCE

Request for Qualifications (RFQ) Issued by the City of San Luis, Arizona

Submission Due Date: Tuesday January 19, 2021 by 3:00 PM

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Background

The City of San Luis is in southwestern Arizona along the Colorado River and immediately adjacent to the international border between the United States and Mexico. It is the border town to San Luis Rio Colorado, Sonora, Mexico. San Luis is approximately 205 miles from Phoenix, AZ, 200 miles from San Diego, CA, and 75 miles from El Golfo de Santa Clara, Sonora, Mexico.

Over the last couple decades, San Luis has experienced rapid growth rate. In 2010, the U.S. Census recorded a population of 25,505 and the estimated population in 2020 is 39,390. As population grows, additional residential, commercial, and industrial development is expected.

Some of the most productive agricultural lands in the nation are adjacent to San Luis. Farming provides year-round crops production and provides jobs for thousands of people throughout the region including those that cross from Mexico every day to work. San Luis experiences daily transient traffic of thousands of people that participate in the regional labor or professional work force. The region's agriculture and the port activity are key economic drivers for San Luis and the Greater Yuma County.

As a border town, San Luis has two land ports of entry, one for commercial traffic only (LPOE II), and one for personal vehicles and pedestrians (LPOE I). The San Luis LPOE I has experienced a 58% increase in the number of personal vehicles processed since 2010. The higher volume and outdated facilities create long wait times, leading to traffic backup in downtown San Luis.

San Luis Rio Colorado, Mexico is also growing significantly and is estimated to be nearly 200,000 in population. As a result, vehicular and pedestrian traffic from Mexico through Arizona ports and through San Luis specifically has reached high volumes totaling 3,062,225 vehicles and 2,593,951 pedestrians. The San Luis LPOE II is approximately five miles east of San Luis LPOE I. It is located on Avenue E, south of county 24th Street. The POE is on 80 acres and includes three incoming lanes from Mexico and two outgoing lanes into Mexico. Commercial freight through LPOE II experiencing an increase in users and serves as an important gateway to international commerce.

Main Street/Highway 95 and Cesar Chavez Boulevard/State Route 195 are the major transportation routes serving the City of San Luis. These routes provide connectivity to Interstate 8 as well as to cities to the north such as Somerton and Yuma. Historically during the peak agricultural season, October to March, the main arterial roads as well as many collector roads connect to LPOE I and commercial areas congested by vehicular as well as by pedestrian traffic.

BUILD Discretionary Grant

The Better Utilizing Investments to Leverage Development, or BUILD Transportation Discretionary Grant program, provides a unique opportunity for planning and capital investments in surface transportation infrastructure and are awarded on a competitive basis for projects that will have a significant local or regional impact. BUILD funding supports roads, bridges, transit, rail, ports, or intermodal transportation. Since 2017, the Administration has awarded nearly $4 billion in BUILD grants to improve America's infrastructure.

Project Purpose

The City of San Luis requires technical assistance services to prepare the City of San Luis BUILD grant application. The application is due by May 2021. The selected consultant will prepare research, documentation for the

submittal, and completion of the grant application in collaboration with City staff. The anticipated grant application focus is on improvement to Juan Sanchez Boulevard connecting the two ports of entry.

Qualifications and Capabilities

The selected consultant (s) shall have substantial experience in working for cities to provide grant development services. Personnel involved shall possess the necessary professional skills and qualifications (including any licenses) to perform the required services. All work to be performed must follow federal and state laws, procedures, and guidelines. The consultant shall demonstrate the following in their Statement of Qualifications (SOQ):

1. Experience and success in grant writing as well as implementing federal programs, specifically BUILD Discretionary Grants.
2. Understanding of transportation and economic development projects.
3. A clear and straightforward approach to working with the City of San Luis to provide expert/strategic advisory and support services.

Major Types of Work

The selected consultant(s) previous experience shall include, at a minimum and be documented in the SOQ:

1. Knowledge of BUILD Discretionary Grant funding program.
2. Federal grant writing expertise.
3. Research and documentation.
4. Effective writing capabilities.
5. Transportation-related planning and design, economic development projects, and border issues.
6. Public involvement and consensus-building.
7. Effective presentations and recommendations.

Grant Consultant Responsibilities

The selected consultant(s) shall be responsible for undertaking the services addressed in this RFQ or as negotiated with the City, upon execution of the agreement by both parties.

1. Make presentations, attend meetings representing the City and work with public/private individuals on the City's behalf.
2. Provide all documentation pertaining to the completed project to the City of San Luis. The City may use or reproduce such material. The respondent will be responsible to maintain documentation for a period agreed upon during the project contract.
3. Maintain the contracted time frames based on individual project contract(s) and meet the City demands.
4. All invoices will be submitted to Jenny Torres, project manager to be approved and submitted for payment by the City.
5. Responder is responsible for reviewing insurance requirements before submitting a response to this RFQ.
6. Maintain accurate and financial records of its activities and operation relating to this agreement in accordance with generally accepted accounting principles and/or as required by local, state, and federal funded projects.

7. Warrant that all respondents(s) follow all federal immigration laws and regulations that relate to its employees and with A.R.S. §23-214 relating to verification of employment eligibility.
8. Respondents must have a satisfactory record of integrity and business ethics.
9. Respondents that are corporations, partnerships, or any other legal entity, shall be properly registered or capable to be registered to do business in Arizona and the U.S. at the time of the submission of their proposals, and comply with all applicable state and U.S. laws and/or requirements.
10. Respondents shall be required to sign a contract of services approved by the City of San Luis.

City of San Luis Responsibilities

The City of San Luis will be responsible for the following:

1. The City will make available all documents in the City's possession on an individual basis depending on the individual project contract.
2. City will provide facilities for all meetings during the agreement.
3. City will create a review committee to evaluate the SOQ responses generated by this RFQ.
4. In the absence of any conflict of interest vis-à-vis a specific project, the City expects, but cannot guarantee in every instance, that the consultant(s) will be assigned to provide the requested services.
5. The City reserves the right to terminate any part of or the entirety of this agreement that may result from the RFQ, without cause and at any time within thirty (30) calendar days written notice by the city. In such case, the consultant(s) will be paid for services rendered through the date of the termination notice.

Anticipated Schedule

The consultant shall develop a project schedule to achieve the completion and submittal of the BUILD Discretionary Grant on behalf of the City of San Luis by the May 2021 deadline.

Availability of Funds

The City of San Luis has approved funding to support the development of the BUILD grant application. The SOQ will assist the City of San Luis to allocate the appropriate funding to complete the tasks and produce products to create and submit City's BUILD Discretionary Grant application. The final professional services cost, along with a payment schedule, shall be negotiated.

Submittal Requirements

Important Dates

RFQ Release Date	Tuesday, December 22, 2020
Questions Due	Tuesday, January 5, 2021 by 2:00 PM
Pre-Proposal Conference via Zoom	Tuesday, January 12, 2020 2:00 PM
Responses to Questions	Tuesday, January 14, 2021 by EOD
SOQ Due	Tuesday, January 19, 2021 by 3:00 PM
Interviews via Zoom	Tuesday, January 26, 2021

SOQ Requirements

The SOQ must include the following:

1. **Letter of Commitment**: The firm's letter of commitment should identify the firms and key staff who will be working on the project, and commit them for the duration of the project, if selected. The letter should also state that the firm has read and understand the RFQ requirements. This letter must be signed by a duly authorized official of the appropriate firm.
2. **Methodology and Approach**: Provide a comprehensive description of how the project will be completed and how milestones will be reached.
3. **Schedule**: Include a project schedule by task with an estimated timeframe for delivering a final document and approval process.
4. **Qualifications:** Narrative explaining the qualifications (each firm and key personnel assigned to project) to meet the terms of the RFQ.
    a. Identify the team's project manager and specifically delineate project management qualifications.
    b. Writing samples demonstrating the ability to condense and concisely present large amounts of information should be provided.
    c. Describe the firm(s) ability to integrate this project into the firm's present workload.
    d. Describe the experience in giving expert advice to local elected officials, planning and zoning commissions, the city administrators, city attorneys, department directors, and other individuals or organizations so designated by staff.
    e. Describe the specific understanding of and experience with the BUILD Discretionary Grant program and federal grant application responses.
    f. Describe the specific understanding and experience with transportation, economic development, and border-related projects.
5. **References:** Summary of the firm's recent experience on similar projects. Provide four (4) similar project references: Provide names and contact information of previous clients with a detailed description of the type of project completed and the firm/person's role on the project, project timeframe and date completed, and provide the client project manager.
6. **Project Roles:** A description of each staff member or subconsultant who will be involved with this project and their roles. Provide a percentage of time for each person.

Evaluation Criteria and Procedures

The following is a list of points per criteria that will be used to evaluate proposals:

Proposer Qualifications	30 points
Relative Experience and References	40 points
Technical Approach	30 points

The successful consultant(s) will enter into a professional services agreement with the City of San Luis. While cost is a consideration, the City is not limited to selecting the lowest bid, as this is a qualifications-based decision.

The evaluation will address the following.

1. Quality and completeness of the SOQ: The City will evaluate proposals based on their quality, clarity, and demonstrated understanding of the project objectives.
2. Implementation Schedule: The City will also evaluate proposals based on their ability to complete the project within the timeframe specified by the City, and on how the firm delineates its timeline in its submission. The proposal must include an implementation schedule that lists all milestones for the development and implementation of project deliverables.
3. Qualifications and relevant experience with respect to grant writing and federal grant requirements. The proposer must provide a list of all person(s) who will be assigned work pursuant

to this RFQ (including subcontractors), as well as their resumes showing qualifications, educational background, training, and experience.

4. Reputation among previous clients and previous experience: The proposer must submit four (4) references from projects of similar scope and nature. The City encourages submission of sample reports or products from previous projects.

Submission Deadline and Instructions

Submit five (5) paper copies and one (1) electronic copy of the response in a sealed envelope that is clearly marked in lower left-hand corner, **"RFQ FOR SAN LUIS BUILD DISCRETIONARY GRANT WRITING ASSISTANCE"** no later than **3:00 PM, Tuesday, January 19, 2021**.

Responses must be sent to:

Sonia Cornelio, City Clerk
City of San Luis
1090 East Union Street
P.O. Box 1170
San Luis, Arizona 85349

Responses must be thorough, but concise. The response will be judged as an example of the team's writing and graphic capabilities. The response should not exceed 25 pages (excluding letter of commitment, cover, table of content, resumes, and additional samples of work). The pages shall be on standard 8.5" x 11" sheets of paper with 12-point font.

The City will not accept facsimile (faxed), emailed, or late proposals. The City reserves the right to reject any or all SOQs or accept what is, in its judgement, the SOQ which is in the City's best interest. The City further reserves the right, in the best interests of the City, to waive any technical defects or irregularities in any and all proposals submitted.

During the RFQ selection process, all SOQs shall remain confidential. The entire selection process (procurement) file shall be open to the public (which includes all proposers) after an agreement is approved by the City, except those items for which confidentiality has been requested in writing by the Respondents and as permitted by law.

Questions and Answers

All questions regarding this RFQ must be submitted by email to Jenny Torres, City of San Luis, at jtorres@sanluisaz.gov by **2:00 PM Tuesday, January 5, 2021**. A pre-proposal Zoom conference will be held on **Tuesday, January 12, 2021 at 2:00 PM**. Please contact Jenny Torres to register to participate in the pre-proposal conference (via Zoom). Addenda, reports, and responses to questions and answers will be distributed by **EOD on Tuesday, January 14, 2021**.

Interviews

The City reserves the rights to forego the interview process if it deems that a SOQ is adequate to select a consultant. If the City decides to go forward with interviews, qualified finalists will give presentations. The City will notify finalists of the time, date and location. The City plans to conduct interviews (in person or via Zoom)

with selected firms tentatively on **Tuesday, January 26, 2021**. Presentations will provide an opportunity for the City to obtain a greater understanding of:

1. The extent of the Respondent's depth of knowledge of the subject matter.
2. Whether the methods and resources that will be used by the firm in performing services to achieve the project goals and objectives are appropriate and cost effective.
3. The firm's ability to draw together specialists and professionals with the necessary skills and experience to contribute to the overall project.
4. The primary features and benefits of their SOQ.
5. The Responder's public presentation skills.
6. The Respondent's ability to communicate how the schedule and tasks.

Presentation format will be at the Respondent's discretion. Presentations will be limited to one-hour period per Respondent, which includes questions. All key managerial personnel, as well as key personnel working on the project, must attend the proposal presentation. Any costs incurred by the Respondents in preparing or submitting a response to this RFQ or interviewing for this project shall be the Respondents' sole responsibility.

Notification of Award

The City will notify the successful Respondent by telephone, followed by written confirmation. Each Respondent whose SOQ is not accepted will receive notification by mail. The City of San Luis will authorize the award of a contract to the successful respondent. If a contract cannot be finalized within thirty (30) days of the award, the City reserves the right to enter negotiations with another respondent.

Respondents not selected have ten business days from email delivery notification to initiate a written protest. The City of San Luis reserves the right to reject any or all SOQ(s); to make modifications to, or waive irregularities of information in any RFQ, if the city staff deems this to be in the best interest of the City of San Luis. The City can decide to readvertise the RFQ and/or to take any steps determined prudent to resolve the protest.

Insurance Requirements

Respondent shall maintain in effect, at all times during the term of a City contract, insurance adequate to protect the City and its agents, representatives, officers, officials, and employees against such losses as set forth below. Selected respondent shall provide City with a current Certificate of Insurance or a certified copy of the insurance policy naming the City as an additional insured (except for Errors and Omissions/Professional Liability coverage).

The following types and amounts of insurance are required as minimums:

The selected consultant agrees to procure and maintain at its expense until final payment by the City for services covered by this Agreement, insurance in the kinds and amounts provided below with insurance companies authorized to do business in the State of Arizona, covering all operations under this Agreement, whether performed by it or its agents. Before commencing the work, the consultant shall furnish to the City a certificate or certificates in form that is satisfactory to the City, showing that it has complied with this paragraph. All certificates shall provide that the policy shall not be changed or cancelled until forty-five (45) days' prior written shall have been given to the City. Kinds and amounts of insurance required are as follows:

Insurance

The Consultant must provide coverage at least as broad and with limits of liability not less than those stated below.

Commercial General Liability-Occurrence Form	
General Liability/Aggregate	$1,000,000/$2,000,000
Products-Completed Operations Aggregate	$2,000,000
Personal & Advertising Injury	$2,000,000
Each Occurrence	$1,000,000
Fire Damage (Any one fire)	$100,000
Medical Expense (Any one person)	Optional
Automobile Liability-Any Auto or Owned, Hired and Non-Owned Vehicles	
Combined Single Limit Per Accident	$ 1,000,000
For Bodily Injury and Property Damage	
Workers Compensation and Employers Liability:	
Workers Compensation	State Statutory
Employers Liability: Each Accident	$ 100,000
Disease - Each Employee	$ 100,000
Disease - Policy Limit	$ 100,000
Liquor Liability	
Liquor Liability/Aggregate	$ 1,000,000

Consultant acknowledges that amounts of insurance coverage stated above shall not limit its liability while performing under a contract.

Indemnity

To the fullest extent allowable by law, Consultant shall defend, indemnify, and hold harmless the City and its representatives, officers, officials, and employees (the "Indemnities") from and against any and all claims, damages, losses, and expenses (including but not limited to attorney fees, court costs and the cost of appellate proceedings) relating to, arising out of, or resulting from Consultant's negligent acts, errors, mistakes, or omissions in the performance of this Contract. Consultant's duty to defend, hold harmless and indemnify the Indemnitees hall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death or injury to, impairment or destruction of property including loss of use resulting therefrom, caused in whole or in part by any negligent act, error, mistake or omission in the performance of this Contract (including those by any person for whose negligent acts, errors, mistakes or omissions Consultant may be liable) to the extent of Consultant's negligence or fault. The amount and type of insurance coverage requirements set forth above shall not limit the scope of the indemnity in this paragraph.

FEDERAL NON-COLLUSION AFFIDAVIT
BUILD GRANT ASSISTANCE
RFQ ED2021-003

State of Arizona

County of _____

_____, affiant, the

_____ of
(TITLE)

_____
(NAME OF COMPANY)

The person, corporation, or company responsible for the accompanying State of Qualifications, having first been duly sworn, deposes and says:

That such Statement of Qualifications is genuine and not sham or collusive, nor made in the interest of or on behalf of person not herein named, and that the Proposer has not directly or indirectly induced or solicited any other Proposer to put in a sham submittal, or any other person, firm, or corporation to refrain from submitting, and that the Proposer has not in any manner sought by collusion to secure for itself an advantage over any other Proposer.

_____

_____
(TITLE)

Subscribe and sworn to before me this
_____Day of _____, 20____.

_____
SIGNATURE OF NOTARY PUBLIC
IN AND FOR THE

COUNTY OF _____

STATE OF _____

(My Commission Expires_____, 20____).

ATTACHMENT "A"

FEDERAL REQUIREMENTS

CERTIFICATIONS

The undersigned is fully aware that the BUILD Grant services provided to the City of San Luis may be either wholly or partially federally funded and hereby agrees to abide by the following:

Civil Rights Act of 1964, Title VI, as amended, that provides no person on the basis of Race, Color or National Origin shall be excluded from participation, denied program benefits, or subjected to discrimination.

And, Civil Rights Act of 1968, Title VIII, as amended, will not discriminate in housing on the basis of Race, Color, Religion, Sex or National Origin.

And, Rehabilitation Act of 1973, Section 503, as amended, which prohibits discrimination against individuals with disabilities and requires government contractors to take affirmative action to employ and advance in employment qualified individuals with disabilities.

And, Housing and Community Development Act of 1974, Section 109, as amended, that no person shall be excluded from participation (including employment), denied program benefits, or subjected to discrimination on the basis of Race, Color, National Origin, Sex, Age, Religion and Disability under any program or activity funded in whole or part under Title I (CDBG) of the Act.

And, Age Discrimination Act of 1975, as amended, that no person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age under any program or activity receiving federal funds.

And, Americans with Disabilities Act of 1990, as amended, that no covered entity shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement or discharge of employees, employee compensation, job training and other terms, conditions, and privileges of employment.

And, Executive Order 11063, that no person shall, on the basis of Race, Color, Religion, Sex or National Origin, be discriminated against in housing and related facilities provided with federal assistance or lending practices with respect to residential property when such practices are connected with loans insured or guaranteed by the federal government.

And, Executive Order 11246, as amended, that no person shall be discriminated against, on the basis of Race, Color, Religion, Sex, Sexual Orientation, Gender Identity or National Origin, in any phase of employment during the performance of federal or federally assisted construction contracts awarded to contractors or subcontractors who do over $10,000 in government business in one (1) year.

EQUAL EMPLOYMENT OPPORTUNITY

During the performance of the contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

2. The contractor will, in all solicitations or advancements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity or national origin.

3. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

4. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of notice in conspicuous places available to employees and applicants for employment.

5. The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuou8s places available to employees and applicants for employment.

6. The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

7. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and relevant orders of the Secretary of Labor.

8. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1085, and by the rules, regulations, and orders of the Secretary of Labor or pursuant thereto, and will permit access to his books, records and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

9. In the event of the contractor's noncompliance with the nondiscrimination clauses off this contract or with any of such rules, regulation or orders, this contract may be cancelled, terminate, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

10. The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests

of the United States." [Sec. 202 amended by EO 11375 of Oct. 13, 1967, 32 FR 14303, 3 CFR, 1966-1970 Comp., p. 684, EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230, EO 13665 of April 8, 2014, 79 FR 20749, EO 13672 of July 21, 2014, 79 FR 42971].

EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES – SECTION 503

(if contract $10,000 or over)

1. The Contractor will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ and advance in employment individuals with disabilities, and to treat qualified individuals without discrimination on the basis of their physical or mental disability in all employment practices including the following:
   a. Recruitment, advertising, and job application procedures;
   b. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
   c. Rates of pay or any other form of compensation and changes in compensation;
   d. Job assignments, job classifications, organizational structures, position descriptions, line of progression and seniority lists;
   e. Leaves of absence, sick leave or any other leave;
   f. Selection and financial support for training including apprenticeship, professional meetings, conferences and other activities and selection for leaves of absence to pursue training;
   g. Activities sponsored by the contractor including social or recreational programs; and
   h. Any other term, condition or privilege of employment.

2. The Contractor agrees to comply with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act. 3. In the event of the Contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.

3. The Contractor agrees to comply with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
   a. Recruitment, advertising, and job application procedures;
   b. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right from layoff and rehiring;
   c. Rates of pay or any other form of compensation and changes in compensation;
   d. Job assignments, job classifications organizational structures, position descriptions, lines of progression and seniority lists;
   e. Leaves of absence, sick leave or any other leave;
   f. Selection and financial support for training including apprenticeship, professional meetings,

conferences and other activities and selection for leaves of absence to pursue training;

g. Activities sponsored by the contactor including social;
h. Any other term, condition, or privilege of employment.

4. In the event of the Contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.

5. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Office of Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities. The Contractor must ensure that applicants or employees with disabilities are provided the notice in a form that is accessible and understandable to the individual applicant or employee (i.e., providing Braille or large print versions of the notice or posting a copy of the notice ant a lower height for easy viewing by a person using a wheelchair). With respect to employees who do not work at a physical location of the Contractor, a Contractor will satisfy its posting obligations by posting such notices in an electronic format, provided that the Contractor provides computers, or access to computers, that can access the electronic posting to such employees, or the Contractor has actual knowledge that such employees otherwise are able to access the electronically posted notices. Electronic notices for employees must be posted in a conspicuous location and format on the company's intranet or sent by electronic mail to employees. An electronic posting must be used by the Contractor to notify job applicants of their rights if the Contractor utilizes and electronic application process. Such electronic applicant notice must be conspicuously stored with, or as part of, the electronic application.

6. The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding that the Contractor is bound by the terms of Section 503 of Rehabilitation Act of 1973, as amended, and is committed to take affirmative action to employ and advance in employment and shall not discriminate against individuals with physical or mental disabilities.

7. The Contractor must include the provisions of this clause in every subcontract or purchase order in excess of $10,000 unless exempted by rules, regulations or orders of the secretary issued pursuant to Section 503 of the Act, as amended, so that such provisions will be binding

upon each purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

8. The Contractor must, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment and will not be discriminated against on the basis of disability.

PROCUREMENT OF RECOVERD MATERIALS

The undersigned is fully aware that this contract is wholly or partially federally funded and further by submission of this proposal certifies that they will adhere to the requirements and specifications as outlined by the EPA at 40 CFR Part 247, Comprehensive Procurement Guideline for Products Containing Recovered Materials.

ACCESS TO RECORDS AND RECORDS RETENTION

The undersigned certifies, to the best of their knowledge and belief that:

1. The individual, sole proprietor, partnership, corporation and/or association agrees to permit the Recipient, Consultants, State of Arizona Department of Housing (ADOH), U.S. Department of Housing and Urban Development (HUD) and the Office of the Inspector General and/or their designated representatives to have access to all records for review, monitoring and audit during normal working hours.

2. The individual, sole proprietor, partnership, corporation and/or association agrees to retain all records for at least three (3) years following the grant contract closeout between HUD and ADOH or the resolution of all audit findings, whichever is later.

CONFLICT OF INTEREST

The undersigned is fully aware that this contract is wholly or partially federally funded and further, by submission of the proposal that the individual or firm, certifies that:

1. There is no substantial interest, as defined by Arizona Revised Statute §§38-503 through §§38-505, with any public official, employee, agency, commission, or committee (including members of their immediate family) with the City of San Luis or Consultants.
2. Any substantial interest, as defined by Arizona Revised Statute §§38-503 through §§38-505, with any public official, employee, agency, commission, or committee (including members of

their immediate family) with the City of San Luis or Consultants that develops at any time during this contract will be immediately disclosed to the City of San Luis and Consultants.

ANTI-LOBBYING

The undersigned certifies, to the best of their knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal amendment or modification of any federal contract, grant, loan or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this Certification be included in the award documents for all sub-awards to all tiers (including subcontracts, sub-grants and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

CERTIFICATIONS SIGNATURE FORM

Return this page with SOQ.

These Certifications (Civil Rights, Equal Employment Opportunity, Equal Opportunity for Workers with Disabilities - Section 503, Procurement of Recovered Materials, Access to Records and Records Retention, Conflict of Interest, Anti-Lobbying) are a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of these Certifications is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required Certifications shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____	_____
(Typed Name of Official)	(Signature of Official)
_____	_____
(Typed Name of Firm)	(Date)

AGENDA ITEM REVIEW FORM

Work Session **2. C.**

Meeting Date: 02/03/2021

Department Head: Angel Ramirez, Fire Chief, Fire Department

Submitted By: Angel Ramirez, Fire Chief, Fire Department

Action Requested: Discussion Item - No Action to be Taken

ITEM:

Discussion and possible directions to staff on any and all matters regarding the purchase of a new Self Contained Breathing Apparatus (SCBA) fill station. **(Angel Ramirez, Fire Chief)**

SUMMARY:

The current fill station (Mako Brand) that is currently in use was purchased in the early 2000s and was designed to fill SCBA bottles with a much lower PSI capability than we currently use. Our current bottles are rated at 4500(psi) 45 minutes and our previous bottles were rated at 2216(psi) 30 minutes. The Mako unit has sustained numerous repairs in the past year, much of the issues having to do with the overloading of the system to fill our current bottles. The San Luis Fire Department obtained a quote of $48,727.96 for a new fill station through LN Curtis who is a long-time vendor used by our organization.

We would also like to waive the procurement code so that we can have LN Curtis as our vendor for the fill station. LN Curtis has always given us great customer service and always prioritizes our needs.

RECOMMENDATION / SUGGESTED MOTION:

Discussion and possible directions to staff only, no action.

Fiscal Impact

IS THERE FISCAL IMPACT ASSOCIATED WITH THIS ITEM:	YES
CITY/STATE/FEDERAL FUNDS:	CITY
TOTAL:	$48,727.96
BUDGETED AMOUNT:	$49,000.00
AVAILABLE AMOUNT TO TRANSFER:	N/A
ACCT NAME & GL#/REMAINING BALANCE BEFORE PURCHASE:	100-999-90000

FISCAL IMPACT STATEMENT (IF THIS IS A BUDGET TRANSFER, YOU MUST ATTACH THE BUDGET ADJUSTMENT FORM):

N/A

Attachments

Fill Station Quote

Ph: 602-453-3911
TF: 877-453-3911
Fax: 602-453-3910
azsales@lncurtis.com
DUNS#: 00-922-4163

CURTIS
TOOLS FOR HEROES

Southwest Division
4647 South 33rd Street
Phoenix, AZ 85040
***.LNCURTIS.com
Quotation No. 176188

Quotation

CUSTOMER:

San Luis City Fire Department
PO Box 7740
San Luis AZ 85349

SHIP TO:

San Luis City Fire Department
1165 North Mccain Avenue
San Luis AZ 85349

QUOTATION NO.	ISSUED DATE	EXPIRATION DATE
176188	01/14/2021	03/15/2021

SALESPERSON	CUSTOMER SERVICE REP
Travis Sparks tsparks@lncurtis.com 520-709-6360	Alex Rodriguez ARodriguez@lncurtis.com 602-800-7844

REQUISITION NO.	REQUESTING PARTY	CUSTOMER NO.	TERMS	OFFER CLASS
Blackhawk CFS BAC		C34551	Net 30	FR

F.O.B.	SHIP VIA	DELIVERY REQ. BY
FTSP	Standard Shipping	

NOTES & DISCLAIMERS

THANK YOU FOR THIS OPPORTUNITY TO QUOTE. WE ARE PLEASED TO OFFER REQUESTED ITEMS AS FOLLOWS. IF YOU HAVE ANY QUESTIONS, NEED ADDITIONAL INFORMATION, OR WOULD LIKE TO PLACE AN ORDER, PLEASE CONTACT YOUR SALESPERSON OR CUSTOMER SERVICE REP AS NOTED ABOVE.

Ph: 602-453-3911
TF: 877-453-3911
Fax: 602-453-3910
azsales@lncurtis.com
DUNS#: 00-922-4163

CURTIS
TOOLS FOR HEROES

Southwest Division
4647 South 33rd Street
Phoenix, AZ 85040
***.LNCURTIS.com
Quotation No. 176188

LN	QTY	UNIT	PART NUMBER	DESCRIPTION	UNIT PRICE	TOTAL PRICE
1	1	EA	BHB EAGLE AIR CUSTOM	BLACKHAWK CFS BAC AS BELOW: Model BHB10S3D2U Model BHB10S3D2U BlackhawkCFS Breathing Air Compressor System – 13.3 cfm charging rate, 6000 psig, driven by a 10-hp three-phase electric motor, complete with two SCBA certified containment fill station and standard accessories plus remote air intake, enhanced shutdown indicator light package, Air Monitor System (combination CO/ moisture monitor), four (4) 6000 psig UN/ ISO air storage cylinders (bulk-piped), SCBA spacer kit and 4.5 priority fill control system as per the attached specifications. The design of this new version of the Blackhawk allows it to be shipped in two pieces. The two modules can be joined onsite during the installation or simply mounted next to each other. *OPTIONAL: - FOR INTEGRAL 50FT HOSE REEL, ADD $1650.00	$42,200.00	$42,200.00
2	1	EA	CURTIS SERVICE NCLP AZ	AZ NON CONTRACT LABOR AND PRODUCT- AS BELOW; Final set up and training for compressor. *Does not include final electrical hookup	$1,500.00	$1,500.00

*Upon arrival of a breathing air compressor system, customer will be required to offload, place in desired location, and complete the electrical connection. This may require the use a forklift to place in the proper area. Once this has been completed, please contact our office so that one of our factory certified technicians can be scheduled for startup and training. The system will be tested for proper and safe operation. Your department's personnel will be trained on the compressor use and safe operation.

DUNS NUMBER: 009224163
SIC CODE: 5099
FEDERAL TAX ID: 94-1214350

THIS PRICING REMAINS FIRM UNTIL 03/15/2021. CONTACT US FOR UPDATED PRICING AFTER THIS DATE.

Ph: 602-453-3911
TF: 877-453-3911
Fax: 602-453-3910
azsales@lncurtis.com
DUNS#: 00-922-4163

CURTIS
TOOLS FOR HEROES

Southwest Division
4647 South 33rd Street
Phoenix, AZ 85040
***.LNCURTIS.com
Quotation No. 176188

Subtotal	$43,700.00
Tax Total	$3,527.96
Transportation	$1,500.00
Total	$48,727.96

View Terms of Sale and Return Policy

AGENDA ITEM REVIEW FORM

Work Session **2. D.**

Meeting Date: 02/03/2021

Department Head: Jose A. Guzman, Director of Planning & Zoning, Planning & Zoning Department

Submitted By: Jose A. Guzman, Director of Planning & Zoning, Planning & Zoning Department

Action Requested: Discussion Item - No Action to be Taken

ITEM:

Discussion and possible directions to staff on any and all matters regarding off-site signs on Archibald Street. **(Jose A. Guzman, Director of Planning and Zoning)**

SUMMARY:

The current City Code prohibits the installation of off-site signs on Main Street south of County 22nd Street, however, it allows off-site signs on commercial properties located in a Major Arterial Road. This ordinance was adopted when the traffic going to Mexico was still on Main Street. The traffic now travels south on Archibald Street, therefore is now considered a Major Arterial Road.

RECOMMENDATION / SUGGESTED MOTION:

Discussion and possible directions to staff only, no action.

Fiscal Impact

IS THERE FISCAL IMPACT ASSOCIATED WITH THIS ITEM:	N/A
CITY/STATE/FEDERAL FUNDS:	N/A
TOTAL:	N/A
BUDGETED AMOUNT:	N/A
AVAILABLE AMOUNT TO TRANSFER:	N/A
ACCT NAME & GL#/REMAINING BALANCE BEFORE PURCHASE:	N/A

FISCAL IMPACT STATEMENT (IF THIS IS A BUDGET TRANSFER, YOU MUST ATTACH THE BUDGET ADJUSTMENT FORM):

N/A

Attachments

Off-Site Signs Regulations

§ 152.261 OFF-SITE SIGNAGE.

(A) *General.* Off-site signage shall be permitted in accordance with the specific standards and criteria set forth in this section, as well as with the additional requirements and provisions of this chapter pertaining to all signage.

(B) *Required zoning districts and frontages.* Off-site signage shall be permitted only on parcels zoned with a General Commercial (C-2) or Light Industrial (L-I) zoning classification which front along a major arterial street or minor arterial street, as classified by the transportation/circulation element of the City of San Luis General Plan, and its successors.

(C) *Standards and criteria for off-site signage.* Any off-site signage proposed for installation shall conform with the standards and criteria set forth in the following. The size and location of any off-site signage which already exists shall be considered when determining the amount and location of any new signage proposed for installation under these standards:

(1) *Sign face area.* The maximum sign face area shall not exceed 300 square feet.

(2) *Sign height and vertical clearance.* The maximum sign height shall not exceed 35 feet. In all cases, a minimum ten foot vertical clearance measured from street grade of the nearest driving lane to the lowest line of the sign face shall be required.

(3) *Setback.* The minimum setback from any portion of the sign face or sign structure shall be either 55 feet from the center line of the arterial street right-of-way or 15 feet from the right-of-way line, whichever produces the greater setback.

(4) *Spacing.* A minimum 600 foot distance, measured as a radius, shall be required between off-site sign installations. In addition, no more than four off-site sign installations shall be located within a linear mile measured along the same street, wherein the beginning point and ending point of such mile coincide with a section line.

(5) *Method of installation.* Each off-site sign shall be erected as a free-standing sign installation as defined by this chapter. No off-site sign shall be erected on the wall or roof of any building.

(D) *Prohibited locations.* Off-site signage shall be prohibited at any of the following locations:

(1) Less than 150 feet from the nearest property line of any residential zoning district;

(2) In any block where the front one-third of any lot or parcels used for residential purposes comprises 50% or more of the block frontage;

(3) Less than 1,500 feet from the exterior boundary of any federal, state, county, or municipal historic park, monument, or district; and

(4) Main Street south of Co. 22nd Street.

(Ord. 312, passed 4-11-2012)

AGENDA ITEM REVIEW FORM

Work Session **2. E.**

Meeting Date: 02/03/2021

Department Head: Richard Jessup, Acting Chief of Police, Police Department

Submitted By: Michelle Boucher, Administrative Coordinator, Police Department

Action Requested: Discussion Item - No Action to be Taken
Order

ITEM:

Discussion and possible directions to staff on any and all matters regarding the approval and adoption of Order No. 2021-3. An order of the Mayor and City Council of the City of San Luis, Arizona to authorize the City of San Luis Police Department to receive funding for overtime and mileage by approving an Intergovernmental Agreement and authorizing execution of Subrecipient Agreement Operation Stonegarden Grant Program Award - Overtime and Mileage between the State of Arizona through the Arizona Department of Homeland Security and the City of San Luis, Arizona through the San Luis Police Department. **(Richard Jessup, Chief of Police)**

SUMMARY:

The City of San Luis Police Department has been awarded $500,000.00 for overtime and $20,025.00 for mileage under the Fiscal Year 2020 Operation Stonegarden Program Award Number 200434-01. The grant performance period is January 1, 2021, through March 31, 2022. The total awarded grant funded amount is $520,025.00.

The adoption of this order will support the United States Border Patrol mission by allowing police officers the ability to prevent or stop the egress of drug and undocumented person smuggling, and the nexus to terrorism.

RECOMMENDATION / SUGGESTED MOTION:

Discussion and possible directions to staff only, no action.

Fiscal Impact

IS THERE FISCAL IMPACT ASSOCIATED WITH THIS ITEM:	Yes
CITY/STATE/FEDERAL FUNDS:	Federal
TOTAL:	Yes
BUDGETED AMOUNT:	Yes
AVAILABLE AMOUNT TO TRANSFER:	$372,348.00
ACCT NAME & GL#/REMAINING BALANCE BEFORE PURCHASE:	250-181-50010 Special Revenue Public Safety: OT, 250-181-70005 Gas/Oil

FISCAL IMPACT STATEMENT (IF THIS IS A BUDGET TRANSFER, YOU MUST ATTACH THE BUDGET ADJUSTMENT FORM):

The San Luis Police Department will receive $520,025.00 in overtime and mileage as reimbursements. The remaining unused funds will carry over to FY 2022. Available funds to spend this fiscal year is $372,348.00.

Account numbers:
250-181-50010.174 Special Revenue- Public Safety, Police Department-Overtime DOHS OPSG 200434-01
250-181-70005.174 Special Revenue- Public Safety, Police Department-Gas/Oil DOHS OPSG 200434-01

Attachments

Order No. 2021-3

Award Letter

Subrecipient Agreement

OFFICE OF THE
MAYOR
CITY OF SAN LUIS

Order

No. 2021-3

AN ORDER OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA TO AUTHORIZE THE CITY OF SAN LUIS POLICE DEPARTMENT TO RECEIVE FUNDING FOR OVERTIME AND MILEAGE BY APPROVING AN INTERGOVERNMENTAL AGREEMENT AND AUTHORIZING EXECUTION OF SUBRECIPIENT AGREEMENT OPERATION STONEGARDEN GRANT PROGRAM-OVERTIME AND MILEAGE BETWEEN THE STATE OF ARIZONA THROUGH THE ARIZONA DEPARTMENT OF HOMELAND SECURITY AND THE CITY OF SAN LUIS, ARIZONA THROUGH THE SAN LUIS POLICE DEPARTMENT.

WHEREAS, the City of San Luis desires to increase police presence within our city limits to support the United States Border Patrol mission by allowing police officers to stop or prevent the egression of drug, undocumented persons smuggling, and the nexus to terrorism;

WHEREAS, the Arizona Department of Homeland Security has approved OPSG Overtime and Mileage and Employee Related Expenses to enhance border security throughout the City of San Luis;

WHEREAS, the Arizona Department of Homeland Security has prepared an Intergovernmental Agreement which provides for all of the funds including that these funds shall not be used to supplant other funding of the San Luis Police Department.

NOW, THEREFORE, BE IT ORDERED by the Mayor and Council of the City of San Luis, State of Arizona as follows:

Section 1. That the Intergovernmental Agreement titled "SUBRECIPIENT AGREEMENT 20-AZDOHS-OPSG-200434-01" and the grant application titled "OPSG Overtime and Mileage" both Attached to this order are approved.

Section 2. that the appropriate City officials are hereby authorized and directed to enter into said agreement on behalf of the City and take any and all actions as may be necessary to effectuate said agreement.

[Intentionally left blank, signature page follows]

PASSED AND ADOPTED by the Mayor and Council of the City of San Luis, Arizona this ___ day of February, 2021.

_____
Gerardo Sanchez, Mayor

ATTEST:

_____
Sonia Cornelio, City Clerk

APPROVED AS TO FORM:

_____
Kay Marion Macuil, City Attorney

State of Arizona
Department of Homeland Security

Governor Douglas A. Ducey

Director Gilbert M. Orrantia

FFY 2020

Dear OPSG Stakeholder:

The project that your agency submitted to the Arizona Department of Homeland Security (AZDOHS) for consideration under the Operation Stonegarden Grant Program has been awarded.

Please be advised, all projects require an Environmental and Historic Preservation review. Your project has been reviewed and it has been determined to have no potential impact to environmental or historic concerns. No further EHP review is required unless you modify the project and it is approved by AZDOHS. If you need further clarification please contact Michael Stidham at (602) 542-7041 or mstidham@azdohs.gov with AZDOHS for further information regarding the EHP specific requirements for your award.

As stated in the subrecipient agreement:

> The subrecipient shall comply with Federal EHP regulations, laws and Executive Orders as applicable. Subrecipients proposing projects that have the potential to impact the environment, including but not limited to construction of communication towers, modification or renovation of existing buildings, structures and facilities, or new construction including replacement of facilities, must participate in the DHS/FEMA EHP review process. The EHP review process involves the submission of a detailed project description that explains the goals and objectives of the proposed project along with supporting documentation so that DHS/FEMA may determine whether the proposed project has the potential to impact environmental resources and/or historic properties. In some cases, DHS/FEMA is also required to consult with other regulatory agencies and the public in order to complete the review process. The EHP review process must be completed before funds are released to carry out the proposed project. DHS/FEMA will not fund projects that are initiated without the required EHP review.
>
> Additionally, all recipients are required to comply with DHS/FEMA EHP Policy Guidance. This EHP Policy Guidance can be found in FP 108-023-1, Environmental Planning and Historic Preservation Policy Guidance, and FP 108.24.4, Environmental Planning and Historical Preservation Policy.

SUBRECIPIENT AGREEMENT
OPERATION STONEGARDEN GRANT PROGRAM
OVERTIME-MILEAGE

20-AZDOHS-OPSG-_____
(Enter Subrecipient Agreement number above (e.g., 200XXX-XX)

Between

The Arizona Department of Homeland Security
And

_____
(Enter the name of the Subrecipient Agency above)

DUNS Number_____
(Enter the DUNS number above)

WHEREAS, A.R.S. section 41-4254 charges the Arizona Department of Homeland Security (AZDOHS) with the responsibility of administering funds.

THEREFORE, it is agreed that the AZDOHS shall provide funding to the

_____
(Enter the name of the Subrecipient Agency above)

(Subrecipient) for services under the terms of this Agreement (the "Agreement").

I. PURPOSE OF AGREEMENT

The purpose of this Agreement is to specify the rights and responsibilities of AZDOHS in administering the distribution of homeland security grant funds to the Subrecipient, and to specify the rights and responsibilities of the Subrecipient as the recipient of these funds.

II. PERIOD OF PERFORMANCE, TERMINATION AND AMENDMENTS

This Agreement shall become effective on **January 1, 2021 and shall terminate on March 31, 2022**. The obligations of the Subrecipient as described herein will survive termination of this agreement.

III. DESCRIPTION OF SERVICES

The Subrecipient shall provide the services for AZDOHS as set forth in writing in Subrecipient's grant application titled: "**OPSG Overtime-Mileage"** and funded at **$**_____ (as may have been modified by the award letter). (Enter funded award amount above)

IV. MANNER OF FINANCING

The AZDOHS shall under the U.S. Department of Homeland Security grant #EMW-2020-SS-00017-S01 and CFDA #97.067:

a) Provide up to **$**_____ to the Subrecipient for services provided under Paragraph III.

Payment made by the AZDOHS to the Subrecipient shall be on a reimbursement basis only and is conditioned upon receipt of proof of payment and applicable, accurate and complete reimbursement documents, as deemed necessary by the AZDOHS, to be submitted by the

Subrecipient. A listing of acceptable documentation can be found at *www.azdohs.gov*. Payments will be contingent upon receipt of all reporting requirements of the Subrecipient under this Agreement.

V. FISCAL RESPONSBILITY

It is understood and agreed that the total amount of the funds used under this Agreement shall be used only for the project as described in the application and award documentation. Therefore, should the project not be completed, the Subrecipient shall reimburse said funds directly to the AZDOHS immediately. If the project is completed at a lower cost than the original budget called for, the amount reimbursed to the Subrecipient shall be for only the amount of dollars actually spent by the Subrecipient in accordance with the approved application. For any funds received under this Agreement for which expenditure is disallowed by an audit exemption or otherwise by the AZDOHS, the State, or Federal government, the Subrecipient shall reimburse said funds directly to the AZDOHS immediately.

VI. FINANCIAL AUDIT/PROGRAMMATIC MONITORING

The Subrecipient agrees to comply with the record-keeping requirements and other requirements of A.R.S. 35-214 and 35-215.

a) In addition, in compliance with the Federal Single Audit Act (31 USC 7501-7507) as amended by the Single Audit Act Amendments of 1996 (P.L. 104-156) and 2 C.F.R. 200.501, the Subrecipient must have a Single Audit or program specific audit conducted in accordance with 2 C.F.R. 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) if the Subrecipient expends more than $750,000 from Federal awards in its previous fiscal year. If the Subrecipient has expended more than $750,000 in Federal dollars, a copy of the Subrecipient's single audit or program specific audit report for the previous fiscal year and subsequent fiscal years that fall within the period of performance is due annually to AZDOHS within nine (9) months of the Subrecipient's fiscal year end.

b) Failure to comply with any requirements imposed as a result of an audit will suspend reimbursement by AZDOHS to the Subrecipient until the Subrecipient is in compliance with all such requirements. Additionally, the Subrecipient will not be eligible for any new awards until the Subrecipient is in compliance with all such requirements.

c) Subrecipients who do not expend more than $750,000 in Federal dollars in the previous fiscal year and subsequent fiscal years that fall within the period of performance must submit to AZDOHS via audits@azdohs.gov, a statement stating they do not meet the threshold and therefore do not have to complete a single audit or program specific audit.

d) Subrecipient will be monitored periodically by AZDOHS, both programmatically and financially, to ensure that the project goals, objectives, performance requirements, timelines, milestone completion, budgets, and other related program criteria are being met. Monitoring will be accomplished through a combination of office-based reviews and on-site monitoring visits. Monitoring can involve aspects of the work involved under this Agreement including but not limited to the review and analysis of financial, programmatic, equipment, performance, and administrative issues relative to each program and will identify areas where technical assistance and other support may be needed. Subrecipient shall participate in and cooperate with all such monitoring by AZDOHS, and shall provide access to all personnel, documents, and other records as may be requested from time to time by AZDOHS. Subrecipient also shall comply with all requests of AZDOHS that AZDOHS deems necessary to assure the parties' compliance with their obligations under this Agreement.

e) The Subrecipient agrees to cooperate with any assessments, state/national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this Agreement.

VII. APPLICABLE STANDARDS AND REGULATIONS

The Subrecipient must comply with the applicable Notice of Funding Opportunity (NOFO) and Code of Federal Regulations (C.F.R.) 2 C.F.R. 200. The NOFO for this program is hereby incorporated into this Agreement by reference. By accepting this award, the Subrecipient agrees that all allocation and use of funds under this grant will be in accordance with the requirements contained in the NOFO and all other applicable law.

Davis Bacon Act

HSGP Program subrecipients using funds for construction projects must comply with the *Davis-Bacon Act* (40 U.S.C. 3141 *et seq*.). Subrecipients must obtain written approval from AZDOHS prior to use of any HSGP funds for construction or renovation. Subrecipients must ensure that their contractors or subcontractors for construction projects pay workers no less than the prevailing wages for laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the state in which the work is to be performed. Additional information regarding compliance with the *Davis-Bacon Act*, including Department of Labor (DOL) wage determinations, is available from the following website https://www.dol.gov/whd/govcontracts/dbra.htm.

Insurance Coverage

The Subrecipient affirms the organization maintain insurance coverage as described in 2 C.F.R. 200.310. The non-Federal (Subrecipient) entity must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided to property owned by the non-Federal (Subrecipient) entity. Federally-owned property need not be insured unless required by the terms and conditions of the Federal award.

National Incident Management System (NIMS)

The Subrecipient agrees to remain in compliance with National Incident Management System (NIMS) implementation initiatives as outlined in the applicable NOFO.

Environmental Planning and Historic Preservation

The Subrecipient shall comply with Federal, State and Local environmental and historical preservation (EHP) regulations, laws and Executive Orders as applicable. *See* FEMA publication FP 108-023-1, titled "Environmental Planning and Historic Preservation (EHP) Policy Guidance," available at https://www.fema.gov/media-library-data/1533321728657-592e122ade85743d1760fd4747241776/GPD_EHP_Policy_Final_Amendment_GPD_final_508.pdf. Subrecipients proposing projects that have the potential to impact the environment, including but not limited to construction of communication towers, modification or renovation of existing buildings, structures and facilities, or new construction including replacement of facilities, must participate in the Federal Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA) EHP review process. The EHP review process involves the submission of a detailed project description that explains the goals and objectives of the proposed project along with supporting documentation so that DHS/FEMA may determine whether the proposed project has the potential to impact environmental resources and/or historic properties. In some cases, DHS/FEMA is also required to consult with other regulatory agencies and the public in order to complete the review process. The EHP review process must be completed before funds are released to carry out the proposed project. If ground disturbing activities occur during project implementation, the Subrecipient must ensure monitoring of ground disturbance and if any archeological resources are discovered, the Subrecipient shall immediately cease construction in that area and notify FEMA, AZDOHS and the appropriate State Historic

Preservation Office. DHS/FEMA will not fund projects that are initiated without the required EHP review. In addition, the following provisions must be adhered to:

Consultants/Trainers/Training Providers
Invoices for consultants/trainers/training providers must include at a minimum: a description of services; dates of services; number of hours for services performed; rate charged for services; and, the total cost of services performed. Consultant/trainer/training provider costs must be within the prevailing rates; must be obtained under consistent treatment with the procurement policies of the Subrecipient and 2 C.F.R. 200; and shall not exceed the maximum of $450 per day per consultant/trainer/training provider unless prior written approval is granted by the AZDOHS. This includes internal personnel hired on backfill/overtime to deliver training. In addition to the per day $450 maximum amount, the consultant/trainer/training provider may be reimbursed reasonable travel, lodging, meal and incidental expenses not to exceed the State rate. Itemized receipts are required for lodging and travel reimbursements. The Subrecipient will not be reimbursed costs other than travel, lodging, meals and incidentals on travel days for consultants/trainers/training providers. See Travel Costs below.

Contractors/Subcontractors
The Subrecipient may enter into written subcontract(s) for performance of certain of its functions under the Agreement in accordance with terms established in 2 C.F.R. 200 and the applicable NOFO. The Subrecipient agrees and understands that no subcontract that the Subrecipient enters into with respect to performance under this Agreement shall in any way relieve the Subrecipient of any responsibilities for performance of its duties. The Subrecipient shall give the AZDOHS immediate notice in writing by certified mail of any action or suit filed and prompt notice of any claim made against the Subrecipient by any subcontractor or vendor which may result in litigation related in any way to this Agreement.

Travel Costs
All grant funds expended for travel, lodging, meals and incidentals are subject to the standards of the Subrecipient's policies and procedures, as well as the State of Arizona Accounting Manual (SAAM). These policies must be applied uniformly to both federally financed and other activities of the Subrecipient. AZDOHS will reimburse at the most restrictive allowability and rate. At no time will the Subrecipient's reimbursement(s) exceed the State rate established by the Arizona Department of Administration, General Accounting Office Travel Policies: https://gao.az.gov/travel.

Procurement
The Subrecipient shall comply with its own procurement rules/policies and must also comply with Federal procurement rules/policies and all Arizona state procurement code provisions and rules. The Federal intent is that all Homeland Security Funds are awarded competitively. The Subrecipient shall not enter into a Noncompetitive (Sole or Single Source) Procurement Agreement, unless prior written approval is granted by the AZDOHS via the Noncompetitive Procurement Request Form. The Noncompetitive Procurement Request Form and instructions are located on the AZDOHS website: *https://azdohs.gov/grant-program-forms.*

Training and Exercise
The Subrecipient agrees that any grant funds used for training and exercise must be in compliance with the applicable NOFO. All training must be included and approved in your application and/or approved through the DEMA/AZDOHS training request process prior to execution of training contract(s). All exercises must utilize and comply with the FEMA Homeland Security Exercise and Evaluation Program (HSEEP) guidance for exercise design, development, conduct, evaluation and reporting. The Subrecipient agrees to:

a) Submit an exercise summary and attendance/sign-in roster to AZDOHS with all related reimbursement requests.

b) Email the After Action Report/Improvement Plan (AAR/IP) to the local County Emergency Manager, the AZDOHS Strategic Planner, and the Arizona Department of Military Affairs (DEMA) Exercise Branch within 90 days of completion of an exercise or as prescribed by the most current HSEEP guidance.

Communications Equipment

All Land Mobile Radio equipment purchased with Homeland Security funds is required to comply with the following:

a) P25 (Project 25) standards;
b) SAFECOM Guidance (*see* https://www.dhs.gov/safecom);
c) Land Mobile Radio Minimum Equipment Standards as approved by the Statewide Interoperability Executive Committee (SIEC); and
d) Arizona's State Interoperable Priority Programming Guide also as approved by the SIEC

Nonsupplanting Agreement

The Subrecipient shall not use funds received under this Agreement to supplant Federal, State, Tribal or Local funds or other resources that would otherwise have been made available for this program/project. The Subrecipient may be required to demonstrate and document that a reduction in non-Federal resources occurred for reasons other than the receipt of expected receipt of Federal funds. Further, if a position created by a grant is filled from within, the vacancy created by this action must be filled within thirty (30) days. If the vacancy is not filled within thirty (30) days, the Subrecipient must stop charging the grant for the new position. Upon filling the vacancy, the Subrecipient may resume charging for the grant position.

E-Verify

Compliance requirements for A.R.S. 41-4401—immigration laws and E-Verify requirement.

a) The Subrecipient warrants its compliance with all State and Federal immigration laws and regulations relating to its employees and to employees of any contractor or subcontractor retained through Subrecipient to provide goods or services related to this Agreement, including but not limited to A.R.S. 23-214, Subsection A (that subsection reads: “After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program”).

b) A breach of a warranty by Subrecipient regarding compliance with immigration laws and regulations shall be deemed a material breach of this Agreement and the Subrecipient may be subject to penalties to be determined at AZDOHS’s discretion, up to and including termination of this Agreement.

c) The AZDOHS retains the legal right to inspect the papers of any Subrecipient employee who works on the Agreement, and to those of any employee of any contractor or subcontractor retained through Subrecipient to provide goods or services related to this Agreement, to ensure that the Subrecipient is complying with the warranty under paragraph (a) above.

Property Control

Effective control and accountability must be maintained by Subrecipient for all property/equipment purchased under this Agreement. The Subrecipient must adequately safeguard all such property/equipment and must assure that it is used for authorized purposes as described in the NOFO, the grant application as approved by AZDOHS, and 2 C.F.R. 200. The Subrecipient shall exercise caution in the use, maintenance, protection and preservation of such property.

a) Property/equipment shall be used by the Subrecipient in the program or project for which it was acquired as long as needed, whether or not the program or project continues to be supported by federal grant funds. Subrecipient is required to maintain and utilize equipment as outlined in 2 C.F.R. 200.313 - Equipment. Any loss, damage, or theft shall be investigated by Subrecipient and reported by Subrecipient to the AZDOHS. Any equipment lost, damaged or stolen shall be replaced by the Subrecipient at the Subrecipient's expense and an updated Property Control Form shall be submitted to AZDOHS by Subrecipient.

b) Nonexpendable Property/Equipment and Capital Assets:

   a. Nonexpendable Property/Equipment is property which has a continuing use, is not consumed in use, is of a durable nature with an expected service life of one or more years, has an acquisition cost of $5,000 (Five Thousand Dollars) or more, and does not become a fixture or lose its identity as a component of other equipment or systems.

   b. A Capital Asset is any personal or real property, or fixture that has an acquisition cost of $5,000 (Five Thousand Dollars) or more per unit and a useful life of more than one year.

c) A Property Control Form (if applicable) shall be maintained for the entire scope of the program or project for which property was acquired through the end of its useful life and/or disposition. All Nonexpendable Property and Capital Assets must be included on the Property Control Form. The Subrecipient shall provide AZDOHS a copy of the Property Control Form with the final quarterly programmatic report. The Property Control Form can be located at *https://azdohs.gov/grant-program-forms.* The Subrecipient agrees to be subject to equipment monitoring and auditing by state or federal authorized representatives to verify information.

d) A physical inventory of Nonexpendable Property/Equipment and Capital Assets must be taken and the results reconciled with the Property Control Form at least once every two years.

   a. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated and reported by Subrecipient to AZDOHS immediately.

   b. Adequate maintenance procedures must be developed to keep the property in good condition.

e) When Nonexpendable Property/Equipment and/or Capital Assets are no longer in operational use by the Subrecipient, an updated Property Control Form must be submitted by Subrecipient to AZDOHS immediately. The disposition of equipment shall be in compliance with the AZDOHS Disposition Guidance and 2 C.F.R. 200. If the Subrecipient is requesting disposition of Capital Assets for reasons other than theft, destruction, or loss, the Subrecipient must submit an Equipment Disposition Request Form to AZDOHS and receive approval prior to the disposition. The Equipment Disposition Guidance and Request Form can be found at *https://azdohs.gov/grant-program-forms.*

f) Equipment Record Retention
Pursuant to 2 C.F.R. 200.333(c), records for real property and equipment acquired with Federal funds must be retained for three (3) years after final disposition.

Allowable Costs
The allowability of costs incurred under this Agreement shall be determined in accordance with the general principles of allowability and standards for selected cost items as set forth in the applicable Code of Federal Regulations, authorized equipment lists, and guidance documents referenced above.

a) The Subrecipient agrees that use of grant funds for any indirect costs that may be incurred must be in accordance with 2 C.F.R. 200 and the applicable NOFO. Indirect costs must be applied for and approved in writing by the AZDOHS prior to expenditure and reimbursement.

b) The Subrecipeint agrees that grant funds are not to be expended for any Management and Administrative (M&A) costs that may be incurred by the Subrecipient for administering these funds unless explicitly applied for and approved in writing by the AZDOHS and shall be in compliance with the applicable NOFO.

VIII. DEBARMENT CERTIFICATION

The Subrecipient is to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, which are at 2 C.F.R. Part 180 as adopted by DHS at 2 C.F.R. Part 3000. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

IX. FUNDS MANAGEMENT

The Subrecipient must maintain funds received under this Agreement in separate ledger accounts and cannot mix these funds with funds from other sources. The Subrecipient must manage funds according to applicable Federal regulations for administrative requirements, costs principles, and audits.

The Subrecipient must maintain adequate business systems to comply with Federal requirements. The business systems that must be maintained are:

- Financial Management
- Procurement
- Personnel
- Property
- Travel

A system is adequate if it is 1) written; 2) consistently followed – it applies in all similar circumstances; and 3) consistently applied – it applies to all sources of funds.

X. REPORTING REQUIREMENTS

Regular reports by the Subrecipient shall include:

a) Programmatic Reports
The Subrecipient shall provide quarterly programmatic reports to the AZDOHS within fifteen (15) calendar days of the last day of the quarter in which services are provided. The Subrecipient shall use the form provided by the AZDOHS to submit quarterly programmatic reports. The report shall contain such information as deemed necessary by the AZDOHS. The Subrecipient shall use the Quarterly Programmatic Report form, which is posted at *https://azdohs.gov/grant-program-forms*. Quarterly programmatic reports shall be submitted to the AZDOHS until the entire project is completed. If the project has been fully completed and

implemented, and there will be no further updates, then the quarterly programmatic report for the quarter in which the project was completed will be sufficient as the final report. The report should be marked as final and should be inclusive of all necessary and pertinent information regarding the project as deemed necessary by the AZDOHS.

b) Subrecipients must provide substantial/detailed information as to the status of completion of the milestones included in the application as approved by AZDOHS. Failure to adequately provide complete information will result in the Quarterly Report being rejected and resubmission will be required.

c) Quarterly Programmatic Reports are due:
January 15 (for the period from October 1– December 31)
April 15 (for the period from January 1 – March 31)
July 15 (for the period from April 1 – June 30)
October 15 (for the period from July 1 – September 30)

d) Final Quarterly Report:
The final quarterly report is due no more than fifteen (15) calendar days after the end of the performance period. Subrecipient may submit a final quarterly report prior to the end of the performance period if the scope of the project has been fully completed and implemented. The Property Control Form is due with the final quarterly report (if applicable).

e) Property Control Form – if applicable:
The Subrecipient shall provide the AZDOHS a copy of the Property Control Form with the final quarterly report.

    a. In case of equipment disposition:
    The Property Control Form shall be updated and a copy provided to AZDOHS no more than forty-five (45) calendar days after equipment disposition, if applicable. The Subrecipient's use and disposition of equipment must be in compliance with the AZDOHS Disposition Guidance and 2 C.F.R. 200.313.

f) Financial Reimbursements
The Subrecipient shall provide AZDOHS with requests for reimbursement as frequently as monthly but not less than quarterly. Reimbursement requests are only required when expenses have been incurred. Reimbursement requests shall be submitted with the Reimbursement Form provided by the AZDOHS staff. The Subrecipient shall submit a final reimbursement request for expenses received and invoiced prior to the end of the period of performance. The final reimbursement must be received by AZDOHS no more than **forty-five (45) calendar days** after the end of the period of performance. Requests for reimbursement received by AZDOHS later than **forty-five (45) calendar** days after the end of the period of performance will not be paid. The final reimbursement request as submitted shall be marked as final.

Subrecipients will only be reimbursed for expenses that have been obligated, expended and received within the authorized Period of Performance as identified in Section II of this Agreement. Subrecipients are not authorized to obligate or expend funds prior to the start date of the Period of Performance. Any expenses obligated or expended prior to the Period of Performance start date will be deemed unallowable and will not be reimbursed. Any expenses/services that occur beyond the Period of Performance (i.e. cell phone service) will be deemed unallowable and will not be reimbursed.

The AZDOHS requires that all requests for reimbursement are submitted via United States Postal Service, FedEx, UPS, etc. or in person. Reimbursement requests submitted via fax or by any electronic means will not be accepted.

The AZDOHS reserves the right to request and/or require any supporting documentation and/or information it feels necessary in order to process reimbursements. Subrecipient shall promptly provide AZDOHS with all such documents and/or information.

All reports shall be submitted to the contact person as described in Paragraph XXXVII, NOTICES, of this Agreement.

XI. ASSIGNMENT AND DELEGATION

The Subrecipient may not assign any rights hereunder without the express, prior written agreement of both parties.

XII. AMENDMENTS

Any change in this Agreement including but not limited to the Description of Services and budget described herein, whether by modification or supplementation, must be accomplished by a formal Agreement amendment signed and approved by and between the duly authorized representatives of the Subrecipient and the AZDOHS. In the event of any new legislation, laws, ordinances, or rules affecting this Agreement, the parties agree that the terms of this Agreement shall automatically incorporate the terms of such new legislation, laws, ordinances, or rules.

Any such amendment shall specify: 1) an effective date; 2) any increases or decreases in the amount of the Subrecipient's compensation, if applicable; 3) be titled as an "Amendment," and 4) be signed by the parties identified in the preceding paragraph. The Subrecipient expressly and explicitly understands and agrees that no other method of communication, including any other document, correspondence, act, or oral communication by or from any person, shall be used or construed as an amendment or modification or supplementation to this Agreement.

XIII. US DEPARTMENT OF HOMELAND SECURITY AGREEMENT ARTICLES

Article A - Disposition of Equipment Acquired Under the Federal Award

When original or replacement equipment acquired in conjunction with this Agreement by the Subrecipient is no longer needed for the original project or program or for other activities currently or previously supported by DHS/FEMA, the Subrecipient must request instructions from DHS/FEMA via AZDOHS by submitting an Equipment Disposition Request Form in order to make proper disposition of the equipment pursuant to 2 C.F.R. 200.313.

Article B – Acceptance of Post Award Changes

In the event FEMA determines that changes are necessary to this Agreement after it has been entered into, including changes to period of performance or terms and conditions, the Subrecipient will be notified of the changes in writing. Once notification has been made, any subsequent request for funds by Subrecipient will constitute Subrecipient's acceptance of the changes to this Agreement and the incorporation of such changes into this Agreement.

Article C - Procurement of Recovered Materials

The Subrecipient hereby acknowledges and agrees that it must comply with section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act, 42 U.S.C. 6962) and that the requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

Article D - Whistleblower Protection Act

The Subrecipient hereby acknowledges and agrees that it must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C. 2409, 41 U.S.C. 4712, and 10 U.S.C. 2324, 41 U.S.C. section 4304 and 4310.

Article E - Use of DHS Seal, Logo and Flags
Subrecipient hereby acknowledges that it must obtain DHS's approval prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

Article F - USA Patriot Act of 2001
Subrecipient hereby acknowledges and agrees that it must comply with the requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act, P.L. 107-56), which amends 18 U.S.C. section 175–175c.

Article G – Universal Identifier and System of Award Management (SAM)
Subrecipient hereby acknowledges and agrees that is must comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A.

Article H - Reporting of Matters Related to Recipient Integrity and Performance
If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal assistance offices exceeds $10,000,000 for any period of time during the period of performance of this Federal award, you must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and, Performance Matters located at 2 C.F.R. Part 200 Appendix XII, the full text of which is incorporated here by reference in the terms and conditions of your award.

Article I - Rehabilitation Act of 1973
The Subrecipient hereby acknowledges and agrees that it must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, P. L. No. 93-112 (1973) (codified as amended at 29 U.S.C. 794), which provides that no otherwise qualified handicapped individual in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. These requirements pertain to the provision of benefits or services as well as to employment.

Article J - Trafficking Victims Protection Act of 2000
Subrecipient hereby acknowledges and agrees that it must comply with the requirements of the government-wide award term which implements Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104). The award term is located at 2 C.F.R. Part 175.15, the full text of which is incorporated here by reference.

Article K - Terrorist Financing
The Subrecipient hereby acknowledges and agrees that it must comply with U.S. Executive Order 13224 and all U.S. laws that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the Subrecipient to ensure compliance with all such laws and U.S. Executive Order 13224.

Article L - SAFECOM
The Subrecipient hereby acknowledges and agrees that recipients who receive awards made under programs that provide emergency communication equipment and its related activities must

comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

Article M - Reporting Subawards and Executive Compensation
All subrecipients are required to comply with the requirements set forth in the government-wide Award Term on Reporting Subawards and Executive Compensation located at 2 C.F.R. Part 170, Appendix A, the full text of which is incorporated here by reference in the terms and conditions of your award.

Article N – Department and Suspension
The Subrecipient hereby acknowledges and agrees that it is subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, and 2 C.F.R. Part 180. These regulations restrict Federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

Article O - Copyright
The Subrecipient hereby acknowledges and agrees that it must affix the applicable copyright notices of 17 U.S.C. 401 or 402 and an acknowledgement of Government sponsorship (including award number) to any work first produced under Federal financial assistance awards.

Article P - Civil Rights Act of 1964 - Title VI
The Subrecipient hereby acknowledges and agrees that it must comply with the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), codified at 6 C.F.R. Part 21 and 44 C.F.R. Part 7, which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Article Q - Best Practices for Collection and Use of Personally Identifiable Information (PII)
The Subrecipient hereby acknowledges and agrees that if it collects PII, it is required to have a publically-available privacy policy that describes standards on the usage and maintenance of PII it collects. DHS defines personally identifiable information (PII) as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Subrecipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy template as useful resources respectively.

Article R - Americans with Disabilities Act of 1990
The Subrecipient hereby acknowledges and agrees that it shall comply with all State and Federal equal opportunity and non-discrimination requirements and conditions of employment, including but not limited to Arizona Executive Order 2009-9 and the requirements of Titles I, II, and III of the Americans with Disabilities Act, P.L. No. 101-336 (1990) (codified as amended at 42 US.C. 12101-12213), which prohibit subrecipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

Article S - Age Discrimination Act of 1975
The Subrecipient hereby acknowledges and agrees that it must comply with the requirements of the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving Federal financial assistance.

Article T - Activities Conducted Abroad

The Subrecipient hereby acknowledges and agrees that it must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

Article U - Acknowledgement of Federal Funding from DHS
The Subrecipient hereby acknowledges and agrees that it must acknowledge its use of federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds.

Article V - DHS Specific Acknowledgements and Assurances
Subrecipient hereby acknowledges and agrees—and agrees to require any contractors, successors, transferees, and assignees acknowledge and agree—to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

1. Subrecipient hereby agrees to cooperate with any compliance review or complaint investigation conducted by DHS and/or AZDOHS.

2. Subrecipient hereby agrees to give DHS access and AZDOHS to and the right to examine and copy records, accounts, and other documents and sources of information related to the grant and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance.

3. Subrecipient hereby agrees to submit timely, complete, and accurate reports to the appropriate DHS and AZDOHS officials and maintain appropriate backup documentation to support the reports.

4. Subrecipient hereby agrees to comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

Article W - Assurances, Administrative Requirements and Cost Principles, and Audit Requirements
The Subrecipient hereby acknowledges and agrees that it must complete OMB Standard Form 424B Assurances – Non-Construction Programs, or OMB Standard Form 424D Assurances – Construction Programs as applicable.

DHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at 2 C.F.R. Part 200, and adopted by DHS at 2 C.F.R. Part 3002.

Article X - Patents and Intellectual Property Rights
Unless otherwise provided by law, the Subrecipient hereby acknowledges and agrees that it is subject to the Bayh-Dole Act, P.L. 96-517, codified in 35 U.S.C. 200 et seq., and that it is subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from financial assistance awards that are in 37 C.F.R. Part 401 and the standard patent rights clause in 37 C.F.R. 401.14.

Article Y – Nondiscrimination in Matters Pertaining to Faith-Based Organizations
It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. All

subrecipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

Article Z – National Environmental Policy Act
All subrecipients must comply with the requirements of the National Environmental Policy Act (NEPA) 42 U.S.C. 4321 et seq., and the Council on Environmental Quality (CEQ) Regulations (40 C.F.R. Parts 1500-1508) for Implementing the Procedural Provisions of NEPA, which requires Subrecipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

Article AA - Lobbying Prohibitions
The Subrecipient hereby acknowledges and agrees that it must comply with 31 U.S.C. 1352, and acknowledges and agrees that none of the funds provided under this Agreement may be used to pay any person to influence, or attempt to influence an officer or employee of any agency (whether State or Federal), a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action related to a Federal award or contract, including any extension, continuation, renewal, amendment, or modification.

Article AB - Limited English Proficiency (Civil Rights Act of 1964, Title VI)
The Subrecipient hereby acknowledges and agrees that it must comply with the Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with Limited English Proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance *https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited* and additional resources on *http://www.lep.gov*.

Article AC - Hotel and Motel Fire Safety Act of 1990
In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990 and the Federal Fire Prevention and Control Act of 1974, 15 U.S.C. section 2225(a), the Subrecipient hereby acknowledges and agrees that it must ensure that all conference, meeting, convention, or training space funded in whole or in part with Federal funds complies with all applicable fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, 15 U.S.C. section 2225.

Article AD - Fly America Act of 1974
The Subrecipient hereby acknowledges and agrees that it must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C. 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

Article AE - Federal Leadership on Reducing Text Messaging while Driving
All subrecipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in U.S. Executive Order 13513, including conducting initiatives described in Section 3(a) of the Order when on official Government business or when performing any work for or on behalf of the federal government.

Article AF - Federal Debt Status
The Subrecipient hereby acknowledges and agrees that it is required to be non-delinquent in its repayment of any Federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See OMB Circular A-129.

Article AG - False Claims Act and Program Fraud Civil Remedies
The Subrecipient hereby acknowledges and agrees that it must comply with the requirements of The False Claims Act (31 U.S.C. 3729-3733) which prohibits the submission of false or fraudulent claims for payment to the Federal government. See also 31 U.S.C. 3801-3812 which details the administrative remedies for false claims and statements made.

Article AH - Energy Policy and Conservation Act
The Subrecipient hereby acknowledges and agrees that it must comply with the requirements of The Energy Policy and Conservation Act, Pub. L. No. 94-163 (1975) (codified as amended at 42 U.S.C. 6201 et. seq.) which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

Article AI - Education Amendments of 1972 (Equal Opportunity in Education Act) – Title IX
The Subrecipient hereby acknowledges and agrees that it must comply with the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance. These regulations are codified at 6 CFR Part 17 and 44 CFR Part 19.

Article AJ - Duplication of Benefits
Any cost allocable to a particular Federal award, provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons. However, this prohibition would not preclude a subrecipient from shifting costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations, or the terms and conditions of the Federal award.

Article AK - Drug-Free Workplace Regulations
The Subrecipient hereby acknowledges and agrees that it must comply with the drug-free workplace requirements in Subpart B (or Subpart C, if the Subrecipient is an individual) of 2 C.F.R. part 3001, which adopts the Government-wide implementation (2 C.F.R. part 182) of sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 8101-8106).

Article AL - Civil Rights Act of 1968
The Subrecipient hereby acknowledges and agrees that it must comply with Title VIII of the Civil Rights Act of 1968, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (42 U.S.C. 3601 et seq.), as implemented by the Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features (see 24 C.F.R. 100.201).

Article AM - Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services

Per 889(b)(1) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (FY 2019 NDAA), Pub. L. No. 115-232 (2018):

1. AZDOHS Subrecipients may not use any FEMA funds under open or new awards to:
   a. Procure or obtain any equipment, system, or service that uses "covered telecommunications equipment or services" (as defined in ¶2 of this Article AM) as a substantial or essential component of any system, or as critical technology of any system;
   b. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system; or
   c. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

2. For purposes of this Article AM "covered telecommunications equipment or services" means:
   a. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);
   b. Video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
   c. Telecommunications or video surveillance services provided by such entities or using such equipment; or
   d. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the People's Republic of China.

3. FEMA grant funding may be permitted to procure replacement equipment and services impacted by this Article AM. Subrecipients should refer to applicable program guidance or contact the AZDOHS to determine if replacement equipment or services are eligible under the awarded grant program.

XIV. OFFSHORE PERFORMANCE OF WORK PROHIBITED

Due to security and identity protection concerns, all services under this Agreement shall be performed within the borders of the United States. All storage and processing of information shall be performed within the borders of the United States. This provision applies to work performed by the Subrecipient's contractors and subcontractors at all tiers.

XV. AGREEMENT RENEWAL

This Agreement shall not bind nor purport to bind the AZDOHS for any contractual commitment in excess of the original Agreement period, which may not be changed except by a writing signed by all parties hereto in conformity with Paragraph XII, AMENDMENTS.

XVI. RIGHT TO ASSURANCE

If the AZDOHS in good faith has reason to believe that the Subrecipient does not intend to, or is unable to perform or continue performing under this Agreement, the AZDOHS may demand in writing that the Subrecipient give a written assurance of intent and ability to perform. If the Subrecipient fails to provide written assurance within the number of days specified in the demand, the AZDOHS at its option may terminate this Agreement.

XVII. CANCELLATION FOR CONFLICT OF INTEREST

The AZDOHS may, by written notice to the Subrecipient, immediately cancel this Agreement without penalty or further obligation pursuant to A.R.S. 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on behalf of the State or its subdivisions (unit of Local Government) is an employee or agent of any other party in any capacity or a consultant to any other party to the Agreement with respect to the subject matter of the Agreement. Such cancellation shall be effective when the parties to the Agreement receive written notice from the AZDOHS, unless the notice specifies a later time.

XVIII. THIRD PARTY ANTITRUST VIOLATIONS

The Subrecipient hereby assigns to the State of Arizona any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to Subrecipient toward fulfillment of this Agreement.

XIX. AVAILABILITY OF FUNDS

Every payment obligation of the AZDOHS under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations under A.R.S. 35-154. If the funds are not allocated and available for the continuance of this Agreement, the AZDOHS may terminate this Agreement at the end of the period for which funds are available. No liability shall accrue to the AZDOHS in the event this provision is exercised, and the AZDOHS shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph, including purchases and/or contracts entered into by the Subrecipient in the execution of this Agreement.

XX. FORCE MAJEURE

If either party hereto is delayed or prevented from the performance of any act required in this Agreement by reason of acts of God, strikes, lockouts, labor disputes, civil disorder, or other causes without fault and beyond the control of the party obligated, performance of such act will be excused for the period of the delay.

XXI. PARTIAL INVALIDITY

Any term or provision of this Agreement that is hereafter declared contrary to any current or future law, order, regulation, or rule, or which is otherwise invalid, shall be deemed stricken from this Agreement without impairing the validity of the remainder of this Agreement.

XXII. ARBITRATION

In the event of any dispute arising under this Agreement, written notice of the dispute must be provided to the other party within thirty (30) calendar days of the events giving the rise to the dispute. Any claim made by or against the State or any of its political subdivisions (including but not limited to AZDOHS) relating to this Agreement shall be resolved through the administrative claims process. In the event that the parties would otherwise be in court and/or if A.R.S. 12-1518 applies, the parties shall proceed in arbitration through the American Arbitration Association ("AAA"), with the arbitrator to be selected pursuant to AAA rules and the arbitration to be conducted according to the applicable AAA rules, and with the costs of arbitration (including but not limited to the arbitrator's fees and costs) to be divided 50/50 between the parties, subject to reallocation between the parties by the arbitrator. In the event that the parties become involved in litigation with each other relating to this Agreement for any reason in any other forum, both parties

agree to have any claim(s) resolved in arbitration on the terms set forth in this part XXII. Any arbitration award may be enforced through the Maricopa County Superior Court or the U.S. District Court located in Phoenix, Arizona.

XXIII. GOVERNING LAW AND CONTRACT INTERPRETATION

a) This Agreement shall be governed and interpreted in accordance with the laws of the State of Arizona.

b) This Agreement is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms in this document.

c) Either party's failure to insist on strict performance of any term or condition of the Agreement shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object.

XXIV. ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement between the parties hereto pertaining to the subject matter hereof and may not be changed or added to except by a writing signed by all parties hereto in conformity with Paragraph XII, AMENDMENTS. All prior and contemporaneous agreements, representations, and understandings of the parties, oral, written, pertaining to the subject matter hereof, are hereby superseded or merged herein.

XXV. LICENSING

The Subrecipient, unless otherwise exempted by law, shall obtain and maintain all licenses, permits, and authority necessary to perform those acts it is obligated to perform under this Agreement.

XXVI. SECTARIAN REQUESTS

Funds disbursed pursuant to this Agreement may not be expended for any sectarian purpose or activity, including sectarian worship or instruction in violation of the United States or Arizona Constitutions.

XXVII. ADVERTISING AND PROMOTION OF AGREEMENT

The Subrecipient shall not advertise or publish information for commercial benefit concerning this Agreement without the prior written approval of the AZDOHS.

XXVIII. OWNERSHIP OF INFORMATION, PRINTED AND PUBLISHED MATERIAL

The Subrecipient acknowledges that the DHS and the AZDOHS reserve a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for Federal government purposes: (a) the copyright in any work developed under an award or sub-award; and (2) any rights of copyright to which a subrecipient purchases ownership with Federal support. The Subrecipient shall consult with the AZDOHS regarding the allocation of any patent rights that arise from, or are purchased with, this funding

XXIX. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS

Any television public service announcement that is produced or funded in whole or in part by the Subrecipient shall include closed captioning of the verbal content of such announcement.

XXX. INDEMNIFICATION

Each party (as "Indemnitor") agrees to defend, indemnify, and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily

injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers. The State of Arizona (AZDOHS) is self-insured per A.R.S. 41-621.

In addition, should Subrecipient utilize a contractor(s) and subcontractor(s), the indemnification clause between Subrecipient and contractor(s) and subcontractor(s) shall include the following:

Contractor shall defend, indemnify, and hold harmless the (insert name of other governmental entity) and the State of Arizona, and any jurisdiction or agency issuing any permits for any work arising out of this Agreement, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by such contractor from and against any and all claims. It is agreed that such contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. Additionally on all applicable insurance policies, contractor and its subcontractors shall name the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as an additional insured and also include a waiver of subrogation in favor of the State.

XXXI. TERMINATION

a) All parties reserve the right to terminate the Agreement in whole or in part due to the failure of the Subrecipient or AZDOHS to comply with any term or condition of the Agreement, to acquire and maintain all required insurance policies, bonds, licenses, and permits or to make satisfactory progress in performing the Agreement. A party invoking the right to terminate shall provide written thirty (30) day advance notice of the termination and the reasons for it to the other party.

b) If the Subrecipient chooses to terminate the Agreement before the grant deliverables have been met, then the AZDOHS reserves the right to collect all reimbursements distributed to the Subrecipient.

c) The AZDOHS may, upon termination of this Agreement, procure, on terms and in the manner that it deems appropriate, materials or services to replace those that otherwise would have been provided by Subrecipient under this Agreement. The Subrecipient shall be liable to the AZDOHS for any excess costs incurred by the AZDOHS in procuring materials or services in substitution for those due from the Subrecipient.

XXXII. CONTINUATION OF PERFORMANCE THROUGH TERMINATION

The Subrecipient shall continue to perform, in accordance with the requirements of the Agreement, up to the date of termination, as directed in the termination notice.

XXXIII. PARAGRAPH HEADINGS

The paragraph headings in this Agreement are for convenience of reference only and do not define, limit, enlarge, or otherwise affect the scope, construction, or interpretation of this Agreement or any of its provisions.

XXXIV. COUNTERPARTS

This Agreement may be executed in any number of counterparts, copies, or duplicate originals. Each such counterpart, copy, or duplicate original shall be deemed an original, and collectively they shall constitute one Agreement.

XXXV. AUTHORITY TO EXECUTE THIS AGREEMENT

Each individual executing this Agreement on behalf of the Subrecipient represents and warrants that he or she is duly authorized to execute this Agreement on behalf of the Subrecipient.

XXXVI. SPECIAL CONDITIONS

a) The Subrecipient must comply with the most recent version of the Administrative Requirements, Cost Principles, and Audit requirements.

b) The Subrecipient is prohibited from transferring funds between programs (e.g., State Homeland Security Program, Urban Area Security Initiative, Operation Stonegarden).

c) The Subrecipient agrees to comply with the U.S. Department of Homeland Security regulation 6 C.F.R Part 19, which prohibits discrimination based on religion in social service programs

XXXVII. NOTICES

Any and all notices, requests, demands, or communications by either party to this Agreement, pursuant to or in connection with this Agreement shall be in writing, be delivered in person, or shall be sent to the respective parties at the following addresses:

Arizona Department of Homeland Security
1700 West Washington Street, Suite 210
Phoenix, AZ 85007

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

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

Enter Title, First & Last Name Above

Enter Agency Name Above

Enter Street Address Above

Enter City, State, ZIP Above

XXXVII. IN WITNESS WHEREOF

The parties hereto agree to execute this Agreement.

FOR AND BEHALF OF THE	FOR AND BEHALF OF THE
Enter Agency Name Above	Arizona Department of Homeland Security
Authorized Signature Above	Gilbert M. Orrantia
Print Name & Title Above	Director
Enter Date Above	Date

(Complete and mail two original documents to the Arizona Department of Homeland Security.)

AGENDA ITEM REVIEW FORM

Work Session **2. F.**

Meeting Date: 02/03/2021

Department Head: Kay Macuil, City Attorney, Attorney's Office

Submitted By: Kay Macuil, City Attorney, Attorney's Office

Action Requested: Discussion Item - No Action to be Taken

ITEM:

Discussion and possible directions to staff on any and all matters regarding Proposition 207 passed by the voters on November 3, 2020, and amending the city's recreational marijuana ordinances under No. 403, and 404 to eliminate the need for dual licenses for medical and recreational marijuana, while maintaining the places that either type of business may be located and adjusting the license fee. **(Glenn J. Gimbut, Assistant City Attorney)**

SUMMARY:

Background

In order to adjust to the new law for recreational marijuana passed by the voters on November 3, 2020, by Proposition 207, Council passed:

Ordinance No. 403, General Regulation and
Ordinance No. 404, Mirror Ordinance 403, but is part of the Zoning Code.

Under those ordinances, recreational marijuana establishments must also be licensed medical marijuana establishments. Since the Arizona Department of Health Services did not issue medical marijuana licenses for our area yet, recreational marijuana establishments would not be eligible to apply for licensing in San Luis during the window of opportunity between January 19 through March 9, 2021. The City has received requests to apply for recreational establishments.

Staff recommends amending the ordinances to allow for recreational establishments with the state licenses for recreational marijuana while maintaining the locations where those establishments allow.

Proposition 207 also necessitates changing the business license fee so staff also recommends repealing Resolution 910, and imposing an annual fee of $100.00. (Proposition 207 is now part of the Arizona Revised Statutes and the two relevant statutes are attached to this agenda. Only the State of Arizona may tax it, not the cities)

RECOMMENDATION / SUGGESTED MOTION:

Discussion and possible directions to staff only, no action.

Fiscal Impact

IS THERE FISCAL IMPACT ASSOCIATED WITH THIS ITEM:	No
CITY/STATE/FEDERAL FUNDS:	N/A

TOTAL:	N/A
BUDGETED AMOUNT:	N/A
AVAILABLE AMOUNT TO TRANSFER:	N/A
ACCT NAME & GL#/REMAINING BALANCE BEFORE PURCHASE:	N/A

FISCAL IMPACT STATEMENT (IF THIS IS A BUDGET TRANSFER, YOU MUST ATTACH THE BUDGET ADJUSTMENT FORM):

There are no purchases involved. Possible state-share tax revenue if the changes result in one or more licensed recreational establishments locating in San Luis.

Attachments

Amending Ord 403
Amending Ord 404 Zoning
Res No 910 to Repeal and Replace
Prop 207 - ARS 36-2864(B) Business License Fee for Mariuana
Prop 207 ARS 42-452 Sales Tax Preempted
Prop 207 Text
League Model Ordinance
Memorandum - Proposition 207
Nov 4 Agenda Item

Marijuana Business License

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF SAN LUIS, ARIZONA AMENDING THE CITY CODE OF THE CITY OF SAN LUIS, ARIZONA BY AMENDING SECTION 152.225 REGARDING MEDICAL MARIJUANA AND MARIJUANA ESTABLISHMENT USES BY AMENDING SUBSECTIONS 152.225(G) AND 152.225(H); REPEALING ANY CONFLICTING PROVISIONS; AND PROVIDING FOR SEVERABILITY

WHEREAS, the City of San Luis ("City") seeks to protect public health, safety, and welfare by enacting reasonable regulations;

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

Section 1: Subsections 152.225(G) and 152.225(H) of the City Code regarding medical marijuana and marijuana establishment uses are hereby amended to read as follows:

> (G) Marijuana establishments and dual licensees who operate both a nonprofit medical marijuana dispensary and marijuana establishment cooperatively in a shared location shall comply with all of the provisions of §§152.225 (A) through (F) and such provisions shall specifically apply to marijuana establishments and/or dual licensees as they do to medical marijuana dispensaries.
>
> (H) Any cultivation by a marijuana establishment shall be in compliance with §§152.225(D) and (E). Any cultivation not associated with a marijuana establishment or with a medical marijuana dispensary is prohibited, and only one offsite cultivation location shall be permitted for each medical marijuana dispensary or marijuana establishment with which it is associated.

Section 2: Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

Section 3: Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Mayor and Council of the City of San Luis, Arizona, this _____ day of _____, 2021.

APPROVED this ____ day of _____, 2021

_____
Gerardo Sanchez, Mayor

ATTEST:

_____
Sonia Cornelio, Clerk

APPROVED AS TO FORM:

_____
Kay Marion Macuil, City Attorney

OFFICE OF THE
MAYOR
CITY OF SAN LUIS

Resolution

RESOLUTION NO. 910

A RESOLUTION OF THE CITY OF SAN LUIS, ARIZONA AMENDING THE OCCUPATIONAL LICENSE FEE SCHEDULE OF THE CITY OF SAN LUIS TO PROVIDE FOR LICENSE TAX FEES FOR MEDICAL MARIJUANA DISPENSARIES; MEDICAL MARIJUANA DISPENSARY OFFSITE CULTIVATION LOCATIONS; AND PERMISSABLE CONSUMER FIREWORKS BUSINESSES; REPEALING ANY CONFLICTING PROVISIONS; AND PROVIDING FOR SEVERABILITY

BE IT RESOLVED by the Mayor and Council of the City of San Luis, Arizona, as follows:

Section 1: The Occupational License Tax Schedule of the City of San Luis is hereby amended by adding occupational license taxes as follows:

Medical Marijuana Dispensary
$2,000 per year

Medical Marijuana Dispensary Offsite Cultivation Location
$2,000 per year

Permissible Consumer Fireworks Business
$2,000 per year (this is in addition to any other occupational license tax fee if Permissible Consumer Fireworks Business is in addition to other business activity.)

Section 2: In the event of a conflict between the provisions of this resolution and any other ordinance, resolution, regulation, or policy of the City of San Luis, the conflicting provisions are hereby repealed, superseded, and replaced, and the provisions of this resolution shall govern.

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

PASSED AND ADOPTED by the Mayor and Council of the City of San Luis, Arizona, this 22nd day of December, 2010.

Juan Carlos Escamilla, Mayor

ATTEST:

Sonia Cuello, City Clerk

APPROVED AS TO FORM:

Glenn J. Gimbut, City Attorney

A.R.S. § 36–2864

§ 36–2864. Transaction privilege tax; use tax; additional taxes prohibited; exception

Effective: November 30, 2020

Currentness

A. For purposes of the transaction privilege tax and use tax levied and collected pursuant to title 42, chapters 5 and 6,[1] marijuana and marijuana products are tangible personal property defined in § 42–5001 and are subject to the transaction privilege tax in the retail classification and use tax.

B. Except as provided in subsection A of this section and § 42–5452, this state and localities may not levy or collect additional taxes of any kind on the sale of marijuana or marijuana products and may not levy or collect any **fees** or assessments of any kind on the sale of marijuana or marijuana products or on the licensing, operations or activities of marijuana establishments or marijuana testing facilities, unless the **fee** or assessment is of general applicability to individuals or businesses that are not engaged in the sale of marijuana or marijuana products.

C. The prohibition imposed by subsection B of this section does not apply to uniform increases to the transaction privilege tax rate for the retail classification or use tax rate by this state or a locality or to uniform increases to **fees** or assessments allowed by subsection B of this section.

Credits

Added by Initiative Measure, Prop. 207, approved election Nov. 3, 2020, eff. Nov. 30, 2020.

Footnotes

1 Sections 42–5001 et seq., and 42–6001 et seq.

A. R. S. § 36–2864, AZ ST § 36–2864
Current through the Second Regular Session of the Fifty-Fourth Legislature (2020), and includes Elections Results from the November 3, 2020 General Election.

End of Document

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Versions (1)

§ 36–2864. Transaction privilege tax; use tax; additional taxes prohibited; exception

AZ ST § 36-2864

Effective November 30, 2020

Enacted Legislation Added by Initiative Measure, Prop. 207, approved election Nov. 3, 2020, eff. Nov. 30, 2020

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Editor's and Revisor's Notes (1)

HISTORICAL AND STATUTORY NOTES

Proposition 207, an initiative measure, proposing amendment to the Revised Statutes in Title 36 by amendment of § 36–2817 and the addition of Chapter 28.2, in Title 42, Chapter 5 by addition of Article 10, and in Title 43, Chapter 1, Article 1, by addition of § 43–108 relating to adult use, regulation and taxation of marijuana, was approved by the electors at the November 3, 2020 general election as proclaimed by the governor on November 30, 2020.

Proposition 207, an initiative measure, §§ 1 and 2, approved election November 3, 2020, effective November 30, 2020, provide:

" **Section 1. Short title**

"This act may be cited as the "Smart and Safe Arizona Act".

" **Section 2. Findings and declaration of purpose**

"The People of the State of Arizona find and declare as follows:

"1. In the interest of the efficient use of law enforcement resources, enhancing revenue for public purposes, and individual freedom, the responsible adult use of marijuana should be legal for persons twenty-one years of age or older, subject to state regulation, taxation, and local ordinance.

"2. In the interest of the health and public safety of our citizenry, the legal adult use of marijuana should be regulated so that:

"(a) Legitimate, taxpaying business people, and not criminal actors, conduct sales of marijuana.

"(b) Marijuana sold in this state is tested, labeled and subject to additional regulations to ensure that consumers are informed and protected.

"(c) Employers retain their rights to maintain drug-and-alcohol-free places of employment.

"(d) The health and safety of employees in the marijuana industry are protected.

"(e) Individuals must show proof of age before purchasing marijuana.

"(f) Selling, transferring, or providing marijuana to minors and other individuals under the age of twenty-one remains illegal.

"(g) Driving, flying or boating while impaired to the slightest degree by marijuana remains illegal."

Proposition 207, an initiative measure, §§ 7 to 9, approved election November 3, 2020, effective November 30, 2020, provide:

" **Section 7. Voter Protection Act**

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"For the purposes of the Voter Protection Act, Ariz. Const. art. IV, pt. 1, § 1 (6)(C), the People of the State of Arizona declare that the following acts of the Legislature would further the purpose of this act:

"1. Enacting a per se law for the presumption of marijuana impairment based on the concentration of delta-9 tetrahydrocannabinol in a person's body when scientific research on the subject is conclusive and the National Highway Traffic Safety Administration recommends the adoption of such a law.

"2. Reducing or eliminating any offense, offense level or penalty provided for in this act.

"3. Increasing the amount of marijuana that a person may lawfully possess.

"4. Amending the provisions of this act to align more closely with federal laws and regulations if marijuana is legalized or decriminalized by the federal government, but only if and to the extent that such federal laws and regulations are not more restrictive than the provisions of this act.

"5. Amending the provisions of this act to align more closely with federal laws and regulations governing the possession, processing, cultivation, transport, or transfer of industrial hemp, but only if and to the extent that such federal laws and regulations are not more restrictive than the provisions of this act.

"6. Increasing the number of marijuana establishment licenses by up to 10 percent in furtherance of the social equity ownership program established by this act.

"7. Facilitating the expungement and sealing of records of arrests, charges, convictions, adjudications and sentences that were predicated on conduct made lawful by this act, including by automatic means, and otherwise preventing or mitigating prejudice to individuals whose arrests, charges, convictions, adjudications or sentences are expunged.

"8. Amending the definition of "smoking" in this act to conform with the Smoke-Free Arizona Act if that act is amended to include the use of an electronic smoking device that creates an aerosol or vapor.

" **Section 8. Exemption from rulemaking**

"For the purposes of this act, and for sixty months after the effective date of this act, the department of revenue and the department of health services are exempt from (a) any executive order or other directive purporting to limit or restrict their ability to adopt new rules, and (b) the rulemaking requirements of title 41, chapters 6 and 6.1, Arizona Revised Statutes, except that each department shall provide the public with a reasonable opportunity to comment on proposed rules and shall publish otherwise exempted rules.

" **Section 9. Severability**

"If any provision of this act or its application to any person or circumstance is declared invalid by a court of competent jurisdiction, such invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application. The invalidated provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of this act and, to the fullest extent possible, the provisions of this act, including each portion of any section of this act containing any invalidated provision that is not itself invalid, shall be construed so as to give effect to the intent thereof. "

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Citing References

There are no Citing References for this citation.

Validity

There are no Validity results for this citation.

Bill Drafts

There are no Bill Drafts for this citation.

Legislative History Materials

There are no Legislative History Materials for this citation.

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A.R.S. § 42–5452

§ 42–5452. Levy and rate of tax; effect of federal excise tax

Effective: November 30, 2020

Currentness

A. There is levied and the department shall collect an excise tax on all marijuana and marijuana products sold to a consumer by a marijuana establishment at a rate of sixteen percent of the price of the marijuana or marijuana product sold. This subsection does not apply to marijuana dispensed to a registered qualifying patient or registered designated caregiver pursuant to title 36, chapter 28.1[1] by a dual licensee or nonprofit medical marijuana dispensary.

B. If the united states levies and collects an excise tax on marijuana and marijuana products, the aggregate of federal and state excise taxes may not exceed a rate of thirty percent of the price of the marijuana or marijuana product sold, and the tax levied pursuant to subsection A of this section shall be lowered accordingly and automatically on the effective date of the federal excise tax.

C. A product subject to the tax imposed by this section may not be bundled with a product or service that is not subject to the tax imposed by this section.

D. The tax levied and collected pursuant to this section shall not be included in computing the tax base, gross proceeds of sales or gross income of a marijuana establishment for purposes of title 42, chapters 5 and 6,[2] and is not subject to any transaction privilege, sales, use or other similar tax levied by a county, city, town or special taxing district.

E. Notwithstanding § 42–3102, the department shall deposit all monies levied and collected pursuant to this section in the smart and safe Arizona fund established by § 36–2856.

Credits

Added by Initiative Measure, Prop. 207, approved election Nov. 3, 2020, eff. Nov. 30, 2020.

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Footnotes

1 Section 36–2801 et seq.

2 Sections 42–5001 et seq. and 42–6001 et seq.

A. R. S. § 42–5452, AZ ST § 42–5452
Current through the Second Regular Session of the Fifty-Fourth Legislature (2020), and includes Elections Results from the November 3, 2020 General Election.

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Versions (1)

§ 42–5452. Levy and rate of tax; effect of federal excise tax

AZ ST § 42-5452
Effective November 30, 2020

Enacted Legislation Added by Initiative Measure, Prop. 207, approved election Nov. 3, 2020, eff. Nov. 30, 2020

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Proposition 207, an initiative measure, §§ 1 and 2, approved election November 3, 2020, effective November 30, 2020, provide:

" **Section 1. Short title**

"This act may be cited as the "Smart and Safe Arizona Act".

" **Section 2. Findings and declaration of purpose**

"The People of the State of Arizona find and declare as follows:

"1. In the interest of the efficient use of law enforcement resources, enhancing revenue for public purposes, and individual freedom, the responsible adult use of marijuana should be legal for persons twenty-one years of age or older, subject to state regulation, taxation, and local ordinance.

"2. In the interest of the health and public safety of our citizenry, the legal adult use of marijuana should be regulated so that:

"(a) Legitimate, taxpaying business people, and not criminal actors, conduct sales of marijuana.

"(b) Marijuana sold in this state is tested, labeled and subject to additional regulations to ensure that consumers are informed and protected.

"(c) Employers retain their rights to maintain drug-and-alcohol-free places of employment.

"(d) The health and safety of employees in the marijuana industry are protected.

"(e) Individuals must show proof of age before purchasing marijuana.

"(f) Selling, transferring, or providing marijuana to minors and other individuals under the age of twenty-one remains illegal.

"(g) Driving, flying or boating while impaired to the slightest degree by marijuana remains illegal."

Proposition 207, an initiative measure, §§ 7 to 9, approved election November 3, 2020, effective November 30, 2020, provide:

" **Section 7. Voter Protection Act**

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"1. Enacting a per se law for the presumption of marijuana impairment based on the concentration of delta-9 tetrahydrocannabinol in a person's body when scientific research on the subject is conclusive and the National Highway Traffic Safety Administration recommends the adoption of such a law.

"2. Reducing or eliminating any offense, offense level or penalty provided for in this act.

"3. Increasing the amount of marijuana that a person may lawfully possess.

"4. Amending the provisions of this act to align more closely with federal laws and regulations if marijuana is legalized or decriminalized by the federal government, but only if and to the extent that such federal laws and regulations are not more restrictive than the provisions of this act.

"5. Amending the provisions of this act to align more closely with federal laws and regulations governing the possession, processing, cultivation, transport, or transfer of industrial hemp, but only if and to the extent that such federal laws and regulations are not more restrictive than the provisions of this act.

"6. Increasing the number of marijuana establishment licenses by up to 10 percent in furtherance of the social equity ownership program established by this act.

"7. Facilitating the expungement and sealing of records of arrests, charges, convictions, adjudications and sentences that were predicated on conduct made lawful by this act, including by automatic means, and otherwise preventing or mitigating prejudice to individuals whose arrests, charges, convictions, adjudications or sentences are expunged.

"8. Amending the definition of "smoking" in this act to conform with the Smoke-Free Arizona Act if that act is amended to include the use of an electronic smoking device that creates an aerosol or vapor.

" **Section 8. Exemption from rulemaking**

"For the purposes of this act, and for sixty months after the effective date of this act, the department of revenue and the department of health services are exempt from (a) any executive order or other directive purporting to limit or restrict their ability to adopt new rules, and (b) the rulemaking requirements of title 41, chapters 6 and 6.1, Arizona Revised Statutes, except that each department shall provide the public with a reasonable opportunity to comment on proposed rules and shall publish otherwise exempted rules.

" **Section 9. Severability**

"If any provision of this act or its application to any person or circumstance is declared invalid by a court of competent jurisdiction, such invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application. The invalidated provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of this act and, to the fullest extent possible, the provisions of this act, including each portion of any section of this act containing any invalidated provision that is not itself invalid, shall be construed so as to give effect to the intent thereof. "

Context and Analysis (2)

Cross References (2)

Marijuana and marijuana products, transaction privilege tax, see § 36–2864.
Smart and safe Arizona fund, see § 36–2856.

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Validity

There are no Validity results for this citation.

Bill Drafts

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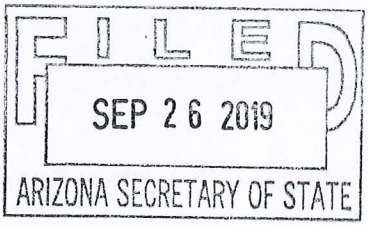
OFFICIAL TITLE

AN INITIATIVE MEASURE

AMENDING SECTION 36-2817, ARIZONA REVISED STATUTES; AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 28.2; AMENDING TITLE 42, CHAPTER 5, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 10; AMENDING TITLE 43, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-108; RELATING TO THE RESPONSIBLE ADULT USE, REGULATION AND TAXATION OF MARIJUANA.

TEXT OF PROPOSED AMENDMENT



Be it enacted by the People of the State of Arizona:

Section 1. Short title

This act may be cited as the "Smart and Safe Arizona Act".

Section 2. Findings and declaration of purpose

The People of the State of Arizona find and declare as follows:

1. In the interest of the efficient use of law enforcement resources, enhancing revenue for public purposes, and individual freedom, the responsible adult use of marijuana should be legal for persons twenty-one years of age or older, subject to state regulation, taxation, and local ordinance.

2. In the interest of the health and public safety of our citizenry, the legal adult use of marijuana should be regulated so that:

(a) Legitimate, taxpaying business people, and not criminal actors, conduct sales of marijuana.

(b) Marijuana sold in this state is tested, labeled and subject to additional regulations to ensure that consumers are informed and protected.

(c) Employers retain their rights to maintain drug-and-alcohol-free places of employment.

(d) The health and safety of employees in the marijuana industry are protected.

(e) Individuals must show proof of age before purchasing marijuana.

(f) Selling, transferring, or providing marijuana to minors and other individuals under the age of twenty-one remains illegal.

(g) Driving, flying or boating while impaired to the slightest degree by marijuana remains illegal.

Section 3. Section 36-2817, Arizona Revised Statutes, is amended to read:

36-2817. Medical marijuana fund; private donations

A. The medical marijuana fund is established consisting of fees collected, civil penalties imposed and private donations received under this chapter. The department shall administer the fund. Monies in the fund are continuously appropriated.

B. The director of the department may accept and spend private grants, gifts, donations, contributions and devises to assist in carrying out the provisions of this chapter.

C. Monies in the medical marijuana fund do not revert to the state general fund at the end of a fiscal year.

D. ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE DIRECTOR OF THE DEPARTMENT SHALL TRANSFER THE FOLLOWING SUMS FROM THE MEDICAL MARIJUANA FUND FOR THE FOLLOWING PURPOSES:

1. $15,000,000 TO THE ARIZONA TEACHERS ACADEMY FUND ESTABLISHED BY SECTION 15-1655.

2. $10,000,000 TO THE DEPARTMENT TO FUND THE FORMATION AND OPERATION OF COUNCILS, COMMISSIONS AND PROGRAMS DEDICATED TO IMPROVING PUBLIC HEALTH, INCLUDING TEEN SUICIDE PREVENTION, THE MATERNAL MORTALITY REVIEW PROGRAM, IMPROVING YOUTH HEALTH, SUBSTANCE ABUSE PREVENTION, ADDRESSING ADVERSE CHILDHOOD EXPERIENCES, THE ARIZONA POISON CONTROL SYSTEM ESTABLISHED PURSUANT TO SECTION 36-1161, THE ARIZONA HEALTH IMPROVEMENT PLAN, THE CHILD FATALITY REVIEW TEAM ESTABLISHED PURSUANT TO SECTION 36-3501 AND THE CHRONIC PAIN SELF MANAGEMENT PROGRAM.

3. $10,000,000 TO THE GOVERNOR'S OFFICE OF HIGHWAY SAFETY TO DISTRIBUTE GRANTS FOR THE FOLLOWING PURPOSES:

(a) REDUCING IMPAIRED DRIVING, INCLUDING CONDUCTING TRAINING PROGRAMS AND PURCHASING EQUIPMENT FOR DETECTING, TESTING AND ENFORCING LAWS AGAINST DRIVING, FLYING OR BOATING WHILE IMPAIRED.

(b) EQUIPMENT, TRAINING AND PERSONNEL COSTS FOR DEDICATED TRAFFIC ENFORCEMENT.

4. $2,000,000 TO THE DEPARTMENT TO IMPLEMENT, CARRY OUT AND ENFORCE CHAPTER 28.2 OF THIS TITLE.

5. $4,000,000 TO THE DEPARTMENT TO DISTRIBUTE GRANTS TO QUALIFIED NONPROFIT ENTITIES THAT WILL PROVIDE OUTREACH TO INDIVIDUALS WHO MAY BE ELIGIBLE TO FILE PETITIONS FOR EXPUNGEMENT PURSUANT TO SECTION 36-2862 AND WILL ASSIST WITH THE EXPUNGEMENT PETITION PROCESS. THE DEPARTMENT SHALL DISTRIBUTE GRANTS PURSUANT TO THIS PARAGRAPH ON OR BEFORE JUNE 30, 2021.

6. $2,000,000 TO THE DEPARTMENT TO DEVELOP AND IMPLEMENT, IN CONJUNCTION WITH THE DEPARTMENT OF ECONOMIC SECURITY AND OTHER STATE AGENCIES, A SOCIAL EQUITY OWNERSHIP PROGRAM TO PROMOTE THE OWNERSHIP AND OPERATION OF MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES BY INDIVIDUALS FROM COMMUNITIES DISPROPORTIONATELY IMPACTED BY THE ENFORCEMENT OF PREVIOUS MARIJUANA LAWS. FOR THE PURPOSES OF THIS PARAGRAPH, "MARIJUANA ESTABLISHMENT" AND "MARIJUANA TESTING FACILITY" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2850.

7. $1,000,000 TO THE DEPARTMENT TO FUND PROGRAMS AND GRANTS TO QUALIFIED NONPROFIT ORGANIZATIONS FOR EDUCATION AND COMMUNITY OUTREACH RELATED TO CHAPTER 28.2 OF THIS TITLE.

8. $1,000,000 TO THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856.

FILED
SEP 26 2019
ARIZONA SECRETARY OF STATE

Section 4. Title 36, Arizona Revised Statutes, is amended by adding chapter 28.2, to read:

CHAPTER 28.2
RESPONSIBLE ADULT USE OF MARIJUANA

36-2850. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT REQUIRES OTHERWISE:

1. "ADVERTISE," "ADVERTISEMENT" AND "ADVERTISING" MEAN ANY PUBLIC COMMUNICATION IN ANY MEDIUM THAT OFFERS OR SOLICITS A COMMERCIAL TRANSACTION INVOLVING THE SALE, PURCHASE OR DELIVERY OF MARIJUANA OR MARIJUANA PRODUCTS.

2. "CHILD-RESISTANT" MEANS DESIGNED OR CONSTRUCTED TO BE SIGNIFICANTLY DIFFICULT FOR CHILDREN UNDER FIVE YEARS OF AGE TO OPEN, AND NOT DIFFICULT FOR NORMAL ADULTS TO USE PROPERLY.

3. "CONSUME," "CONSUMING" AND "CONSUMPTION" MEAN THE ACT OF INGESTING, INHALING OR OTHERWISE INTRODUCING MARIJUANA INTO THE HUMAN BODY.

4. "CONSUMER" MEANS AN INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE AND WHO PURCHASES MARIJUANA OR MARIJUANA PRODUCTS.

5. "CULTIVATE" AND "CULTIVATION" MEAN TO PROPAGATE, BREED, GROW, PREPARE AND PACKAGE MARIJUANA.

6. "DELIVER" AND "DELIVERY" MEAN THE TRANSPORTATION, TRANSFER OR PROVISION OF MARIJUANA OR MARIJUANA PRODUCTS TO A CONSUMER AT A LOCATION OTHER THAN THE DESIGNATED RETAIL LOCATION OF A MARIJUANA ESTABLISHMENT.

7. "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH SERVICES OR ITS SUCCESSOR AGENCY.

8. "DESIGNATED CAREGIVER," "EXCLUDED FELONY OFFENSE," "INDEPENDENT THIRD-PARTY LABORATORY," "NONPROFIT MEDICAL MARIJUANA DISPENSARY," "NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT," AND "QUALIFYING PATIENT" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2801.

9. "DUAL LICENSEE" MEANS AN ENTITY THAT HOLDS BOTH A NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION AND A MARIJUANA ESTABLISHMENT LICENSE.

10. "EARLY APPLICANT" MEANS EITHER OF THE FOLLOWING:

(a) AN ENTITY SEEKING TO OPERATE A MARIJUANA ESTABLISHMENT IN A COUNTY WITH FEWER THAN TWO REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES.

(b) A NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT IS REGISTERED AND IN GOOD STANDING WITH THE DEPARTMENT.

11. "EMPLOYEE," "EMPLOYER," "HEALTH CARE FACILITY," AND "PLACES OF EMPLOYMENT" HAVE THE SAME MEANINGS PRESCRIBED IN THE SMOKE-FREE ARIZONA ACT, SECTION 36-601.01.

12. "GOOD STANDING" MEANS THAT A NONPROFIT MEDICAL MARIJUANA DISPENSARY IS NOT THE SUBJECT OF A PENDING NOTICE OF INTENT TO REVOKE ISSUED BY THE DEPARTMENT.

13. "INDUSTRIAL HEMP" HAS THE SAME MEANING PRESCRIBED IN SECTION 3-311.

14. "LOCALITY" MEANS A CITY, TOWN OR COUNTY.

15. "MANUFACTURE" AND "MANUFACTURING" MEAN TO COMPOUND, BLEND, EXTRACT, INFUSE OR OTHERWISE MAKE OR PREPARE A MARIJUANA PRODUCT.

16. "MARIJUANA":

(a) MEANS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS, WHETHER GROWING OR NOT, AS WELL AS THE SEEDS FROM THE PLANT, THE RESIN EXTRACTED FROM ANY PART OF THE PLANT, AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE OR PREPARATION OF THE PLANT OR ITS SEEDS OR RESIN.

FILED
SEP 26 2019
ARIZONA SECRETARY OF STATE

(b) INCLUDES CANNABIS AS DEFINED IN SECTION 13-3401.

(c) DOES NOT INCLUDE INDUSTRIAL HEMP, THE FIBER PRODUCED FROM THE STALKS OF THE PLANT OF THE GENUS CANNABIS, OIL OR CAKE MADE FROM THE SEEDS OF THE PLANT, STERILIZED SEEDS OF THE PLANT THAT ARE INCAPABLE OF GERMINATION, OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK OR OTHER PRODUCTS.

17. "MARIJUANA CONCENTRATE":

(a) MEANS RESIN EXTRACTED FROM ANY PART OF A PLANT OF THE GENUS CANNABIS AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE OR PREPARATION OF THAT RESIN OR TETRAHYDROCANNABINOL.

(b) DOES NOT INCLUDE INDUSTRIAL HEMP OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH CANNABIS TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK OR OTHER PRODUCTS.

18. "MARIJUANA ESTABLISHMENT" MEANS AN ENTITY LICENSED BY THE DEPARTMENT TO OPERATE ALL OF THE FOLLOWING:

(a) A SINGLE RETAIL LOCATION AT WHICH THE LICENSEE MAY SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS, CULTIVATE MARIJUANA AND MANUFACTURE MARIJUANA PRODUCTS.

(b) A SINGLE OFF-SITE CULTIVATION LOCATION AT WHICH THE LICENSEE MAY CULTIVATE MARIJUANA, PROCESS MARIJUANA AND MANUFACTURE MARIJUANA PRODUCTS, BUT FROM WHICH MARIJUANA AND MARIJUANA PRODUCTS MAY NOT BE TRANSFERRED OR SOLD TO CONSUMERS.

(c) A SINGLE OFF-SITE LOCATION AT WHICH THE LICENSEE MAY MANUFACTURE MARIJUANA PRODUCTS AND PACKAGE AND STORE MARIJUANA AND MARIJUANA PRODUCTS, BUT FROM WHICH MARIJUANA AND MARIJUANA PRODUCTS MAY NOT BE TRANSFERRED OR SOLD TO CONSUMERS.

19. "MARIJUANA FACILITY AGENT" MEANS A PRINCIPAL OFFICER, BOARD MEMBER OR EMPLOYEE OF A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY WHO IS AT LEAST TWENTY-ONE YEARS OF AGE AND HAS NOT BEEN CONVICTED OF AN EXCLUDED FELONY OFFENSE.

20. "MARIJUANA PRODUCTS" MEANS MARIJUANA CONCENTRATE AND PRODUCTS THAT ARE COMPOSED OF MARIJUANA AND OTHER INGREDIENTS AND THAT ARE INTENDED FOR USE OR CONSUMPTION, INCLUDING EDIBLE PRODUCTS, OINTMENTS AND TINCTURES.

21. "MARIJUANA TESTING FACILITY" MEANS THE DEPARTMENT OR ANOTHER ENTITY THAT IS LICENSED BY THE DEPARTMENT TO ANALYZE THE POTENCY OF MARIJUANA AND TEST MARIJUANA FOR HARMFUL CONTAMINANTS.

22. "OPEN SPACE" MEANS A PUBLIC PARK, PUBLIC SIDEWALK, PUBLIC WALKWAY OR PUBLIC PEDESTRIAN THOROUGHFARE.

23. "PROCESS" AND "PROCESSING" MEAN TO HARVEST, DRY, CURE, TRIM OR SEPARATE PARTS OF THE MARIJUANA PLANT.

24. "PUBLIC PLACE" HAS THE SAME MEANING PRESCRIBED IN THE SMOKE-FREE ARIZONA ACT, SECTION 36-601.01.

25. "SMOKE" MEANS TO INHALE, EXHALE, BURN, CARRY OR POSSESS ANY LIGHTED MARIJUANA OR LIGHTED MARIJUANA PRODUCTS, WHETHER NATURAL OR SYNTHETIC.

36-2851. Employers; driving; minors; control of property; smoking in public places and open spaces

THIS CHAPTER:

1. DOES NOT RESTRICT THE RIGHTS OF EMPLOYERS TO MAINTAIN A DRUG-AND-ALCOHOL-FREE WORKPLACE OR AFFECT THE ABILITY OF EMPLOYERS TO HAVE WORKPLACE POLICIES RESTRICTING THE USE OF MARIJUANA BY EMPLOYEES OR PROSPECTIVE EMPLOYEES.

2. DOES NOT REQUIRE AN EMPLOYER TO ALLOW OR ACCOMMODATE THE USE, CONSUMPTION, POSSESSION, TRANSFER, DISPLAY, TRANSPORTATION, SALE OR CULTIVATION OF MARIJUANA IN A PLACE OF EMPLOYMENT.

3. DOES NOT ALLOW DRIVING, FLYING OR BOATING WHILE IMPAIRED TO EVEN THE SLIGHTEST DEGREE BY MARIJUANA OR PREVENT THIS STATE FROM ENACTING AND IMPOSING PENALTIES FOR DRIVING, FLYING OR BOATING WHILE IMPAIRED TO EVEN THE SLIGHTEST DEGREE BY MARIJUANA.

4. DOES NOT ALLOW AN INDIVIDUAL WHO IS UNDER TWENTY-ONE YEARS OF AGE TO PURCHASE, POSSESS, TRANSPORT OR CONSUME MARIJUANA OR MARIJUANA PRODUCTS.

5. DOES NOT ALLOW THE SALE, TRANSFER OR PROVISION OF MARIJUANA OR MARIJUANA PRODUCTS TO AN INDIVIDUAL WHO IS UNDER TWENTY-ONE YEARS OF AGE.

6. DOES NOT RESTRICT THE RIGHTS OF EMPLOYERS, SCHOOLS, DAY CARE CENTERS, ADULT DAY CARE FACILITIES, HEALTH CARE FACILITIES OR CORRECTIONS FACILITIES TO PROHIBIT OR REGULATE CONDUCT OTHERWISE ALLOWED BY THIS CHAPTER WHEN SUCH CONDUCT OCCURS ON OR IN THEIR PROPERTIES.

7. DOES NOT RESTRICT THE ABILITY OF AN INDIVIDUAL, PARTNERSHIP, LIMITED LIABILITY COMPANY, PRIVATE CORPORATION, PRIVATE ENTITY OR PRIVATE ORGANIZATION OF ANY CHARACTER THAT

OCCUPIES, OWNS OR CONTROLS PROPERTY TO PROHIBIT OR REGULATE CONDUCT OTHERWISE ALLOWED BY THIS CHAPTER ON OR IN SUCH PROPERTY.

8. DOES NOT ALLOW ANY PERSON TO:

(a) SMOKE MARIJUANA IN A PUBLIC PLACE OR OPEN SPACE.

(b) CONSUME MARIJUANA OR MARIJUANA PRODUCTS WHILE DRIVING, OPERATING OR RIDING IN THE PASSENGER SEAT OR COMPARTMENT OF AN OPERATING MOTOR VEHICLE, BOAT, VESSEL, AIRCRAFT OR ANOTHER VEHICLE USED FOR TRANSPORTATION.

9. DOES NOT PROHIBIT THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE FROM PROHIBITING OR REGULATING CONDUCT OTHERWISE ALLOWED BY THIS CHAPTER WHEN SUCH CONDUCT OCCURS ON OR IN PROPERTY THAT IS OCCUPIED, OWNED, CONTROLLED OR OPERATED BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE.

10. DOES NOT AUTHORIZE A PERSON TO PROCESS OR MANUFACTURE MARIJUANA BY MEANS OF ANY LIQUID OR GAS, OTHER THAN ALCOHOL, THAT HAS A FLASHPOINT BELOW ONE HUNDRED DEGREES FAHRENHEIT, UNLESS PERFORMED BY A MARIJUANA ESTABLISHMENT.

11. DOES NOT REQUIRE A PERSON TO VIOLATE FEDERAL LAW OR TO IMPLEMENT OR FAIL TO IMPLEMENT A RESTRICTION ON THE POSSESSION, CONSUMPTION, DISPLAY, TRANSFER, PROCESSING, MANUFACTURING OR CULTIVATION OF MARIJUANA IF BY SO DOING THE PERSON WILL LOSE A MONETARY OR LICENSING-RELATED BENEFIT UNDER FEDERAL LAW.

12. DOES NOT SUPERSEDE OR ELIMINATE ANY EXISTING RIGHTS OR PRIVILEGES OF ANY PERSON EXCEPT AS SPECIFICALLY SET FORTH IN THIS CHAPTER.

13. DOES NOT LIMIT ANY PRIVILEGE OR RIGHT OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY UNDER CHAPTER 28.1 OF THIS TITLE EXCEPT AS EXPRESSLY SET FORTH IN THIS CHAPTER.

14. DOES NOT LIMIT ANY PRIVILEGE OR RIGHT OF A QUALIFYING PATIENT OR DESIGNATED CAREGIVER UNDER CHAPTER 28.1 OF THIS TITLE.

36-2852. Allowable possession and personal use of marijuana, marijuana products and marijuana paraphernalia

A. EXCEPT AS SPECIFICALLY AND EXPRESSLY PROVIDED IN SECTIONS 36-2851 AND 36-2853 AND NOTWITHSTANDING ANY OTHER LAW, THE FOLLOWING ACTS BY AN INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE ARE LAWFUL, ARE NOT AN OFFENSE UNDER THE LAWS OF THIS STATE OR ANY LOCALITY, MAY NOT CONSTITUTE THE BASIS FOR DETENTION, SEARCH OR ARREST, AND CANNOT SERVE AS THE SOLE BASIS FOR SEIZURE OR FORFEITURE OF ASSETS, FOR IMPOSING PENALTIES OF ANY KIND UNDER THE LAWS OF THIS STATE OR ANY LOCALITY OR FOR ABROGATING OR LIMITING ANY RIGHT OR PRIVILEGE CONFERRED OR PROTECTED BY THE LAWS OF THIS STATE OR ANY LOCALITY:

1. POSSESSING, CONSUMING, PURCHASING, PROCESSING, MANUFACTURING BY MANUAL OR MECHANICAL MEANS, INCLUDING SIEVING OR ICE WATER SEPARATION BUT EXCLUDING CHEMICAL EXTRACTION OR CHEMICAL SYNTHESIS, OR TRANSPORTING ONE OUNCE OR LESS OF MARIJUANA, EXCEPT THAT NOT MORE THAN FIVE GRAMS OF MARIJUANA MAY BE IN THE FORM OF MARIJUANA CONCENTRATE.

2. POSSESSING, TRANSPORTING, CULTIVATING OR PROCESSING NOT MORE THAN SIX MARIJUANA PLANTS FOR PERSONAL USE AT THE INDIVIDUAL'S PRIMARY RESIDENCE, AND POSSESSING, PROCESSING AND MANUFACTURING BY MANUAL OR MECHANICAL MEANS, INCLUDING SIEVING OR ICE WATER SEPARATION BUT EXCLUDING CHEMICAL EXTRACTION OR CHEMICAL SYNTHESIS, THE MARIJUANA PRODUCED BY THE PLANTS ON THE PREMISES WHERE THE MARIJUANA PLANTS WERE GROWN IF ALL OF THE FOLLOWING APPLY:

(a) NOT MORE THAN TWELVE PLANTS ARE PRODUCED AT A SINGLE RESIDENCE WHERE TWO OR MORE INDIVIDUALS WHO ARE AT LEAST TWENTY-ONE YEARS OF AGE RESIDE AT ONE TIME.

(b) CULTIVATION TAKES PLACE WITHIN A CLOSET, ROOM, GREENHOUSE OR OTHER ENCLOSED AREA ON THE GROUNDS OF THE RESIDENCE EQUIPPED WITH A LOCK OR OTHER SECURITY DEVICE THAT PREVENTS ACCESS BY MINORS.

(c) CULTIVATION TAKES PLACE IN AN AREA WHERE THE MARIJUANA PLANTS ARE NOT VISIBLE FROM PUBLIC VIEW WITHOUT USING BINOCULARS, AIRCRAFT OR OTHER OPTICAL AIDS.

3. TRANSFERRING ONE OUNCE OR LESS OF MARIJUANA, OF WHICH NOT MORE THAN FIVE GRAMS MAY BE IN THE FORM OF MARIJUANA CONCENTRATE, TO AN INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE IF THE TRANSFER IS WITHOUT REMUNERATION AND IS NOT ADVERTISED OR PROMOTED TO THE PUBLIC.

4. TRANSFERRING UP TO SIX MARIJUANA PLANTS TO AN INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE IF THE TRANSFER IS WITHOUT REMUNERATION AND IS NOT ADVERTISED OR PROMOTED TO THE PUBLIC.

5. ACQUIRING, POSSESSING, MANUFACTURING, USING, PURCHASING, SELLING OR TRANSPORTING PARAPHERNALIA RELATING TO THE CULTIVATION, MANUFACTURE, PROCESSING OR CONSUMPTION OF MARIJUANA OR MARIJUANA PRODUCTS.

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6. ASSISTING ANOTHER INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE IN ANY OF THE ACTS DESCRIBED IN THIS SUBSECTION.

B. NOTWITHSTANDING ANY OTHER LAW, A PERSON WITH METABOLITES OR COMPONENTS OF MARIJUANA IN THE PERSON'S BODY IS GUILTY OF VIOLATING SECTION 28-1381, SUBSECTION A, PARAGRAPH 3 ONLY IF THE PERSON IS ALSO IMPAIRED TO THE SLIGHTEST DEGREE.

C. NOTWITHSTANDING ANY OTHER LAW, THE ODOR OF MARIJUANA OR BURNT MARIJUANA DOES NOT BY ITSELF CONSTITUTE REASONABLE ARTICULABLE SUSPICION OF A CRIME. THIS SUBSECTION DOES NOT APPLY WHEN A LAW ENFORCEMENT OFFICER IS INVESTIGATING WHETHER A PERSON HAS VIOLATED SECTION 28-1381.

36-2853. Violations; classification; civil penalty; additional fine; enforcement

A. NOTWITHSTANDING ANY OTHER LAW AND EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, A PERSON WHO POSSESSES AN AMOUNT OF MARIJUANA GREATER THAN THE AMOUNT ALLOWED PURSUANT TO SECTION 36-2852, BUT NOT MORE THAN TWO AND ONE-HALF OUNCES OF MARIJUANA, OF WHICH NOT MORE THAN TWELVE AND ONE-HALF GRAMS IS IN THE FORM OF MARIJUANA CONCENTRATE, IS GUILTY OF A PETTY OFFENSE.

B. NOTWITHSTANDING ANY OTHER LAW, A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND WHO POSSESSES, CONSUMES, TRANSPORTS OR TRANSFERS WITHOUT REMUNERATION ONE OUNCE OR LESS OF MARIJUANA, OF WHICH NOT MORE THAN FIVE GRAMS IS IN THE FORM OF MARIJUANA CONCENTRATE, OR PARAPHERNALIA RELATING TO THE CONSUMPTION OF MARIJUANA OR MARIJUANA PRODUCTS:

1. FOR A FIRST VIOLATION, SHALL PAY A CIVIL PENALTY OF NOT MORE THAN $100 TO THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856 AND IN THE COURT'S DISCRETION MAY BE ORDERED TO ATTEND UP TO FOUR HOURS OF DRUG EDUCATION OR COUNSELING.
2. FOR A SECOND VIOLATION, IS GUILTY OF A PETTY OFFENSE, AND IN THE COURT'S DISCRETION MAY BE ORDERED TO ATTEND UP TO EIGHT HOURS OF DRUG EDUCATION OR COUNSELING.
3. FOR A THIRD OR SUBSEQUENT VIOLATION, IS GUILTY OF A CLASS 1 MISDEMEANOR.

C. A PERSON WHO SMOKES MARIJUANA IN A PUBLIC PLACE OR OPEN SPACE IS GUILTY OF A PETTY OFFENSE.

D. EXCEPT AS OTHERWISE PROVIDED IN CHAPTER 28.1 OF THIS TITLE AND NOTWITHSTANDING ANY OTHER LAW, ANY UNLICENSED PERSON WHO CULTIVATES MARIJUANA PLANTS PURSUANT TO SECTION 36-2852 WHERE THEY ARE VISIBLE FROM PUBLIC VIEW WITHOUT USING BINOCULARS, AIRCRAFT OR OTHER OPTICAL AIDS OR OUTSIDE OF AN ENCLOSED AREA THAT IS EQUIPPED WITH A LOCK OR OTHER SECURITY DEVICE THAT PREVENTS ACCESS BY MINORS IS GUILTY OF:

1. FOR A FIRST VIOLATION, A PETTY OFFENSE.
2. FOR A SECOND OR SUBSEQUENT VIOLATION, A CLASS 3 MISDEMEANOR.

E. A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND WHO MISREPRESENTS THE PERSON'S AGE TO ANY OTHER PERSON BY MEANS OF A WRITTEN INSTRUMENT OF IDENTIFICATION OR WHO USES A FRAUDULENT OR FALSE WRITTEN INSTRUMENT OF IDENTIFICATION WITH THE INTENT TO INDUCE A PERSON TO SELL OR OTHERWISE TRANSFER MARIJUANA OR A MARIJUANA PRODUCT TO THE PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE IS GUILTY OF:

1. FOR A FIRST VIOLATION, A PETTY OFFENSE.
2. FOR A SECOND OR SUBSEQUENT VIOLATION, A CLASS 1 MISDEMEANOR.

F. A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND WHO SOLICITS ANOTHER PERSON TO PURCHASE MARIJUANA OR A MARIJUANA PRODUCT IN VIOLATION OF THIS CHAPTER IS GUILTY OF:

1. FOR A FIRST VIOLATION, A PETTY OFFENSE.
2. FOR A SECOND OR SUBSEQUENT VIOLATION, A CLASS 3 MISDEMEANOR.

36-2854. Rules; licensing; early applicants; fees; civil penalty; legal counsel

A. THE DEPARTMENT SHALL ADOPT RULES TO IMPLEMENT AND ENFORCE THIS CHAPTER AND REGULATE MARIJUANA, MARIJUANA PRODUCTS, MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES. THOSE RULES SHALL INCLUDE REQUIREMENTS FOR:

1. LICENSING MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES, INCLUDING CONDUCTING INVESTIGATIONS AND BACKGROUND CHECKS TO DETERMINE ELIGIBILITY FOR LICENSING FOR MARIJUANA ESTABLISHMENT AND MARIJUANA TESTING FACILITY APPLICANTS, EXCEPT THAT:

(a) AN APPLICATION FOR A MARIJUANA ESTABLISHMENT LICENSE OR MARIJUANA TESTING FACILITY LICENSE MAY NOT REQUIRE THE DISCLOSURE OF THE IDENTITY OF ANY PERSON WHO IS ENTITLED TO A SHARE OF LESS THAN TEN PERCENT OF THE PROFITS OF AN APPLICANT THAT IS A PUBLICLY TRADED CORPORATION.

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(b) THE DEPARTMENT MAY NOT ISSUE MORE THAN ONE MARIJUANA ESTABLISHMENT LICENSE FOR EVERY TEN PHARMACIES THAT HAVE REGISTERED UNDER SECTION 32-1929, THAT HAVE OBTAINED A PHARMACY PERMIT FROM THE ARIZONA BOARD OF PHARMACY AND THAT OPERATE WITHIN THIS STATE.

(c) NOTWITHSTANDING SUBDIVISION (b) OF THIS PARAGRAPH, THE DEPARTMENT MAY ISSUE A MARIJUANA ESTABLISHMENT LICENSE TO NOT MORE THAN TWO MARIJUANA ESTABLISHMENTS PER COUNTY THAT CONTAINS NO REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES, OR ONE MARIJUANA ESTABLISHMENT LICENSE PER COUNTY THAT CONTAINS ONE REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY. ANY LICENSE ISSUED PURSUANT TO THIS SUBDIVISION SHALL BE FOR A FIXED COUNTY AND MAY NOT BE RELOCATED OUTSIDE OF THAT COUNTY.

(d) THE DEPARTMENT SHALL ACCEPT APPLICATIONS FOR MARIJUANA ESTABLISHMENT LICENSES FROM EARLY APPLICANTS BEGINNING JANUARY 19, 2021 THROUGH MARCH 9, 2021. NOT LATER THAN SIXTY DAYS AFTER RECEIVING AN APPLICATION PURSUANT TO THIS SUBDIVISION, THE DEPARTMENT SHALL ISSUE A MARIJUANA ESTABLISHMENT LICENSE TO EACH QUALIFIED EARLY APPLICANT. IF THE DEPARTMENT HAS NOT ADOPTED FINAL RULES PURSUANT TO THIS SECTION AT THE TIME MARIJUANA ESTABLISHMENT LICENSES ARE ISSUED PURSUANT TO THIS SUBDIVISION, LICENSEES SHALL COMPLY WITH THE RULES ADOPTED BY THE DEPARTMENT TO IMPLEMENT CHAPTER 28.1 OF THIS TITLE EXCEPT THOSE THAT ARE INCONSISTENT WITH THIS CHAPTER.

(e) AFTER ISSUING MARIJUANA ESTABLISHMENT LICENSES TO QUALIFIED EARLY APPLICANTS, THE DEPARTMENT SHALL ISSUE MARIJUANA ESTABLISHMENT LICENSES AVAILABLE UNDER SUBDIVISIONS (b) AND (c) OF THIS PARAGRAPH BY RANDOM SELECTION AND ACCORDING TO RULES ADOPTED PURSUANT TO THIS SECTION. AT LEAST SIXTY DAYS PRIOR TO ANY RANDOM SELECTION, THE DEPARTMENT SHALL PROMINENTLY PUBLICIZE THE RANDOM SELECTION ON ITS WEBSITE AND THROUGH OTHER MEANS OF GENERAL DISTRIBUTION INTENDED TO REACH AS MANY INTERESTED PARTIES AS POSSIBLE AND SHALL PROVIDE NOTICE THROUGH AN EMAIL NOTIFICATION SYSTEM TO WHICH INTERESTED PARTIES CAN SUBSCRIBE.

(f) NOTWITHSTANDING SUBDIVISIONS (b) AND (c) OF THIS PARAGRAPH, AND NO LATER THAN SIX MONTHS AFTER THE DEPARTMENT ADOPTS FINAL RULES TO IMPLEMENT A SOCIAL EQUITY OWNERSHIP PROGRAM PURSUANT TO PARAGRAPH 9 OF THIS SUBSECTION, THE DEPARTMENT SHALL ISSUE TWENTY-SIX ADDITIONAL MARIJUANA ESTABLISHMENT LICENSES TO ENTITIES THAT ARE QUALIFIED PURSUANT TO THE SOCIAL EQUITY OWNERSHIP PROGRAM.

(g) LICENSES ISSUED BY THE DEPARTMENT TO MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES SHALL BE VALID FOR A PERIOD OF TWO YEARS.

2. LICENSING FEES AND RENEWAL FEES FOR MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES IN AMOUNTS THAT ARE REASONABLE AND RELATED TO THE ACTUAL COST OF PROCESSING APPLICATIONS FOR LICENSES AND RENEWALS AND THAT DO NOT EXCEED FIVE TIMES THE FEES PRESCRIBED BY THE DEPARTMENT TO REGISTER OR RENEW A NONPROFIT MEDICAL MARIJUANA DISPENSARY.

3. THE SECURITY OF MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES.

4. MARIJUANA ESTABLISHMENTS TO SAFELY CULTIVATE, PROCESS AND MANUFACTURE MARIJUANA AND MARIJUANA PRODUCTS.

5. TRACKING, TESTING, LABELING AND PACKAGING MARIJUANA AND MARIJUANA PRODUCTS, INCLUDING REQUIREMENTS THAT MARIJUANA AND MARIJUANA PRODUCTS BE:

(a) SOLD TO CONSUMERS IN CLEARLY AND CONSPICUOUSLY LABELED CONTAINERS THAT CONTAIN ACCURATE WARNINGS REGARDING THE USE OF MARIJUANA OR MARIJUANA PRODUCTS.

(b) PLACED IN CHILD-RESISTANT PACKAGING ON EXIT FROM A MARIJUANA ESTABLISHMENT.

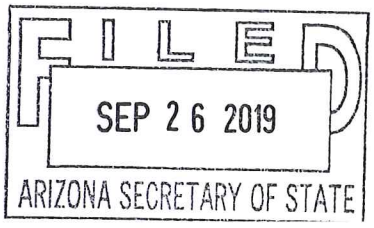
6. FORMS OF GOVERNMENT-ISSUED IDENTIFICATION THAT ARE ACCEPTABLE BY A MARIJUANA ESTABLISHMENT VERIFYING A CONSUMER'S AGE AND PROCEDURES RELATED TO VERIFYING A CONSUMER'S AGE CONSISTENT WITH SECTION 4-241. UNTIL THE DEPARTMENT ADOPTS FINAL RULES RELATED TO VERIFYING A CONSUMER'S AGE, MARIJUANA ESTABLISHMENTS SHALL COMPLY WITH THE PROOF OF LEGAL AGE REQUIREMENTS PRESCRIBED IN SECTION 4-241.

7. THE POTENCY OF EDIBLE MARIJUANA PRODUCTS THAT MAY BE SOLD TO CONSUMERS BY MARIJUANA ESTABLISHMENTS AT REASONABLE LEVELS UPON CONSIDERATION OF INDUSTRY STANDARDS, EXCEPT THAT THE RULES:

(a) SHALL LIMIT THE STRENGTH OF EDIBLE MARIJUANA PRODUCTS TO NO MORE THAN TEN MILLIGRAMS OF TETRAHYDROCANNABINOL PER SERVING OR ONE HUNDRED MILLIGRAMS OF TETRAHYDROCANNABINOL PER PACKAGE.

(b) SHALL REQUIRE THAT IF A MARIJUANA PRODUCT CONTAINS MORE THAN ONE SERVING, IT MUST BE DELINEATED OR SCORED INTO STANDARD SERVING SIZES AND HOMOGENIZED TO ENSURE UNIFORM DISBURSEMENT THROUGHOUT THE MARIJUANA PRODUCT.

8. ENSURING THE HEALTH, SAFETY AND TRAINING OF EMPLOYEES OF MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES.



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9. THE CREATION AND IMPLEMENTATION OF A SOCIAL EQUITY OWNERSHIP PROGRAM TO PROMOTE THE OWNERSHIP AND OPERATION OF MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES BY INDIVIDUALS FROM COMMUNITIES DISPROPORTIONATELY IMPACTED BY THE ENFORCEMENT OF PREVIOUS MARIJUANA LAWS.

B. THE DEPARTMENT MAY:

1. SUBJECT TO TITLE 41, CHAPTER 6, ARTICLE 10, DENY ANY APPLICATION SUBMITTED OR DENY, SUSPEND OR REVOKE, IN WHOLE OR IN PART, ANY REGISTRATION OR LICENSE ISSUED UNDER THIS CHAPTER IF THE REGISTERED OR LICENSED PARTY OR AN OFFICER, AGENT OR EMPLOYEE OF THE REGISTERED OR LICENSED PARTY DOES ANY OF THE FOLLOWING:

(a) VIOLATES THIS CHAPTER OR ANY RULE ADOPTED PURSUANT TO THIS CHAPTER.

(b) HAS BEEN, IS OR MAY CONTINUE TO BE IN SUBSTANTIAL VIOLATION OF THE REQUIREMENTS FOR LICENSING OR REGISTRATION AND, AS A RESULT, THE HEALTH OR SAFETY OF THE GENERAL PUBLIC IS IN IMMEDIATE DANGER.

2. SUBJECT TO TITLE 41, CHAPTER 6, ARTICLE 10, AND UNLESS ANOTHER PENALTY IS PROVIDED ELSEWHERE IN THIS CHAPTER, ASSESS A CIVIL PENALTY AGAINST A PERSON THAT VIOLATES THIS CHAPTER OR ANY RULE ADOPTED PURSUANT TO THIS CHAPTER IN AN AMOUNT NOT TO EXCEED $1,000 FOR EACH VIOLATION. EACH DAY A VIOLATION OCCURS CONSTITUTES A SEPARATE VIOLATION. THE MAXIMUM AMOUNT OF ANY ASSESSMENT IS $25,000 FOR ANY THIRTY-DAY PERIOD. IN DETERMINING THE AMOUNT OF A CIVIL PENALTY ASSESSED AGAINST A PERSON, THE DEPARTMENT SHALL CONSIDER ALL OF THE FACTORS SET FORTH IN SECTION 36-2816, SUBSECTION H. ALL CIVIL PENALTIES COLLECTED BY THE DEPARTMENT PURSUANT TO THIS PARAGRAPH SHALL BE DEPOSITED IN THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856.

3. AT ANY TIME DURING REGULAR HOURS OF OPERATION, VISIT AND INSPECT A MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY OR DUAL LICENSEE TO DETERMINE IF IT COMPLIES WITH THIS CHAPTER AND RULES ADOPTED PURSUANT TO THIS CHAPTER. THE DEPARTMENT SHALL MAKE AT LEAST ONE UNANNOUNCED VISIT ANNUALLY TO EACH FACILITY LICENSED PURSUANT TO THIS CHAPTER.

4. ADOPT ANY OTHER RULES NOT EXPRESSLY STATED IN THIS SECTION THAT ARE NECESSARY TO ENSURE THE SAFE AND RESPONSIBLE CULTIVATION, SALE, PROCESSING, MANUFACTURE, TESTING AND TRANSPORT OF MARIJUANA AND MARIJUANA PRODUCTS.

C. UNTIL THE DEPARTMENT ADOPTS RULES PERMITTING AND REGULATING DELIVERY BY MARIJUANA ESTABLISHMENTS PURSUANT TO SUBSECTION D OF THIS SECTION, DELIVERY IS UNLAWFUL UNDER THIS CHAPTER.

D. ON OR AFTER JANUARY 1, 2023, THE DEPARTMENT MAY, AND NO LATER THAN JANUARY 1, 2025 THE DEPARTMENT SHALL, ADOPT RULES TO PERMIT AND REGULATE DELIVERY BY MARIJUANA ESTABLISHMENTS. THE RULES SHALL:

1. REQUIRE THAT DELIVERY AND THE MARIJUANA AND MARIJUANA PRODUCTS TO BE DELIVERED ORIGINATE FROM A DESIGNATED RETAIL LOCATION OF A MARIJUANA ESTABLISHMENT AND ONLY AFTER AN ORDER IS MADE WITH THE MARIJUANA ESTABLISHMENT BY A CONSUMER.

2. PROHIBIT DELIVERY TO ANY PROPERTY OWNED OR LEASED BY THE UNITED STATES, THIS STATE, A POLITICAL SUBDIVISION OF THIS STATE OR THE ARIZONA BOARD OF REGENTS.

3. LIMIT THE AMOUNT OF MARIJUANA AND MARIJUANA PRODUCTS BASED ON RETAIL PRICE THAT MAY BE IN A DELIVERY VEHICLE DURING A SINGLE TRIP FROM THE DESIGNATED RETAIL LOCATION OF A MARIJUANA ESTABLISHMENT.

4. PROHIBIT EXTRA OR UNALLOCATED MARIJUANA OR MARIJUANA PRODUCTS IN DELIVERY VEHICLES.

5. REQUIRE THAT DELIVERIES BE MADE ONLY BY MARIJUANA FACILITY AGENTS IN UNMARKED VEHICLES THAT ARE EQUIPPED WITH A GLOBAL POSITIONING SYSTEM OR SIMILAR LOCATION TRACKING SYSTEM AND VIDEO SURVEILLANCE AND RECORDING EQUIPMENT, AND THAT CONTAIN A LOCKED COMPARTMENT IN WHICH MARIJUANA AND MARIJUANA PRODUCTS MUST BE STORED.

6. REQUIRE DELIVERY LOGS NECESSARY TO ENSURE COMPLIANCE WITH THIS SUBSECTION AND RULES ADOPTED PURSUANT TO THIS SUBSECTION.

7. REQUIRE INSPECTIONS TO ENSURE COMPLIANCE WITH THIS SUBSECTION AND RULES ADOPTED PURSUANT TO THIS SUBSECTION.

8. INCLUDE ANY OTHER PROVISIONS NECESSARY TO ENSURE SAFE AND RESTRICTED DELIVERY.

9. REQUIRE DUAL LICENSEES TO COMPLY WITH THE RULES ADOPTED PURSUANT TO THIS SUBSECTION.

E. EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION, THE DEPARTMENT MAY NOT PERMIT DELIVERY OF MARIJUANA OR MARIJUANA PRODUCTS UNDER THIS CHAPTER BY ANY INDIVIDUAL OR ENTITY. IN ADDITION TO ANY OTHER PENALTY IMPOSED BY LAW, AN INDIVIDUAL OR ENTITY THAT DELIVERS MARIJUANA OR MARIJUANA PRODUCTS IN A MANNER THAT IS NOT AUTHORIZED BY THIS CHAPTER SHALL PAY

A CIVIL PENALTY OF $20,000 PER VIOLATION TO THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856. THIS SUBSECTION MAY BE ENFORCED BY THE ATTORNEY GENERAL.

F. ALL RULES ADOPTED BY THE DEPARTMENT PURSUANT TO THIS SECTION SHALL BE CONSISTENT WITH THE PURPOSE OF THIS CHAPTER.

G. THE DEPARTMENT MAY NOT ADOPT ANY RULE THAT:

1. PROHIBITS THE OPERATION OF MARIJUANA ESTABLISHMENTS, EITHER EXPRESSLY OR THROUGH REQUIREMENTS THAT MAKE THE OPERATION OF A MARIJUANA ESTABLISHMENT UNDULY BURDENSOME.

2. PROHIBITS OR INTERFERES WITH THE ABILITY OF A DUAL LICENSEE TO OPERATE A MARIJUANA ESTABLISHMENT AND A NONPROFIT MEDICAL MARIJUANA DISPENSARY AT SHARED LOCATIONS.

H. NOTWITHSTANDING SECTION 41-192, THE DEPARTMENT MAY EMPLOY LEGAL COUNSEL AND MAKE AN EXPENDITURE OR INCUR AN INDEBTEDNESS FOR LEGAL SERVICES FOR THE PURPOSES OF:

1. DEFENDING THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER.

2. DEFENDING CHAPTER 28.1 OF THIS TITLE OR RULES ADOPTED PURSUANT TO CHAPTER 28.1 OF THIS TITLE.

I. THE DEPARTMENT SHALL DEPOSIT ALL LICENSE FEES, APPLICATION FEES AND RENEWAL FEES PAID TO THE DEPARTMENT PURSUANT TO THIS CHAPTER IN THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856.

J. ON REQUEST, THE DEPARTMENT SHALL SHARE WITH THE DEPARTMENT OF REVENUE INFORMATION REGARDING A MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY OR DUAL LICENSEE, INCLUDING ITS NAME, PHYSICAL ADDRESS, CULTIVATION SITE AND TRANSACTION PRIVILEGE TAX LICENSE NUMBER.

K. NOTWITHSTANDING ANY OTHER LAW, THE DEPARTMENT MAY:

1. LICENSE AN INDEPENDENT THIRD-PARTY LABORATORY TO ALSO OPERATE AS A MARIJUANA TESTING FACILITY.

2. OPERATE A MARIJUANA TESTING FACILITY.

L. THE DEPARTMENT SHALL MAINTAIN AND PUBLISH A CURRENT LIST OF ALL MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES BY NAME AND LICENSE NUMBER.

M. NOTWITHSTANDING ANY OTHER LAW, THE ISSUANCE OF AN OCCUPATIONAL, PROFESSIONAL OR OTHER REGULATORY LICENSE OR CERTIFICATION TO A PERSON BY A JURISDICTION OR REGULATORY AUTHORITY OUTSIDE THIS STATE DOES NOT ENTITLE THAT PERSON TO BE ISSUED A MARIJUANA ESTABLISHMENT LICENSE, A MARIJUANA TESTING FACILITY LICENSE, OR ANY OTHER LICENSE, REGISTRATION OR CERTIFICATION UNDER THIS CHAPTER.

36-2855. Marijuana facility agents; registration; card; rules

A. A MARIJUANA FACILITY AGENT SHALL BE REGISTERED WITH THE DEPARTMENT BEFORE WORKING AT A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY.

B. A PERSON WHO WISHES TO BE REGISTERED AS A MARIJUANA FACILITY AGENT OR RENEW THE PERSON'S REGISTRATION AS A MARIJUANA FACILITY AGENT SHALL:

1. SUBMIT A COMPLETED APPLICATION ON A FORM PRESCRIBED BY THE DEPARTMENT AND PAY A NONREFUNDABLE FEE THAT IS REASONABLE AND RELATED TO THE ACTUAL COST OF PROCESSING APPLICATIONS SUBMITTED PURSUANT TO THIS SECTION.

2. SUBMIT EVIDENCE THAT THE APPLICANT HOLDS A CURRENT LEVEL I FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.07, OR SUBMIT A FULL SET OF THE APPLICANT'S FINGERPRINTS FOR THE PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF INVESTIGATION WITHOUT DISCLOSING THAT THE RECORDS CHECK IS RELATED TO THIS CHAPTER AND ACTS ALLOWED BY THIS CHAPTER. THE DEPARTMENT OF PUBLIC SAFETY SHALL DESTROY EACH SET OF FINGERPRINTS AFTER THE CRIMINAL RECORDS CHECK IS COMPLETED.

C. IF THE DEPARTMENT DETERMINES THAT AN APPLICANT MEETS THE CRITERIA FOR REGISTRATION UNDER THIS CHAPTER AND RULES PURSUANT TO THIS CHAPTER, THE DEPARTMENT SHALL ISSUE THE APPLICANT A MARIJUANA FACILITY AGENT CARD THAT IS VALID FOR TWO YEARS.

D. A REGISTERED MARIJUANA FACILITY AGENT MAY BE EMPLOYED BY OR ASSOCIATED WITH ANY MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY. A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY SHALL PROMPTLY NOTIFY THE DEPARTMENT WHEN IT EMPLOYS OR BECOMES ASSOCIATED WITH A NEW MARIJUANA FACILITY AGENT. A MARIJUANA FACILITY AGENT SHALL PROMPTLY NOTIFY THE DEPARTMENT WHEN THE MARIJUANA FACILITY AGENT IS EMPLOYED BY OR BECOMES ASSOCIATED WITH A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY AND WHEN THE MARIJUANA FACILITY AGENT IS NO LONGER EMPLOYED BY OR ASSOCIATED WITH A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY.

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E. A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT OF A DUAL LICENSEE WHO HAS APPLIED TO BE REGISTERED AS A MARIJUANA FACILITY AGENT MAY SERVE AS A MARIJUANA FACILITY AGENT OF THAT DUAL LICENSEE UNTIL THE DEPARTMENT HAS APPROVED OR REJECTED THE AGENT'S APPLICATION.

F. THE DEPARTMENT SHALL ADOPT RULES TO IMPLEMENT THIS SECTION.

36-2856. Smart and safe Arizona fund; disposition; exemption

A. THE SMART AND SAFE ARIZONA FUND IS ESTABLISHED CONSISTING OF ALL MONIES DEPOSITED PURSUANT TO SECTIONS 36-2854, 42-5452 AND 42-5503, PRIVATE DONATIONS AND INTEREST EARNED ON THOSE MONIES. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. MONIES IN THE FUND AND ITS ACCOUNTS MAY NOT BE TRANSFERRED TO ANY OTHER FUND EXCEPT AS PROVIDED IN THIS SECTION, DO NOT REVERT TO THE STATE GENERAL FUND AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO THE LAPSING OF APPROPRIATIONS. THE STATE TREASURER SHALL ADMINISTER THE FUND.

B. ALL MONIES IN THE SMART AND SAFE ARIZONA FUND MUST FIRST BE SPENT, AND THE STATE TREASURER SHALL TRANSFER MONIES FROM THE FUND, TO PAY:

1. THE ACTUAL REASONABLE COSTS INCURRED BY THE DEPARTMENT TO IMPLEMENT, CARRY OUT AND ENFORCE THIS CHAPTER AND RULES ADOPTED PURSUANT TO THIS CHAPTER.

2. THE ACTUAL REASONABLE COSTS INCURRED BY THE DEPARTMENT OF REVENUE TO IMPOSE AND ENFORCE THE TAX AUTHORIZED AND LEVIED BY SECTION 42-5452.

3. THE ACTUAL REASONABLE COSTS INCURRED BY THE SUPREME COURT AND THE DEPARTMENT OF PUBLIC SAFETY TO PROCESS PETITIONS FOR EXPUNGEMENT AND EXPUNGEMENT ORDERS PURSUANT TO SECTION 36-2862 AND TO OTHERWISE IMPLEMENT SECTION 36-2862.

4. THE ACTUAL REASONABLE COSTS INCURRED BY THE STATE TREASURER TO ADMINISTER THE FUND.

5. ANY OTHER MANDATORY EXPENDITURE OF STATE REVENUES REQUIRED BY THIS CHAPTER TO IMPLEMENT OR ENFORCE THE PROVISIONS OF THIS CHAPTER.

C. THE STATE TREASURER MAY PRESCRIBE FORMS NECESSARY TO MAKE TRANSFERS FROM THE SMART AND SAFE ARIZONA FUND PURSUANT TO SUBSECTION B OF THIS SECTION.

D. ON OR BEFORE JUNE 30 AND DECEMBER 31 OF EACH YEAR, THE STATE TREASURER SHALL TRANSFER ALL MONIES IN THE SMART AND SAFE ARIZONA FUND IN EXCESS OF THE AMOUNTS PAID PURSUANT TO SUBSECTION B OF THIS SECTION AS FOLLOWS:

1. 33 PERCENT TO COMMUNITY COLLEGE DISTRICTS AND PROVISIONAL COMMUNITY COLLEGE DISTRICTS, BUT NOT TO COMMUNITY COLLEGE TUITION FINANCING DISTRICTS ESTABLISHED PURSUANT TO SECTION 15-1409, FOR THE PURPOSES OF INVESTING IN AND PROVIDING WORKFORCE DEVELOPMENT PROGRAMS, JOB TRAINING, CAREER AND TECHNICAL EDUCATION, AND SCIENCE, TECHNOLOGY, ENGINEERING AND MATH PROGRAMS, AS FOLLOWS:

(a) 15 PERCENT OF THE 33 PERCENT DIVIDED EQUALLY BETWEEN EACH COMMUNITY COLLEGE DISTRICT.

(b) 0.5 PERCENT OF THE 33 PERCENT DIVIDED EQUALLY BETWEEN EACH PROVISIONAL COMMUNITY COLLEGE DISTRICT, IF ONE OR MORE PROVISIONAL COMMUNITY COLLEGE DISTRICTS EXIST.

(c) THE REMAINDER TO COMMUNITY COLLEGE DISTRICTS AND PROVISIONAL COMMUNITY COLLEGES DISTRICTS IN PROPORTION TO EACH DISTRICT'S FULL-TIME EQUIVALENT STUDENT ENROLLMENT PERCENTAGE OF THE TOTAL STATEWIDE AUDITED FULL-TIME EQUIVALENT STUDENT ENROLLMENT IN THE PRECEDING FISCAL YEAR PRESCRIBED IN SECTION 15-1466.01.

2. 31.4 PERCENT TO MUNICIPAL POLICE DEPARTMENTS, MUNICIPAL FIRE DEPARTMENTS, FIRE DISTRICTS ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 5 AND COUNTY SHERIFFS' DEPARTMENTS IN PROPORTION TO THE NUMBER OF ENROLLED MEMBERS FOR EACH SUCH AGENCY IN THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM ESTABLISHED BY TITLE 38, CHAPTER 5, ARTICLE 4 AND THE PUBLIC SAFETY PERSONNEL DEFINED CONTRIBUTION PLAN ESTABLISHED BY TITLE 38, CHAPTER 5, ARTICLE 4.1, FOR PERSONNEL COSTS.

3. 25.4 PERCENT TO THE ARIZONA HIGHWAY USER REVENUE FUND ESTABLISHED BY SECTION 28-6533.

4. 10 PERCENT TO THE JUSTICE REINVESTMENT FUND ESTABLISHED BY SECTION 36-2863.

5. 0.2 PERCENT TO THE ATTORNEY GENERAL TO USE TO ENFORCE THIS CHAPTER, OR TO GRANT TO LOCALITIES TO ENFORCE THIS CHAPTER.

E. THE MONIES TRANSFERRED AND RECEIVED PURSUANT TO THIS SECTION:

1. ARE IN ADDITION TO ANY OTHER APPROPRIATION, TRANSFER OR OTHER ALLOCATION OF MONIES AND MAY NOT SUPPLANT, REPLACE OR CAUSE A REDUCTION IN OTHER FUNDING SOURCES.

2. ARE NOT CONSIDERED LOCAL REVENUES FOR THE PURPOSES OF ARTICLE IX, SECTIONS 20 AND 21, CONSTITUTION OF ARIZONA.

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36-2857. Localities; marijuana establishments and marijuana testing facilities

A. A LOCALITY MAY:

1. ENACT REASONABLE ZONING REGULATIONS THAT LIMIT THE USE OF LAND FOR MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES TO SPECIFIED AREAS.

2. LIMIT THE NUMBER OF MARIJUANA ESTABLISHMENTS OR MARIJUANA TESTING FACILITIES, OR BOTH.

3. PROHIBIT MARIJUANA ESTABLISHMENTS OR MARIJUANA TESTING FACILITIES, OR BOTH.

4. REGULATE THE TIME, PLACE AND MANNER OF MARIJUANA ESTABLISHMENT AND MARIJUANA TESTING FACILITY OPERATIONS.

5. ESTABLISH REASONABLE RESTRICTIONS ON PUBLIC SIGNAGE REGARDING MARIJUANA, MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES.

6. PROHIBIT OR RESTRICT DELIVERY WITHIN ITS JURISDICTION.

B. A COUNTY MAY EXERCISE ITS AUTHORITY PURSUANT TO SUBSECTION A OF THIS SECTION ONLY IN UNINCORPORATED AREAS OF THE COUNTY.

C. A LOCALITY MAY NOT ENACT ANY ORDINANCE, REGULATION OR RULE THAT:

1. IS MORE RESTRICTIVE THAN A COMPARABLE ORDINANCE, REGULATION OR RULE THAT APPLIES TO NONPROFIT MEDICAL MARIJUANA DISPENSARIES.

2. MAKES THE OPERATION OF A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY UNDULY BURDENSOME IF THE LOCALITY HAS NOT PROHIBITED MARIJUANA ESTABLISHMENTS OR MARIJUANA TESTING FACILITIES.

3. CONFLICTS WITH THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER.

4. PROHIBITS THE TRANSPORTATION OF MARIJUANA BY A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY ON PUBLIC ROADS.

5. RESTRICTS OR INTERFERES WITH THE ABILITY OF A DUAL LICENSEE OR AN ENTITY ELIGIBLE TO BECOME A DUAL LICENSEE TO OPERATE A NONPROFIT MEDICAL MARIJUANA DISPENSARY AND A MARIJUANA ESTABLISHMENT COOPERATIVELY AT SHARED LOCATIONS.

6. EXCEPT AS EXPRESSLY AUTHORIZED BY THIS SECTION OR SECTION 36-2851, PROHIBITS OR RESTRICTS ANY CONDUCT OR TRANSACTION ALLOWED BY THIS CHAPTER, OR IMPOSES ANY LIABILITY OR PENALTY IN ADDITION TO THAT PRESCRIBED BY THIS CHAPTER FOR ANY CONDUCT OR TRANSACTION CONSTITUTING A VIOLATION OF THIS CHAPTER.

36-2858. Lawful operation of marijuana establishments and marijuana testing facilities

A. EXCEPT AS SPECIFICALLY AND EXPRESSLY PROVIDED IN SECTION 36-2857 AND NOTWITHSTANDING ANY OTHER LAW, IT IS LAWFUL AND IS NOT AN OFFENSE UNDER THE LAWS OF THIS STATE OR ANY LOCALITY, MAY NOT CONSTITUTE THE BASIS FOR DETENTION, SEARCH OR ARREST, AND MAY NOT CONSTITUTE THE SOLE BASIS FOR SEIZURE OR FORFEITURE OF ASSETS OR THE BASIS FOR IMPOSING PENALTIES UNDER THE LAWS OF THIS STATE OR ANY LOCALITY FOR:

1. A MARIJUANA ESTABLISHMENT, OR AN AGENT ACTING ON BEHALF OF A MARIJUANA ESTABLISHMENT, TO:

(a) POSSESS MARIJUANA OR MARIJUANA PRODUCTS.

(b) PURCHASE, SELL OR TRANSPORT MARIJUANA AND MARIJUANA PRODUCTS TO OR FROM A MARIJUANA ESTABLISHMENT.

(c) SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS, EXCEPT THAT A MARIJUANA ESTABLISHMENT MAY NOT SELL MORE THAN ONE OUNCE OF MARIJUANA TO A CONSUMER IN A SINGLE TRANSACTION, NOT MORE THAN FIVE GRAMS OF WHICH MAY BE IN THE FORM OF MARIJUANA CONCENTRATE.

(d) CULTIVATE, PRODUCE, TEST OR PROCESS MARIJUANA OR MANUFACTURE MARIJUANA OR MARIJUANA PRODUCTS BY ANY MEANS INCLUDING CHEMICAL EXTRACTION OR CHEMICAL SYNTHESIS.

2. AN AGENT ACTING ON BEHALF OF A MARIJUANA ESTABLISHMENT TO SELL OR OTHERWISE TRANSFER MARIJUANA TO AN INDIVIDUAL UNDER TWENTY-ONE YEARS OF AGE, IF THE AGENT REASONABLY VERIFIED THAT THE INDIVIDUAL APPEARED TO BE TWENTY-ONE YEARS OF AGE OR OLDER BY MEANS OF A GOVERNMENT-ISSUED PHOTOGRAPHIC IDENTIFICATION IN COMPLIANCE WITH RULES ADOPTED PURSUANT TO SECTION 36-2854, SUBSECTION A, PARAGRAPH 6.

3. A MARIJUANA TESTING FACILITY, OR AN AGENT ACTING ON BEHALF OF A MARIJUANA TESTING FACILITY, TO OBTAIN, POSSESS, PROCESS, REPACKAGE, TRANSFER, TRANSPORT OR TEST MARIJUANA AND MARIJUANA PRODUCTS.

4. A NONPROFIT MEDICAL MARIJUANA DISPENSARY OR A MARIJUANA ESTABLISHMENT, OR AN AGENT ACTING ON BEHALF OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY OR A MARIJUANA ESTABLISHMENT, TO SELL OR OTHERWISE TRANSFER MARIJUANA OR MARIJUANA PRODUCTS TO A NONPROFIT MEDICAL MARIJUANA DISPENSARY, A MARIJUANA ESTABLISHMENT OR AN AGENT ACTING ON BEHALF OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY OR A MARIJUANA ESTABLISHMENT.

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5. ANY INDIVIDUAL, CORPORATION OR OTHER ENTITY TO SELL, LEASE OR OTHERWISE ALLOW PROPERTY OR GOODS THAT ARE OWNED, MANAGED OR CONTROLLED BY THE INDIVIDUAL, CORPORATION OR OTHER ENTITY TO BE USED FOR ANY ACTIVITY AUTHORIZED BY THIS CHAPTER, OR TO PROVIDE SERVICES TO A MARIJUANA ESTABLISHMENT, OR MARIJUANA TESTING FACILITY OR AGENT ACTING ON BEHALF OF A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY IN CONNECTION WITH ANY ACTIVITY AUTHORIZED BY THIS CHAPTER.

B. THIS SECTION DOES NOT PRECLUDE THE DEPARTMENT FROM IMPOSING PENALTIES AGAINST A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY FOR FAILING TO COMPLY WITH THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER.

C. A MARIJUANA ESTABLISHMENT MAY BE OWNED OR OPERATED BY A PUBLICLY TRADED COMPANY.

D. NOTWITHSTANDING ANY OTHER LAW, A DUAL LICENSEE:

1. MAY HOLD A MARIJUANA ESTABLISHMENT LICENSE AND OPERATE A MARIJUANA ESTABLISHMENT PURSUANT TO THIS CHAPTER.

2. MAY OPERATE ON A FOR-PROFIT BASIS IF THE DUAL LICENSEE PROMPTLY NOTIFIES THE DEPARTMENT AND DEPARTMENT OF REVENUE AND TAKES ANY ACTIONS NECESSARY TO ENABLE ITS FOR-PROFIT OPERATION, INCLUDING CONVERTING ITS CORPORATE FORM AND AMENDING ITS ORGANIZATIONAL AND OPERATING DOCUMENTS.

3. MUST CONTINUE TO HOLD BOTH ITS MARIJUANA ESTABLISHMENT LICENSE AND NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION, REGARDLESS OF ANY CHANGE IN OWNERSHIP OF THE DUAL LICENSEE, UNLESS IT TERMINATES ITS STATUS AS A DUAL LICENSEE AND FORFEITS EITHER ITS MARIJUANA ESTABLISHMENT LICENSE OR NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION BY NOTIFYING THE DEPARTMENT OF SUCH A TERMINATION AND FORFEITURE.

4. MAY NOT BE REQUIRED TO:

(a) EMPLOY OR CONTRACT WITH A MEDICAL DIRECTOR.

(b) OBTAIN NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT OR MARIJUANA FACILITY AGENT REGISTRATIONS FOR OUTSIDE VENDORS THAT DO NOT HAVE REGULAR, UNSUPERVISED ACCESS TO THE INTERIOR OF THE DUAL LICENSEE.

(c) HAVE A SINGLE SECURE ENTRANCE AS REQUIRED BY SECTION 36-2806, SUBSECTION C, BUT MAY BE REQUIRED TO IMPLEMENT APPROPRIATE SECURITY MEASURES TO DETER AND PREVENT THE THEFT OF MARIJUANA AND TO REASONABLY REGULATE CUSTOMER ACCESS TO THE PREMISES.

(d) COMPLY WITH ANY OTHER PROVISION OF CHAPTER 28.1 OF THIS TITLE OR ANY RULE ADOPTED PURSUANT TO CHAPTER 28.1 OF THIS TITLE THAT MAKES ITS OPERATION AS A DUAL LICENSEE UNDULY BURDENSOME.

E. NOTWITHSTANDING ANY OTHER LAW, A DUAL LICENSEE THAT ELECTS TO OPERATE ON A FOR-PROFIT BASIS PURSUANT TO SUBSECTION D, PARAGRAPH 2 OF THIS SECTION:

1. IS SUBJECT TO THE TAXES IMPOSED PURSUANT TO TITLE 43.

2. IS NOT REQUIRED TO SUBMIT ITS ANNUAL FINANCIAL STATEMENTS OR AN AUDIT REPORT TO THE DEPARTMENT FOR PURPOSES OF RENEWING ITS NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION.

F. NOTWITHSTANDING ANY OTHER LAW, A DUAL LICENSEE MUST CONDUCT BOTH OF THE FOLLOWING OPERATIONS AT A SHARED LOCATION:

1. SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS PURSUANT TO THIS CHAPTER.

2. DISPENSE MARIJUANA TO REGISTERED QUALIFYING PATIENTS AND REGISTERED DESIGNATED CAREGIVERS PURSUANT TO CHAPTER 28.1 OF THIS TITLE.

G. NOTWITHSTANDING CHAPTER 28.1 OF THIS TITLE OR ANY RULE ADOPTED PURSUANT TO CHAPTER 28.1 OF THIS TITLE, A DUAL LICENSEE MAY ENGAGE IN ANY ACT, PRACTICE, CONDUCT OR TRANSACTION ALLOWED FOR A MARIJUANA ESTABLISHMENT BY THIS CHAPTER.

H. NOTWITHSTANDING ANY OTHER LAW:

1. AN INDIVIDUAL MAY BE AN APPLICANT, PRINCIPAL OFFICER OR BOARD MEMBER OF MORE THAN ONE MARIJUANA ESTABLISHMENT OR MORE THAN ONE DUAL LICENSEE REGARDLESS OF THE ESTABLISHMENT'S LOCATION.

2. TWO OR MORE MARIJUANA ESTABLISHMENTS OR DUAL LICENSEES MAY DESIGNATE A SINGLE OFF-SITE LOCATION AS PRESCRIBED IN SECTION 36-2850, PARAGRAPH 18, SUBDIVISION (c) TO BE JOINTLY USED BY THOSE DUAL LICENSEES OR MARIJUANA ESTABLISHMENTS.

I. MARIJUANA ESTABLISHMENTS, MARIJUANA TESTING FACILITIES AND DUAL LICENSEES THAT ARE SUBJECT TO APPLICABLE FEDERAL OR STATE ANTIDISCRIMINATION LAWS MAY NOT PAY THEIR EMPLOYEES DIFFERENTLY BASED SOLELY ON A PROTECTED CLASS STATUS SUCH AS SEX, RACE, COLOR, RELIGION, NATIONAL ORIGIN, AGE OR DISABILITY. THIS SUBSECTION DOES NOT EXPAND OR MODIFY THE JURISDICTIONAL REACH, PROVISIONS OR REQUIREMENTS OF ANY APPLICABLE ANTI-DISCRIMINATION LAW.

36-2859. Advertising restrictions; enforcement; civil penalty

A. A MARIJUANA ESTABLISHMENT OR NONPROFIT MEDICAL MARIJUANA DISPENSARY MAY ENGAGE IN ADVERTISING.

B. AN ADVERTISING PLATFORM MAY HOST ADVERTISING ONLY IF ALL OF THE FOLLOWING APPLY:

1. THE ADVERTISING IS AUTHORIZED BY A MARIJUANA ESTABLISHMENT OR NONPROFIT MEDICAL MARIJUANA DISPENSARY.

2. THE ADVERTISING ACCURATELY AND LEGIBLY IDENTIFIES THE MARIJUANA ESTABLISHMENT OR NONPROFIT MEDICAL MARIJUANA DISPENSARY RESPONSIBLE FOR THE CONTENT OF THE ADVERTISING BY NAME AND LICENSE NUMBER OR REGISTRATION NUMBER.

C. ANY ADVERTISING UNDER THIS CHAPTER INVOLVING DIRECT, INDIVIDUALIZED COMMUNICATION OR DIALOGUE SHALL USE A METHOD OF AGE AFFIRMATION TO VERIFY THAT THE RECIPIENT IS TWENTY-ONE YEARS OF AGE OR OLDER BEFORE ENGAGING IN THAT COMMUNICATION OR DIALOGUE. FOR THE PURPOSES OF THIS SUBSECTION, THAT METHOD OF AGE AFFIRMATION MAY INCLUDE USER CONFIRMATION, BIRTH DATE DISCLOSURE OR OTHER SIMILAR REGISTRATION METHODS.

D. IT IS UNLAWFUL FOR AN INDIVIDUAL OR ENTITY OTHER THAN A MARIJUANA ESTABLISHMENT OR DUAL LICENSEE TO DO ANY OF THE FOLLOWING IN A MANNER THAT IS NOT AUTHORIZED BY THIS CHAPTER OR RULES ADOPTED BY THE DEPARTMENT PURSUANT TO THIS CHAPTER:

1. FACILITATE THE DELIVERY OF MARIJUANA OR MARIJUANA PRODUCTS.

2. SOLICIT OR ACCEPT ORDERS FOR MARIJUANA OR MARIJUANA PRODUCTS OR OPERATE A PLATFORM THAT SOLICITS OR ACCEPTS ORDERS FOR MARIJUANA OR MARIJUANA PRODUCTS.

3. OPERATE A LISTING SERVICE RELATED TO THE SALE OR DELIVERY OF MARIJUANA OR MARIJUANA PRODUCTS.

E. A MARIJUANA ESTABLISHMENT THAT VIOLATES THIS SECTION IS SUBJECT TO DISCIPLINARY ACTION BY THE DEPARTMENT PURSUANT TO SECTION 36-2854, SUBSECTION B. A NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT VIOLATES THIS SECTION IS SUBJECT TO DISCIPLINARY ACTION BY THE DEPARTMENT PURSUANT TO SECTION 36-2816.

F. IN ADDITION TO ANY OTHER PENALTY IMPOSED BY LAW, AN INDIVIDUAL OR ENTITY OTHER THAN A MARIJUANA ESTABLISHMENT OR NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT ADVERTISES MARIJUANA OR MARIJUANA PRODUCTS IN VIOLATION OF THIS SECTION OR OTHERWISE VIOLATES THIS SECTION SHALL PAY A CIVIL PENALTY OF $20,000 PER VIOLATION TO THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856. THIS SUBSECTION MAY BE ENFORCED BY THE ATTORNEY GENERAL.

36-2860. Packaging; restrictions on particular marijuana products

A. A MARIJUANA ESTABLISHMENT MAY NOT:

1. PACKAGE OR LABEL MARIJUANA OR MARIJUANA PRODUCTS IN A FALSE OR MISLEADING MANNER.

2. MANUFACTURE OR SELL MARIJUANA PRODUCTS THAT RESEMBLE THE FORM OF A HUMAN, ANIMAL, INSECT, FRUIT, TOY OR CARTOON.

3. SELL OR ADVERTISE MARIJUANA OR MARIJUANA PRODUCTS WITH NAMES THAT RESEMBLE OR IMITATE FOOD OR DRINK BRANDS MARKETED TO CHILDREN, OR OTHERWISE ADVERTISE MARIJUANA OR MARIJUANA PRODUCTS TO CHILDREN.

B. A MARIJUANA ESTABLISHMENT THAT VIOLATES THIS SECTION IS SUBJECT TO DISCIPLINARY ACTION BY THE DEPARTMENT PURSUANT TO SECTION 36-2854, SUBSECTION B.

36-2861. Contracts; professional services

A. IT IS THE PUBLIC POLICY OF THIS STATE THAT CONTRACTS RELATED TO MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES ARE ENFORCEABLE.

B. A PERSON THAT IS LICENSED, CERTIFIED OR REGISTERED BY ANY DEPARTMENT, AGENCY OR REGULATORY BOARD OF THIS STATE IS NOT SUBJECT TO DISCIPLINARY ACTION BY THAT ENTITY FOR PROVIDING PROFESSIONAL ASSISTANCE TO A PROSPECTIVE OR REGISTERED MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY OR OTHER PERSON FOR ANY LAWFUL ACTIVITY UNDER THIS CHAPTER.

36-2862. Expungement; petition; appeal; dismissal of complaints; rules

A. BEGINNING JULY 12, 2021, AN INDIVIDUAL WHO WAS ARRESTED FOR, CHARGED WITH, ADJUDICATED OR CONVICTED BY TRIAL OR PLEA OF, OR SENTENCED FOR, ANY OF THE FOLLOWING OFFENSES BASED ON OR ARISING OUT OF CONDUCT OCCURRING BEFORE THE EFFECTIVE DATE OF THIS SECTION MAY PETITION THE COURT TO HAVE THE RECORD OF THAT ARREST, CHARGE, ADJUDICATION, CONVICTION OR SENTENCE EXPUNGED:

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1. POSSESSING, CONSUMING OR TRANSPORTING TWO AND ONE-HALF OUNCES OR LESS OF MARIJUANA, OF WHICH NOT MORE THAN TWELVE AND ONE-HALF GRAMS WAS IN THE FORM OF MARIJUANA CONCENTRATE.

2. POSSESSING, TRANSPORTING, CULTIVATING OR PROCESSING NOT MORE THAN SIX MARIJUANA PLANTS AT THE INDIVIDUAL'S PRIMARY RESIDENCE FOR PERSONAL USE.

3. POSSESSING, USING OR TRANSPORTING PARAPHERNALIA RELATING TO THE CULTIVATION, MANUFACTURE, PROCESSING OR CONSUMPTION OF MARIJUANA.

B. IF THE COURT RECEIVES A PETITION FOR EXPUNGEMENT PURSUANT TO THIS SECTION:

1. THE COURT SHALL NOTIFY THE PROSECUTING AGENCY OF THE FILING OF THE PETITION, AND ALLOW THE PROSECUTING AGENCY TO RESPOND TO THE PETITION WITHIN THIRTY DAYS.

2. THE COURT MAY HOLD A HEARING:

(a) ON THE REQUEST OF EITHER THE PETITIONER OR THE PROSECUTING AGENCY.

(b) IF THE COURT CONCLUDES THERE ARE GENUINE DISPUTES OF FACT REGARDING WHETHER THE PETITION SHOULD BE GRANTED.

3. THE COURT SHALL GRANT THE PETITION UNLESS THE PROSECUTING AGENCY ESTABLISHES BY CLEAR AND CONVINCING EVIDENCE THAT THE PETITIONER IS NOT ELIGIBLE FOR EXPUNGEMENT.

4. THE COURT SHALL ISSUE A SIGNED ORDER OR MINUTE ENTRY GRANTING OR DENYING THE PETITION IN WHICH IT MAKES FINDINGS OF FACT AND CONCLUSIONS OF LAW.

C. IF THE COURT GRANTS A PETITION FOR EXPUNGEMENT:

1. THE SIGNED ORDER OR MINUTE ENTRY REQUIRED PURSUANT TO SUBSECTION B, PARAGRAPH 4 OF THIS SECTION SHALL DO ALL OF THE FOLLOWING:

(a) IF THE PETITIONER WAS ADJUDICATED OR CONVICTED OF AN OFFENSE SET FORTH IN SUBSECTION A OF THIS SECTION, VACATE THE JUDGMENT OF ADJUDICATION OR CONVICTION.

(b) STATE THAT IT EXPUNGES ANY RECORD OF THE PETITIONER'S ARREST, CHARGE, CONVICTION, ADJUDICATION AND SENTENCE.

(c) IF THE PETITIONER WAS CONVICTED OR ADJUDICATED OF AN OFFENSE SET FORTH IN SUBSECTION A OF THIS SECTION, STATE THAT THE PETITIONER'S CIVIL RIGHTS, INCLUDING THE RIGHT TO POSSESS FIREARMS, ARE RESTORED, UNLESS THE PETITIONER IS OTHERWISE NOT ELIGIBLE FOR THE RESTORATION OF CIVIL RIGHTS ON GROUNDS OTHER THAN A CONVICTION FOR AN OFFENSE SET FORTH IN SUBSECTION A OF THIS SECTION.

(d) REQUIRE THE CLERK OF THE COURT TO NOTIFY THE DEPARTMENT OF PUBLIC SAFETY, THE PROSECUTING AGENCY AND THE ARRESTING LAW ENFORCEMENT AGENCY, IF APPLICABLE, OF THE EXPUNGEMENT ORDER.

(e) REQUIRE THE CLERK OF THE COURT TO SEAL ALL RECORDS RELATING TO THE EXPUNGED ARREST, CHARGE, ADJUDICATION, CONVICTION OR SENTENCE AND ALLOW THE RECORDS TO BE ACCESSED ONLY BY THE INDIVIDUAL WHOSE RECORD WAS EXPUNGED OR THE INDIVIDUAL'S ATTORNEY.

2. THE DEPARTMENT OF PUBLIC SAFETY SHALL SEAL AND SEPARATE THE EXPUNGED RECORD FROM ITS RECORDS AND INFORM ALL APPROPRIATE STATE AND FEDERAL LAW ENFORCEMENT AGENCIES OF THE EXPUNGEMENT. UNLESS THE PETITIONER IS INDIGENT, THE DEPARTMENT OF PUBLIC SAFETY MAY CHARGE THE SUCCESSFUL PETITIONER A REASONABLE FEE DETERMINED BY THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY TO RESEARCH AND CORRECT THE PETITIONER'S CRIMINAL HISTORY RECORD.

3. THE ARRESTING AND PROSECUTING AGENCIES SHALL CLEARLY IDENTIFY IN EACH AGENCY'S FILES AND ELECTRONIC RECORDS THAT THE PETITIONER'S ARREST, CHARGE, CONVICTION, ADJUDICATION AND SENTENCE ARE EXPUNGED AND SHALL NOT MAKE ANY RECORDS OF THE EXPUNGED ARREST, CHARGE, CONVICTION, ADJUDICATION OR SENTENCE AVAILABLE AS A PUBLIC RECORD TO ANY PERSON EXCEPT TO THE INDIVIDUAL WHOSE RECORD WAS EXPUNGED OR THAT INDIVIDUAL'S ATTORNEY.

D. AN ARREST, CHARGE, ADJUDICATION, CONVICTION OR SENTENCE THAT IS EXPUNGED PURSUANT TO THIS SECTION MAY NOT BE USED IN A SUBSEQUENT PROSECUTION BY A PROSECUTING AGENCY OR COURT FOR ANY PURPOSE.

E. AN INDIVIDUAL WHOSE RECORD OF ARREST, CHARGE, ADJUDICATION, CONVICTION OR SENTENCE IS EXPUNGED PURSUANT TO THIS SECTION MAY STATE THAT THE INDIVIDUAL HAS NEVER BEEN ARRESTED FOR, CHARGED WITH, ADJUDICATED OR CONVICTED OF, OR SENTENCED FOR THE CRIME THAT IS THE SUBJECT OF THE EXPUNGEMENT.

F. IF THE COURT DENIES A PETITION FOR EXPUNGEMENT, THE PETITIONER MAY FILE A DIRECT APPEAL PURSUANT TO SECTION 13-4033, SUBSECTION A, PARAGRAPH 3.

G. ON MOTION, THE COURT SHALL DISMISS WITH PREJUDICE ANY PENDING COMPLAINT, INFORMATION OR INDICTMENT BASED ON ANY OFFENSE SET FORTH IN SUBSECTION A OF THIS SECTION, TO INCLUDE CHARGES OR ALLEGATIONS BASED ON OR ARISING OUT OF CONDUCT OCCURRING BEFORE THE EFFECTIVE DATE OF THIS CHAPTER. THE INDIVIDUAL CHARGED MAY THEREAFTER PETITION THE COURT TO

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EXPUNGE RECORDS OF THE ARREST AND CHARGE OR ALLEGATION AS PROVIDED IN THIS SECTION. A MOTION BROUGHT PURSUANT TO THIS SUBSECTION MAY BE FILED WITH THE COURT BEFORE JULY 12, 2021.

H. THE SUPREME COURT MAY ADOPT RULES NECESSARY TO IMPLEMENT THIS SECTION, AND MAY ALSO SPONSOR PUBLIC SERVICE ANNOUNCEMENTS OR OTHER NOTIFICATIONS INTENDED TO PROVIDE NOTICE TO INDIVIDUALS WHO MAY BE ELIGIBLE TO FILE PETITIONS FOR EXPUNGEMENT PURSUANT TO THIS SECTION.

I. A PROSECUTING AGENCY MAY FILE A PETITION FOR EXPUNGEMENT PURSUANT TO THIS SECTION ON BEHALF OF ANY INDIVIDUAL WHO WAS PROSECUTED BY THAT PROSECUTING AGENCY, AND THE ATTORNEY GENERAL MAY FILE A PETITION FOR EXPUNGEMENT PURSUANT TO THIS SECTION ON BEHALF OF ANY INDIVIDUAL.

36-2863. Justice reinvestment fund; exemption; distribution; definition

A. THE JUSTICE REINVESTMENT FUND IS ESTABLISHED CONSISTING OF ALL MONIES DEPOSITED PURSUANT TO SECTION 36-2856 AND INTEREST EARNED ON THOSE MONIES. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. MONIES IN THE FUND AND ITS ACCOUNTS MAY NOT BE TRANSFERRED TO ANY OTHER FUND EXCEPT AS PROVIDED IN THIS SECTION, DO NOT REVERT TO THE STATE GENERAL FUND, AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO THE LAPSING OF APPROPRIATIONS. THE STATE TREASURER SHALL ADMINISTER THE FUND.

B. ALL MONIES IN THE JUSTICE REINVESTMENT FUND MUST FIRST BE SPENT, AND THE STATE TREASURER SHALL TRANSFER MONIES FROM THE FUND, TO PAY:

1. THE REASONABLE COSTS INCURRED BY THE STATE TREASURER TO ADMINISTER THE FUND.
2. THE REASONABLE ADMINISTRATIVE COSTS INCURRED BY THE DEPARTMENT TO CARRY OUT ITS DUTIES PURSUANT TO THIS SECTION.

C. ON OR BEFORE JUNE 30 AND DECEMBER 31 OF EACH YEAR, THE STATE TREASURER SHALL TRANSFER ALL MONIES IN THE JUSTICE REINVESTMENT FUND IN EXCESS OF THE AMOUNTS PAID PURSUANT TO SUBSECTION B OF THIS SECTION AS FOLLOWS:

1. THIRTY-FIVE PERCENT TO COUNTY PUBLIC HEALTH DEPARTMENTS, IN PROPORTION TO THE POPULATION OF EACH COUNTY ACCORDING TO THE MOST RECENT UNITED STATES DECENNIAL CENSUS, FOR THE PURPOSE OF PROVIDING JUSTICE REINVESTMENT PROGRAMS OR DISTRIBUTING GRANTS TO QUALIFIED NONPROFIT ORGANIZATIONS TO PROVIDE JUSTICE REINVESTMENT PROGRAMS IN THAT COUNTY.
2. THIRTY-FIVE PERCENT TO THE DEPARTMENT FOR THE PURPOSE OF DISTRIBUTING GRANTS TO QUALIFIED NONPROFIT ORGANIZATIONS THAT PROVIDE JUSTICE REINVESTMENT PROGRAMS IN THIS STATE.
3. THIRTY PERCENT TO THE DEPARTMENT FOR THE PURPOSE OF ADDRESSING IMPORTANT PUBLIC HEALTH ISSUES THAT AFFECT THIS STATE.

D. GRANTS MADE PURSUANT TO THIS SECTION ARE EXEMPT FROM TITLE 41, CHAPTER 23, AND EACH GRANTEE SHALL PROVIDE THE GRANTING AGENCY WITH AN ANNUAL REPORT DETAILING THE USE OF GRANTED MONIES.

E. MONIES TRANSFERRED AND RECEIVED PURSUANT TO SUBSECTION C OF THIS SECTION ARE NOT CONSIDERED LOCAL REVENUES FOR THE PURPOSES OF ARTICLE IX, SECTION 20, CONSTITUTION OF ARIZONA.

F. THE STATE TREASURER MAY PRESCRIBE FORMS NECESSARY TO MAKE TRANSFERS PURSUANT TO SUBSECTION B OF THIS SECTION.

G. FOR THE PURPOSES OF THIS SECTION, "JUSTICE REINVESTMENT PROGRAMS" MEANS INITIATIVES OR PROGRAMS THAT FOCUS ON ANY OF THE FOLLOWING:

1. PUBLIC AND BEHAVIORAL HEALTH, INCLUDING EVIDENCE-BASED AND EVIDENCE-INFORMED SUBSTANCE USE PREVENTION AND TREATMENT AND SUBSTANCE USE EARLY INTERVENTION SERVICES.
2. RESTORATIVE JUSTICE, JAIL DIVERSION, WORKFORCE DEVELOPMENT, INDUSTRY-SPECIFIC TECHNICAL ASSISTANCE OR MENTORING SERVICES FOR ECONOMICALLY DISADVANTAGED PERSONS IN COMMUNITIES DISPROPORTIONATELY IMPACTED BY HIGH RATES OF ARREST AND INCARCERATION.
3. ADDRESSING THE UNDERLYING CAUSES OF CRIME, REDUCING DRUG-RELATED ARRESTS AND REDUCING THE PRISON POPULATION IN THIS STATE.
4. CREATING OR DEVELOPING TECHNOLOGY AND PROGRAMS TO ASSIST WITH THE RESTORATION OF CIVIL RIGHTS AND THE EXPUNGEMENT OF CRIMINAL RECORDS.

36-2864. Transaction privilege tax; use tax; additional taxes prohibited; exception

A. FOR PURPOSES OF THE TRANSACTION PRIVILEGE TAX AND USE TAX LEVIED AND COLLECTED PURSUANT TO TITLE 42, CHAPTERS 5 AND 6, MARIJUANA AND MARIJUANA PRODUCTS ARE TANGIBLE PERSONAL PROPERTY DEFINED IN SECTION 42-5001 AND ARE SUBJECT TO THE TRANSACTION PRIVILEGE TAX IN THE RETAIL CLASSIFICATION AND USE TAX.

B. EXCEPT AS PROVIDED IN SUBSECTION A OF THIS SECTION AND SECTION 42-5452, THIS STATE AND LOCALITIES MAY NOT LEVY OR COLLECT ADDITIONAL TAXES OF ANY KIND ON THE SALE OF MARIJUANA OR MARIJUANA PRODUCTS AND MAY NOT LEVY OR COLLECT ANY FEES OR ASSESSMENTS OF ANY KIND ON THE

SALE OF MARIJUANA OR MARIJUANA PRODUCTS OR ON THE LICENSING, OPERATIONS OR ACTIVITIES OF MARIJUANA ESTABLISHMENTS OR MARIJUANA TESTING FACILITIES, UNLESS THE FEE OR ASSESSMENT IS OF GENERAL APPLICABILITY TO INDIVIDUALS OR BUSINESSES THAT ARE NOT ENGAGED IN THE SALE OF MARIJUANA OR MARIJUANA PRODUCTS.

C. THE PROHIBITION IMPOSED BY SUBSECTION B OF THIS SECTION DOES NOT APPLY TO UNIFORM INCREASES TO THE TRANSACTION PRIVILEGE TAX RATE FOR THE RETAIL CLASSIFICATION OR USE TAX RATE BY THIS STATE OR A LOCALITY OR TO UNIFORM INCREASES TO FEES OR ASSESSMENTS ALLOWED BY SUBSECTION B OF THIS SECTION.

36-2865. Enforcement of this chapter; special action

A. IF THE DEPARTMENT FAILS TO ADOPT RULES NECESSARY TO IMPLEMENT THIS CHAPTER ON OR BEFORE JUNE 1, 2021, OR FAILS TO BEGIN ACCEPTING APPLICATIONS AS PROVIDED IN SECTION 36-2854, SUBSECTION A, PARAGRAPH 1, SUBDIVISION (d), ANY CITIZEN MAY COMMENCE A SPECIAL ACTION IN SUPERIOR COURT TO COMPEL THE DEPARTMENT TO PERFORM THE ACTIONS MANDATED UNDER THIS CHAPTER.

B. IF THE DEPARTMENT FAILS TO ISSUE A LICENSE OR SEND A NOTICE OF DENIAL WITHIN SIXTY DAYS AFTER RECEIVING A COMPLETE MARIJUANA ESTABLISHMENT APPLICATION PURSUANT TO SECTION 36-2854, SUBSECTION A, PARAGRAPH 1, SUBDIVISION (d), THE APPLICANT MAY COMMENCE A SPECIAL ACTION IN SUPERIOR COURT TO COMPEL THE DEPARTMENT TO PERFORM THE ACTIONS MANDATED UNDER THIS CHAPTER.

C. NOTWITHSTANDING CHAPTER 28.1 OF THIS TITLE, IF THE DEPARTMENT FAILS TO ISSUE ANY MARIJUANA ESTABLISHMENT LICENSES PURSUANT TO SECTION 36-2854, SUBSECTION A, PARAGRAPH 1, SUBDIVISION D ON OR BEFORE APRIL 5, 2021, EACH NONPROFIT MEDICAL MARIJUANA DISPENSARY IN GOOD STANDING MAY BEGIN TO CULTIVATE, PRODUCE, PROCESS, MANUFACTURE, TRANSPORT AND TEST MARIJUANA AND MARIJUANA PRODUCTS AND MAY SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS UNTIL THE DEPARTMENT ISSUES LICENSES TO OPERATE MARIJUANA ESTABLISHMENTS. IF THIS OCCURS, NONPROFIT MEDICAL MARIJUANA DISPENSARIES IN GOOD STANDING SHALL:

1. BE TREATED AS MARIJUANA ESTABLISHMENTS FOR ALL PURPOSES UNDER THIS CHAPTER, AND THEIR NONPROFIT MEDICAL MARIJUANA ESTABLISHMENT AGENTS SHALL BE TREATED AS MARIJUANA FACILITY AGENTS FOR ALL PURPOSES UNDER THIS CHAPTER.
2. COMPLY WITH THE RULES ADOPTED BY THE DEPARTMENT TO IMPLEMENT CHAPTER 28.1 OF THIS TITLE, EXCEPT THOSE THAT ARE INCONSISTENT WITH THIS CHAPTER.

Section 5. Title 42, Chapter 5, Arizona Revised Statutes, is amended by adding article 10 to read:

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ARTICLE 10.
MARIJUANA AND MARIJUANA PRODUCTS

42-5451. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "CONSUMER," "DUAL LICENSEE," "MARIJUANA," "MARIJUANA ESTABLISHMENT" AND "MARIJUANA PRODUCTS" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2850.
2. "DESIGNATED CAREGIVER," "NONPROFIT MEDICAL MARIJUANA DISPENSARY" AND "QUALIFYING PATIENT" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2801.

42-5452. Levy and rate of tax; effect of federal excise tax

A. THERE IS LEVIED AND THE DEPARTMENT SHALL COLLECT AN EXCISE TAX ON ALL MARIJUANA AND MARIJUANA PRODUCTS SOLD TO A CONSUMER BY A MARIJUANA ESTABLISHMENT AT A RATE OF SIXTEEN PERCENT OF THE PRICE OF THE MARIJUANA OR MARIJUANA PRODUCT SOLD. THIS SUBSECTION DOES NOT APPLY TO MARIJUANA DISPENSED TO A REGISTERED QUALIFYING PATIENT OR REGISTERED DESIGNATED CAREGIVER PURSUANT TO TITLE 36, CHAPTER 28.1 BY A DUAL LICENSEE OR NONPROFIT MEDICAL MARIJUANA DISPENSARY.

B. IF THE UNITED STATES LEVIES AND COLLECTS AN EXCISE TAX ON MARIJUANA AND MARIJUANA PRODUCTS, THE AGGREGATE OF FEDERAL AND STATE EXCISE TAXES MAY NOT EXCEED A RATE OF THIRTY PERCENT OF THE PRICE OF THE MARIJUANA OR MARIJUANA PRODUCT SOLD, AND THE TAX LEVIED PURSUANT TO SUBSECTION A OF THIS SECTION SHALL BE LOWERED ACCORDINGLY AND AUTOMATICALLY ON THE EFFECTIVE DATE OF THE FEDERAL EXCISE TAX.

C. A PRODUCT SUBJECT TO THE TAX IMPOSED BY THIS SECTION MAY NOT BE BUNDLED WITH A PRODUCT OR SERVICE THAT IS NOT SUBJECT TO THE TAX IMPOSED BY THIS SECTION.

D. THE TAX LEVIED AND COLLECTED PURSUANT TO THIS SECTION SHALL NOT BE INCLUDED IN COMPUTING THE TAX BASE, GROSS PROCEEDS OF SALES OR GROSS INCOME OF A MARIJUANA ESTABLISHMENT

FOR PURPOSES OF TITLE 42, CHAPTERS 5 AND 6, AND IS NOT SUBJECT TO ANY TRANSACTION PRIVILEGE, SALES, USE OR OTHER SIMILAR TAX LEVIED BY A COUNTY, CITY, TOWN OR SPECIAL TAXING DISTRICT.

E. NOTWITHSTANDING SECTION 42-3102, THE DEPARTMENT SHALL DEPOSIT ALL MONIES LEVIED AND COLLECTED PURSUANT TO THIS SECTION IN THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856.

42-5453. Return statement and payment by marijuana establishment; penalty; interest; rules; confidential information

A. THE TAX IMPOSED BY THIS ARTICLE IS DUE AND PAYABLE, TOGETHER WITH A RETURN STATEMENT PRESCRIBED BY THE DEPARTMENT, FOR EACH MONTH ON OR BEFORE THE TWENTIETH DAY OF THE SUCCEEDING MONTH.

B. A MARIJUANA ESTABLISHMENT THAT FAILS TO PAY THE TAX IMPOSED BY THIS ARTICLE WITHIN TEN DAYS AFTER THE DATE THE PAYMENT IS DUE IS SUBJECT TO AND SHALL PAY A PENALTY DETERMINED UNDER SECTION 42-1125, PLUS INTEREST AT THE RATE DETERMINED PURSUANT TO SECTION 42-1123, FROM THE TIME THE TAX WAS DUE AND PAYABLE UNTIL PAID. THE DEPARTMENT MAY WAIVE ANY PENALTY OR INTEREST IF IT DETERMINES THAT THE MARIJUANA ESTABLISHMENT HAS MADE A GOOD FAITH ATTEMPT TO COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE.

C. THE MONTHLY RETURN STATEMENT PRESCRIBED BY THE DEPARTMENT SHALL INCLUDE AN ACCOUNTING OF THE QUANTITY OF MARIJUANA THAT IS SOLD BY A MARIJUANA ESTABLISHMENT THAT IS SUBJECT TO THE TAX IMPOSED BY THIS ARTICLE DURING THE TAX MONTH.

D. ALL PENALTIES AND INTEREST COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856.

E. THE DEPARTMENT MAY ADOPT RULES THAT ARE NECESSARY OR CONVENIENT TO ENFORCE THIS ARTICLE, EXCEPT THAT THOSE RULES MAY NOT CONFLICT WITH TITLE 36, CHAPTER 28.2.

F. THE DEPARTMENT MAY SHARE CONFIDENTIAL INFORMATION AS DEFINED IN SECTION 42-2001 WITH THE DEPARTMENT OF HEALTH SERVICES FOR ITS USE IN DETERMINING WHETHER A MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY OR DUAL LICENSEE IS IN COMPLIANCE WITH TAX OBLIGATIONS UNDER THIS TITLE OR TITLE 43.

Section 6. Title 43, Chapter 1, article 1, Arizona Revised Statutes, is amended by adding Section 43-108 to read:

43-108. Subtraction from gross income; ordinary and necessary expenses; marijuana establishments and marijuana testing facilities; definitions

A. NOTWITHSTANDING ANY OTHER LAW, IN COMPUTING ARIZONA ADJUSTED GROSS INCOME OR ARIZONA TAXABLE INCOME FOR A TAXPAYER, ALL ORDINARY AND NECESSARY EXPENSES PAID OR INCURRED DURING THE TAXABLE YEAR IN CARRYING ON A TRADE OR BUSINESS AS A MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY, OR DUAL LICENSEE THAT ELECTS TO OPERATE ON A FOR-PROFIT BASIS PURSUANT TO TITLE 36, CHAPTER 28.2 SHALL BE SUBTRACTED FROM ARIZONA GROSS INCOME TO THE EXTENT NOT ALREADY EXCLUDED FROM ARIZONA GROSS INCOME.

B. FOR THE PURPOSES OF THIS SECTION, "DUAL LICENSEE," "MARIJUANA ESTABLISHMENT," AND "MARIJUANA TESTING FACILITY" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2850.

Section 7. Voter Protection Act

For the purposes of the Voter Protection Act, Ariz. Const. art. IV, pt. 1, § 1(6)(C), the People of the State of Arizona declare that the following acts of the Legislature would further the purpose of this act:

1. Enacting a per se law for the presumption of marijuana impairment based on the concentration of delta-9 tetrahydrocannabinol in a person's body when scientific research on the subject is conclusive and the National Highway Traffic Safety Administration recommends the adoption of such a law.
2. Reducing or eliminating any offense, offense level or penalty provided for in this act.
3. Increasing the amount of marijuana that a person may lawfully possess.
4. Amending the provisions of this act to align more closely with federal laws and regulations if marijuana is legalized or decriminalized by the federal government, but only if and to the extent that such federal laws and regulations are not more restrictive than the provisions of this act.
5. Amending the provisions of this act to align more closely with federal laws and regulations governing the possession, processing, cultivation, transport, or transfer of industrial hemp, but only if and to the extent that such federal laws and regulations are not more restrictive than the provisions of this act.
6. Increasing the number of marijuana establishment licenses by up to 10 percent in furtherance of the social equity ownership program established by this act.
7. Facilitating the expungement and sealing of records of arrests, charges, convictions, adjudications and sentences that were predicated on conduct made lawful by this act, including by automatic means, and otherwise preventing or mitigating prejudice to individuals whose arrests, charges, convictions, adjudications or sentences are expunged.

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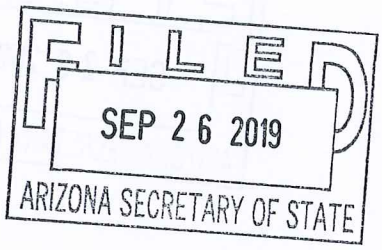
8. Amending the definition of "smoking" in this act to conform with the Smoke-Free Arizona Act if that act is amended to include the use of an electronic smoking device that creates an aerosol or vapor.

Section 8. Exemption from rulemaking

For the purposes of this act, and for sixty months after the effective date of this act, the department of revenue and the department of health services are exempt from (a) any executive order or other directive purporting to limit or restrict their ability to adopt new rules, and (b) the rulemaking requirements of title 41, chapters 6 and 6.1, Arizona Revised Statutes, except that each department shall provide the public with a reasonable opportunity to comment on proposed rules and shall publish otherwise exempted rules.

Section 9. Severability

If any provision of this act or its application to any person or circumstance is declared invalid by a court of competent jurisdiction, such invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application. The invalidated provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of this act and, to the fullest extent possible, the provisions of this act, including each portion of any section of this act containing any invalidated provision that is not itself invalid, shall be construed so as to give effect to the intent thereof.



League of Arizona Cities and Towns

Model Ordinance Relating to Recreational Marijuana

(September 29, 2020)

Options are highlighted in yellow.

Notes are in red.

ORDINANCE NO. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE [CITY/TOWN] OF _____, ARIZONA, AMENDING THE CODE OF _____, ARIZONA BY ADOPTING A NEW ARTICLE ___ RELATING TO THE REGULATION OF RECREATIONAL MARIJUANA; ESTABLISHING A PURPOSE; SETTING FORTH DEFINITIONS; PROHIBITING MARIJUANA ON PUBLIC PROPERTY; [PROHIBITING MARIJUANA ESTABLISHMENTS AND/OR MARIJUANA TESTING FACILITIES ***OR*** REGULATING MARIJUANA ESTABLISHMENTS AND/OR MARIJUANA TESTING FACILITIES]; ESTABLISHING REGULATIONS FOR PERSONAL USE AT AN INDIVIDUAL'S PRIMARY RESIDENCE; AUTHORIZING RETAIL SALES FROM MARIJUANA AND MARIJUANA PRODUCTS; IMPOSING FEES; SETTING FORTH VIOLATIONS; AND PROVIDING FOR ENFORCEMENT AND PENALTIES.

WHEREAS, marijuana contains tetrahydrocannabinol ("THC"), which remains on Schedule I of the Controlled Substances Act pursuant to 21 U.S.C. § 811 et al. and any possession and use is a violation of federal law pursuant to 21 U.S.C. § 841 et. al.;

WHEREAS, the Arizona Medical Marijuana Act, Arizona Revised Statutes Sections § 36-2801 et al., and Title 9, Chapter 17 of the Arizona Administrative Code allow the establishment and operation of nonprofit medical marijuana dispensaries in [City/Town] according to a prescribed statutory and regulatory process;

WHEREAS, the statewide ballot measure I-23-2020, known as "Smart and Safe Arizona Act" has been certified as Proposition 207 and placed on the November 3, 2020 general election ballot and contains provisions authorizing the possession, consumption, purchase, processing, manufacturing or transporting of marijuana by an individual who is at least twenty-one (21) years of age; authorizing possession, transport, cultivation or processing of marijuana plants in a primary residence by adults over 21 years of older; allowing a nonprofit medical marijuana dispensary or other non-dispensary applicant to apply to the Department of Health Services to become a licensed marijuana establishment authorized to engage in the retail sale, cultivation and manufacturing of marijuana; and allowing the Department, or another entity designated by the Department, to become a marijuana testing facility to test the potency of marijuana and detect any harmful contaminants;

WHEREAS, the [City/Town] finds that Proposition 207 authorizes marijuana establishments to use chemical extraction or chemical synthesis, including butane and other flammable gases, to extract marijuana concentrate, which poses a threat to the health, safety and security of the community and increases the responsibilities of law enforcement and other [City/Town] departments to respond to violations of state and local laws, including building, electrical and fire codes;

[OPTION: If Prohibiting establishments/facilities]

WHEREAS, the [City/Town] seeks to protect public health, safety, and welfare by prohibiting marijuana establishments and/or marijuana testing facilities in the [City/Town];

[OPTION: If Allowing/Regulating establishments/facilities]

WHEREAS, the [City/Town] seeks to protect public health, safety, and welfare by enacting reasonable zoning regulations to limit the number of marijuana establishments and/or marijuana testing facilities in [City/Town];

NOW THEREFORE, BE IT ORDAINED by the Common Council of the [City/Town] of _____, Arizona, as follows:

Section I. In General.

The Code of _____, Arizona, is hereby amended by adding a new Article __, Recreational Marijuana to read as follows:

Article X-X
Sec. X-X-1 Purpose
Sec. X-X-2 Definitions
Sec. X-X-3 Marijuana Prohibited on Public Property

Option A: Prohibits Marijuana Establishments and Marijuana Testing Facilities

Sec. X-X-4(A) Marijuana Establishment Prohibited
Sec. X-X-5(A) Marijuana Testing Facility Prohibited

Option B: Prohibits Marijuana Establishments Except for Dual Licensees; Prohibits Marijuana Testing Facilities

Sec. X-X-4(B) Marijuana Establishment Prohibited; Dual Licensee Exception.
Sec. X-X-5(B) Marijuana Testing Facility Prohibited

Option C: Prohibits Marijuana Establishments (with or without exception for dual licensees); Permits Marijuana Testing Facilities

Sec. X-X-4(C) INSERT Sec. X-X-4(A) or Sec. X-X-4(B)
Sec. X-X-4(C) Marijuana Testing Facility Permitted

Option D: Permits Marijuana Establishments; Prohibits or Permits Marijuana Testing Facilities

Sec. X-X-4(D) Marijuana Establishments Permitted; Nonresidential
Sec. X-X-5(D) INSERT Sec. X-X-5(A) or X-X-5(C)

Sec. X-X-6 Individual's Primary Residence for Personal Use
Sec. X-X-7 Retail Sales from Marijuana and Marijuana Products
Sec. X-X-8 Fees
Sec. X-X-9 Violations
Sec. X-X-10 Enforcement; Penalties

Sec. X-X-1 Purpose.

[OPTION: If prohibiting marijuana.]

This article is adopted to protect the health, safety, and welfare of the community. Except as allowed by law for personal, private use, the [City/Town] prohibits the retail sale, cultivation, and manufacturing of marijuana or marijuana products in [City/Town]. Nothing in this article is intended to promote or condone the sale, cultivation, manufacture, transport, production, distribution, possession, or use of marijuana or marijuana products in violation of any applicable law.

OR

[OPTION: If regulating marijuana.]

This article is adopted to protect the health, safety, and welfare of the community. Except as allowed by law for personal, private use, the [City/Town] enacts reasonable regulations and requires compliance with zoning laws for the retail sale, cultivation and manufacturing of marijuana or marijuana products in a marijuana establishment or marijuana testing facility and the cultivation, processing and manufacturing of marijuana in a primary residence. Nothing in this article is intended to promote or condone the sale, cultivation, manufacture, transport, production, distribution, possession, or use of marijuana or marijuana products in violation of any applicable law.

Sec. X-X-2 Definitions.

The below words and phrases, wherever used in this article, shall be construed as defined in this section unless, clearly from the context, a different meaning is intended. Words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

A. "*Chemical Extraction*" means the process of removing a particular component of a mixture from others present, including removing resinous tetrahydrocannabinol from marijuana.

B. "*Chemical Synthesis*" means production of a new particular molecule by adding to, subtracting from, or changing the structure of a precursor molecule.

C. "*Consume,*" *"Consuming,"* and *"Consumption"* mean the act of ingesting, inhaling or otherwise introducing marijuana into the human body.

D. "*Consumer"* means an individual who is at least twenty-one years of age and who purchases marijuana or marijuana products.

E. "*Cultivate*" and "*Cultivation*" mean to propagate, breed, grow, prepare and package marijuana.

F. "*Deliver*" and "*Delivery*" mean the transportation, transfer or provision of marijuana or marijuana products to a consumer at a location other than the designated retail location of a marijuana establishment.

G. "*Department*" means the State of Arizona Department of Health Services or its successor agency.

H. "*Dual Licensee*" means an entity that holds both a nonprofit medical marijuana dispensary registration and a marijuana establishment license.

I. "*Enclosed Area*" means a building, greenhouse, or other structure that has:

1. A complete roof enclosure supported by connecting walls that are constructed of solid material extending from the ground to the roof;
2. Is secure against unauthorized entry;
3. Has a foundation, slab or equivalent base to which the floor is securely attached; and
4. Meets performance standards ensuring that cultivation and processing activities cannot be and are not perceptible from the structure in terms of not being visible from public view without using binoculars, aircraft or other optical aids and is equipped with a lock or other security device that prevents access by minors.

J. "*Extraction*" means the process of extracting or separating resin from marijuana to produce or process any form of marijuana concentrates using water, lipids, gases, solvents, or other chemicals or chemical processes.

K. "*Manufacture*" and "*Manufacturing*" mean to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

L. "*Marijuana"*

1. Means all parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound,

manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin.
2. Includes cannabis as defined in A.R.S. § 13-3401.
3. Does not include industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis, oil or cake made from the seeds of the plant, sterilized seeds of the plant that are incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

M. "*Marijuana Concentrate*."
1. Means resin extracted from any part of a plant of the genus cannabis and every compound, manufacture, salt, derivative, mixture or preparation of that resin or tetrahydrocannabinol.
2. Does not include industrial hemp or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or other products.

N. "*Marijuana Establishment*" means an entity licensed by the Department to operate all of the following:
1. A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.
2. A single off-site cultivation location at which the licensee may cultivate marijuana, process marijuana and manufacture marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.
3. A single off-site location at which the licensee may manufacture marijuana products and package and store marijuana and marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

O. "*Marijuana Products*" means marijuana concentrate and products that are composed of marijuana and other ingredients and that are intended for use or consumption, including edible products, ointments, and tinctures.

P. "*Marijuana Testing Facility*" means the Department or another entity that is licensed by the Department to analyze the potency of marijuana and test marijuana for harmful contaminants.

Q. "*Nonprofit Medical Marijuana Dispensary*" means a nonprofit entity as defined in A.R.S. § 36-2801(12).

R. "*Open Space*" means a public park, public sidewalk, public walkway or public pedestrian thoroughfare.

S. "*Person*" means an individual, partnership, corporation, association, or any other entity of whatever kind or nature.

T. "*Process*" *and "Processing"* means to harvest, dry, cure, trim or separate parts of the marijuana plant.

U. "*Public Place*" has the same meaning prescribed in the Smoke-Free-Arizona Act, A.R.S. § 36-601.01.

V. "*Smoke*" means to inhale, exhale, burn, carry or possess any lighted marijuana or lighted marijuana products, whether natural or synthetic.

Sec. X-X-3 Marijuana Prohibited on Public Property.

A. The use, sale, cultivation, manufacture, production or distribution of marijuana or marijuana products is prohibited on property that is occupied, owned, controlled or operated by [City/Town].

B. It is unlawful for an individual to smoke marijuana in a public place or open space in [City/Town].

[OPTION A: Sec. X-X-4(A) and X-X-5(A) prohibits a marijuana establishment and marijuana testing facility – a municipality may prohibit either or both.]

Sec. X-X-4(A) Marijuana Establishment Prohibited.

A. To the fullest extent allowable by law, the operation of a marijuana establishment is prohibited in [City/Town].

B. To the fullest extent allowable by law, the operation of a marijuana establishment by a dual licensee is prohibited in [City/Town].

Sec. X-X-5(A) Marijuana Testing Facility Prohibited.

A. To the fullest extent allowable by law, the operation of a marijuana testing facility is prohibited in [City/Town].

[OPTION B: Sec. X-X-4(B) and X-X-5(B) prohibits a marijuana establishment with the exception of dual licensees who operate both medical dispensaries and marijuana establishments at a shared location; prohibits a marijuana testing facility].

Sec. X-X-4(B) Marijuana Establishment Prohibited; Dual Licensee Exception.

A. To the fullest extent allowable by law, the operation of a marijuana establishment is prohibited in [City/Town], except where authorized for a dual licensee who:
   1. Operates both a nonprofit medical marijuana dispensary and marijuana establishment cooperatively in a shared location; and
   2. Has not forfeited or terminated the nonprofit medical marijuana dispensary registration from the Department.

Sec. X-X-5(B) Marijuana Testing Facility Prohibited.

B. To the fullest extent allowable by law, the operation of a marijuana testing facility is prohibited in [City/Town].

[OPTION C: Sec. X-X-4(C) and X-X-5(C) prohibits a marijuana establishment but allows a marijuana testing facility].

Sec. X-X-4(C)
[INSERT Sec. X-X-4(A) prohibition of all Marijuana Establishments or Sec. X-X-4(B) prohibition of Marijuana Establishment with dual licensee exception].

Sec. X-X-5(C) Marijuana Testing Facility Permitted.

A. It shall be unlawful for a person to operate a marijuana testing facility at any location within the [City/Town] without obtaining a _____ permit from the [City/Town] clerk in accordance with [City/Town] Zoning Code Section _____, including any application and review procedures pursuant to _____.

B. A marijuana testing facility is permitted in [City/Town] subject to the following conditions:

   1. There are no more than ___ number of marijuana testing facilities operating in [City/Town].
   2. Shall ensure that access to the area of the facility where marijuana or marijuana products are being tested or stored for testing is limited to a facility's owners or authorized agents.
   3. Shall ensure that transportation of marijuana or marijuana products is in compliance with applicable law.
   4. Shall comply with all testing processes, protocols, standards, and criteria adopted by the Department for testing marijuana and marijuana products.
   5. Shall maintain records, equipment and instrumentation as required by the Department.

6. Shall submit a written security plan to the [City/Town] that specifies the measures that will be taken to deter and prevent unauthorized entrance into limited access areas including the use of security equipment to detect unauthorized intrusion, exterior lighting to facilitate surveillance, and electronic monitoring such as video cameras that provide coverage of all entrances to and exits from limited access areas and all entrances to and exits from the building and has sufficient recording resolution.

OR

Shall comply with all security protocols required by the Department.

[OPTION D: Sec. X-X-4(D) and X-X-5(D) permits a Marijuana Establishment and has an option for prohibiting or permitting a Marijuana Testing Facility].

[NOTE: The following provisions are provided as examples to include in your ordinance to regulate a Marijuana Establishment. However, if your city or town has existing medical marijuana regulations it may be simpler to reference back to those provisions since the Act prohibits a city or town from enacting an ordinance, regulation or rule that is unduly burdensome or more restrictive than a comparable ordinance, regulation, or rule that applies to nonprofit medical marijuana dispensaries.]

Sec. X-X-4(D) Marijuana Establishments Permitted; Nonresidential.

Marijuana establishments shall be regulated as outlined in Section ___ of the [City/Town] Code (reference to nonprofit medical marijuana dispensary regulations instead of including the following provisions).

OR

A. It shall be unlawful for a person to operate a marijuana establishment at any location within the [City/Town] without obtaining a _____ permit from the [City/Town] clerk in accordance with [City/Town] Zoning Code Section _____, including any application and review procedures pursuant to _____.

B. If authorized by state law and a valid permit has been obtained from the [City/Town], a marijuana establishment is permitted in [City/Town] subject to the following conditions and limitations:

[OPTION: Dual licensee only]

1. To the fullest extent allowable by law, shall be authorized for a dual licensee who operates both a nonprofit medical marijuana dispensary and marijuana establishment cooperatively in a

shared location and has not forfeited or terminated the nonprofit medical marijuana dispensary registration from the Department.

OR

[OPTION: Dual licensee (who is not limited to a shared location or maintaining dispensary registration) or any other licensed applicant; the Act allows the Department to issue social equity ownership program licenses that will be authorized to operate as marijuana establishments].

1. To the fullest extent allowable by law, shall be authorized in [City/Town] for:
   a. A dual licensee who operates both a nonprofit medical marijuana dispensary and marijuana establishment.
   b. Any other entity licensed by the Department to provide marijuana or marijuana products to consumers.

2. Shall not be more than ___ marijuana establishments operating in [City/Town].

3. Shall be authorized in _____ zoning districts.

4. Shall not be located within _____ hundred feet of the same type of use or a nonprofit medical marijuana dispensary. This distance shall be measured from the lot line of the property in which the businesses are conducted or proposed to be conducted.

5. Shall not be located within _____ hundred feet of a residentially zoned property. This distance shall be measured from the lot line of the property in which the business is conducted or proposed to be conducted to the property boundary line of the residentially zoned property.

6. Shall not be located within _____ feet of a preschool, kindergarten, elementary, secondary or high school, place of worship, public park, public cemetery or community center. This distance shall be measured from the lot line of the property in which the business is conducted or proposed to be conducted to the property line of the protected use.

7. Shall be located in a permanent building on an established foundation adhering to [City/Town] building codes and shall not include any temporary, portable or self-powered mobile facilities, or trailer, cargo container or motor vehicle.

8. Shall be a total maximum _____ square feet. Maximum square footage may be expanded subject to Use Permit application and hearing procedures set forth under [City/Town Code].

9. The secure storage area for the marijuana stored at the location shall not exceed _____square feet of the total _____ square foot maximum floor area of the facility. Maximum square footage may be expanded subject to Use Permit application and hearing procedures set forth under [City/Town Code].

10. Shall have operating hours not earlier than ____ a.m. and not later than ____ p.m.

11. Shall not provide drive-thru services or offsite deliveries of marijuana or marijuana products.

12. Shall not allow a person to consume marijuana or marijuana products on the premises or provide outdoor seating areas.

13. Shall provide for proper disposal of marijuana remnants or by-products. The remnants or by-products shall not to be placed within the facility's exterior refuse containers, [City/Town] trash can, bin or other [City/Town] facility, or in any park refuse container unless authorized by the [City/Town].

14. Shall not emit dust, fumes, vapors or odors into the environment from the facility and shall ensure that ventilation, air filtration, building and design standards are compatible with adjacent uses and the requirements of adopted building codes of [City/Town].

15. Shall not sell marijuana or marijuana products, except as permitted by state law to consumers.

16. Shall not display or keep marijuana or marijuana products that are visible from outside the premises.

17. Shall comply with applicable county health regulations for food preparation and handling.

18. Shall comply with applicable laws to safely and securely engage in extraction processes.

19. Shall submit a written security plan to the [City/Town] that describes the actions taken to deter and prevent unauthorized

entrance into limited access areas including use of security equipment, exterior lighting to facilitate surveillance, and electronic monitoring such as video cameras.

20. For a marijuana establishment that engages in cultivation or manufacturing, shall submit a written operations plan to the [City/Town] that describes the following:
    i. Procedures showing that the marijuana cultivation will be conducted in accordance with state and local laws and regulations regarding use and disposal of pesticides and fertilizers.
    ii. The legal water source, irrigation plan, wastewater systems to be used, and projected water use.
    iii. The plan for addressing odor and other public nuisances that may derive from the establishment.

Sec. X-X-5(D)
[INSERT Sec. X-X-5(A) to prohibit a Marijuana Testing Facility or Sec. X-X-5(C) to permit a Marijuana Testing Facility]

Sec. X-X-6 INDIVIDUAL'S PRIMARY RESIDENCE FOR PERSONAL USE

[NOTE: Your city or town may want to reference or incorporate any existing regulations for medical marijuana use and cultivation in residential areas.]

A. To the fullest extent allowable by law, marijuana possession, consumption, processing, manufacturing, transportation, and cultivation is permitted in a residential zoning district in [City/Town] and is subject to the following conditions and limitation:

1. It shall be unlawful for any individual who is at least twenty-one (21) years of age to possess, transport, cultivate or process more than six (6) marijuana plants.

2. It shall be unlawful for two or more individuals who are at least twenty-one (21) year of age to possess, transport, cultivate or process more than twelve (12) marijuana plants at the individuals' primary residence.

3. Except as provided by A.R.S. § 36-2801 et al. and this Section, it shall be unlawful for an individual to otherwise cultivate marijuana in a residential zoning district within the [City/Town] limits.

4. Individuals shall not process or manufacture marijuana by means of any liquid or gas other than alcohol, that has a flashpoint below one hundred (100) degrees Fahrenheit.

5. Kitchen, bathrooms, and primary bedroom(s) shall be used for their intended use and shall not be used primarily for residential marijuana processing, manufacturing, or cultivation.

6. A residence shall not emit dust, fumes, vapors, or odors into the environment and individuals shall ensure that ventilation, air filtration, building and design standards are compatible with adjacent uses and the requirements of adopted building codes of [City/Town].

7. Cultivation shall be limited to a closet, room, greenhouse, or other enclosed area on the grounds of the residence equipped with a lock or other security device that prevents access by minors.

8. Cultivation shall take place in an area where the marijuana plants are not visible from public view without using binoculars, aircraft, or other optical aids.

[NOTE: Cities and towns are not allowed to impose any tax rate above or below their regular retail tax rate on sales or purchases of marijuana or marijuana products.]

Sec. X-X-7 Retail Sales from Marijuana and Marijuana Products.

To the fullest extent allowable by law, the sale of marijuana and marijuana products is authorized within the [City/Town] from a marijuana establishment and is tangible personal property as defined in A.R.S. § 42-5001 and subject to the transaction privilege tax in the retail classification and use tax.

[OPTIONAL: *If marijuana establishments and/or marijuana testing facilities are permitted in your city or town*].

Sec. X-X-8 Fees.

A. [FOR PERMITS] The fee for the permit shall be established by [RESOLUTION OF THE CITY/TOWN COUNCIL/FEE SCHEDULE].

OR

The permit fee for a marijuana establishment pursuant to Sec. X-X-__ is ($_____) annually.

The permit fee for a marijuana testing facility pursuant to Sec. X-X-__ is ($_____) annually.

Sec. X-X-9 Violations.

A. It is unlawful and a violation of this article for a person to sell, cultivate, process, manufacture or transport marijuana or marijuana products if the person fails to meet all the requirements in this article or state law, including the Department's rules.

B. It is a violation of this article for any person to provide false information on any permit application.

C. Each day any violation of any provision of this article shall continue shall constitute a separate offense.

Sec. X-X-10 Enforcement; Penalties.

A. The _____ permit may be revoked by the [City/Town] for violation of any provision of this article, for any violation of the requirements of the permit, or if the Department revokes the license for a marijuana establishment or marijuana testing facility. If a permit is revoked, the permittee shall have the right to appeal the decision of the [City/Town] to _____ as outlined in Section _____ of the [City/Town] Code.

B. Violations of this article are in addition to any other violation enumerated within the [City/Town] ordinances or the [City/Town] Code and in no way limits the penalties, actions or abatement procedures which may be taken by the [City/Town] for any violation of this article, which is also a violation of any other ordinance or Code provision of the [City/Town] or federal or state law. Conviction and punishment of judgment and civil sanction against any person under this article shall not relieve such person from the responsibility of correcting prohibited conditions, or removing prohibited structures or improvements, and shall not prevent the enforced correction or removal thereof.

C. Civil Penalty: Violations of any provision of this article shall be civil code offenses which may be adjudicated and enforced by the [City/Town] civil hearing process set forth in subsection _____ or [City/Town] Court under Section ___of the [City/Town Code].

Section II. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

Section III. Recitals.

The recitals above are fully incorporated in this Ordinance by reference.

Section IV. Effective Date.

[OPTION: Conditional Effective Date]

This Ordinance does not become effective unless the Smart and Safety Act (Proposition 207) becomes law when approved by a majority of the votes cast at the November 3, 2020 general election and on proclamation of the governor. Upon the governor's proclamation, the effective date of this Ordinance shall be ____ days following adoption by the [City/Town] Council.

OR

[OPTION: Emergency Act]

Emergency.

Because of the urgent need for the implementation of the [City/Town]'s regulations concerning recreational marijuana, the immediate operation of this Ordinance is necessary for the preservation of the health, safety, and general welfare. An emergency is hereby declared to exist and this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor and Council as required by law.

Section V. Zoning Considerations.

In accordance with Article II, Sections 1 and 2, Constitution of Arizona, the [City/Town] Council has considered the individual property rights and personal liberties of the residents of the Town before adopting this ordinance.

Section VI. Preservation of Rights and Duties.

This Ordinance does not affect the rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this Ordinance.

Section VII. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Common Council of the [City/Town] of _____, Arizona, this _____ day of _____, 202_, by the following vote:

AYES: _____

NAYES: _____ ABSENT: _____

EXCUSED: _____ ABSTAINED: _____

APPROVED this ____ day of _____, 202_.

_____
_____, Mayor

ATTEST:

_____
_____, [City/Town] Clerk

APPROVED AS TO FORM:

_____
[City/Town] Attorney

I, _____, [CITY/TOWN] CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. _____ ADOPTED BY THE COMMON COUNCIL OF THE [CITY/TOWN] OF _____ ON THE ____ DAY OF _____, 202_, WAS POSTED IN THREE PLACES ON THE _____ DAY OF _____, 202_.

_____
_____, [City/Town] Clerk

MEMORANDUM

DATE: October 28, 2020

TO: Honorable Mayor and City Council
Tadeo De La Hoya, City Manager
Kay Marion Macuil, City Attorney
Richard Jessup, Chief of Police
Jose A. Guzman, Planning and Zoning Director

FROM: Glenn Gimbut, Assistant City Attorney

RE: PROPOSITION 207 – LEGALIZATION OF MARIJUANA INITIATIVE

==========

On the November 3, 2020, ballot is Proposition 207, which seeks to legalize possession of small amounts of marijuana in Arizona. A copy of the initiative is attached to this memorandum. The highlights of the bill are:

1. Adults 21 and older would be able to possess 1 ounce of marijuana with no more than 5 grams of it being marijuana concentrates (extracts).

2. Limits home cultivation to 6 plants at an individual's primary residence and 12 plants at a residence where two or more individuals who are at least 21 years old reside at one time.

3. The Arizona Department of Health Services ("ADHS") would have to establish recreational marijuana regulations on or before April 5, 2021.

4. A 16% excise tax (the same as cigarettes and alcohol) would be placed on recreational marijuana products. Money from the excise tax would fund various state agencies and be dispersed between community college districts, police departments, fire departments and the Highway User fund.

5. Marijuana use would remain illegal in public places (restaurants, parks, sidewalks, etc.). Offenders are guilty of a petty offense.

6. No marijuana products could be sold that imitate brands marketed to children or look like humans, animals, insects, fruits, toys, or cartoons.

7. Marijuana edibles will be limited to a maximum of 10mg of THC per edible and limited to a maximum of 100mg of THC per package of edibles.

8. Employers have the right to maintain a drug- and alcohol-free workplace.

9. Driving, flying, or boating impaired to even the slightest degree by marijuana would remain illegal (i.e., zero-tolerance rule).

10. Marijuana testing facilities will test marijuana for harmful contaminants (i.e., pesticides, molds, etc.).

11. "Qualified early applicants" (qualifications are currently undetermined) can apply for a recreational dispensary license (approx. 145 licenses will be available) with the ADHS. Any remaining or additional licenses will be provided by random selection.

12. The ADHS may issue a marijuana establishment license (recreational marijuana dispensary license) to no more than two recreational dispensaries per county that contains no medical marijuana dispensaries, or one recreational dispensary license per county that contains one medical marijuana dispensary (the ADHS will accept applications from January 19, 2021 – March 9, 2021).

13. On or before April 5, 2021, medical marijuana dispensaries will be able to sell recreational marijuana to adults until the ADHS issues licenses for recreational dispensaries.

14. Medical marijuana dispensaries that obtain a recreational marijuana dispensary license(s) could operate both entities in the same and or shared location.

15. Possession Offenses:

(a) Possessing more than one ounce but less than 2.5 ounces would be a petty offense.

(b) Minors caught with less than one ounce would receive up to a $100 fine and four hours of drug counseling for a first offense.

(c) Escalating penalties:

(i) A second offense would be up to a $100 fine and eight hours of drug counseling.

(ii) A third offense would be a Class 1 misdemeanor.

16. Smoking in a public place would be a petty offense.

17. On or after January 1, 2023, the ADHS can adopt rules to permit recreational marijuana deliveries.

18. Beginning on July 12, 2021, people convicted previously of possessing less than an ounce of marijuana or six or fewer plants or paraphernalia can petition to have the record expunged.

Licensing Businesses

With respect to the number of available licenses to sell recreational marijuana, the proposed §36-2854 puts an upper limit on the number of available licenses in the state to no more than one for every ten licensed pharmacies in Arizona, which puts the estimated number at about 145. In addition, there would be two licenses available for every county that does not have medical marijuana in the county and one license for counties with medical marijuana. Provisions are made for a program for 26 additional licenses for a "social equity ownership program." Whether any of these licensed facilities would desire to establish a business in San Luis is unknown. The provisions in the law for medical marijuana remain unchanged. Proposition 207 adds new and additional provisions.

Provisions Key to San Luis

For the City of San Luis, the key provisions are to be found at §36-2857. While other parts of the law will have impacts, this is the major section that impacts the city. (Other parts of the law, for example, impact the city's ability to collect sales tax in the same manner as the sales tax would apply to any other retail sale and impact the police department's ability to enforce current laws regarding sale, possession, and cultivation of marijuana)

The key Section 36-2857provides:

Localities; marijuana establishments and marijuana testing facilities

A. A LOCALITY MAY:

1. *Enact reasonable zoning regulations that limit the use of land for marijuana establishments and marijuana testing facilities to specified areas.*

2. *Limit the number of marijuana establishments or marijuana testing facilities, or both. 3. prohibit marijuana establishments or marijuana testing facilities, or both.*

3. *Regulate the time, place and manner of marijuana establishment and marijuana testing facility operations.*

4. *Establish reasonable restrictions on public signage regarding marijuana, marijuana establishments and marijuana testing facilities.*

5. *Prohibit or restrict delivery within its jurisdiction.*

B. A COUNTY MAY EXERCISE ITS AUTHORITY PURSUANT TO SUBSECTION A OF THIS SECTION ONLY IN UNINCORPORATED AREAS OF THE COUNTY.

C. A LOCALITY MAY NOT ENACT ANY ORDINANCE, REGULATION OR RULE THAT:

1. Is more restrictive than a comparable ordinance, regulation or rule that applies to nonprofit medical marijuana dispensaries.

2. Makes the operation of a marijuana establishment or marijuana testing facility unduly burdensome if the locality has not prohibited marijuana establishments or marijuana testing facilities.

3. Conflicts with this chapter or rules adopted pursuant to this chapter.

4. Prohibits the transportation of marijuana by a marijuana establishment or marijuana testing facility on public roads.

6. Restricts or interferes with the ability of a dual licensee or an entity eligible to become a dual licensee to operate a nonprofit medical marijuana dispensary and a marijuana establishment cooperatively at shared locations.

7. Except as expressly authorized by this section or section 36-2851, prohibits or restricts any conduct or transaction allowed by this chapter, or imposes any liability or penalty in addition to that prescribed by this chapter for any conduct or transaction constituting a violation of this chapter.

Despite the above language, there is another section which, on the surface, appears to contradict what a local government can do. ARS §36-2857(A)(3) provides:

"A locality may…prohibit marijuana establishments and marijuana testing facilities or both."

However, ARS §36-2857(C)(1) states:

"A locality may not enact any ordinance, regulation or rule that is more restrictive than a comparable ordinance, regulation or rule that applies to nonprofit medical marijuana dispensaries."

We cannot outright ban medical marijuana dispensaries, so how can we totally ban marijuana establishments and marijuana testing facilities or both? Right now, it is unclear as to what the eventual outcome will be. The working group at the City

Attorneys Association is comfortable with the provisions in the Model Ordinance. An observation by one member, Andrew Miller of Paradise Valley, is that the safest course of action is to regulate in the zoning code and treat these establishments the same way as medical marijuana.

Basically, there are two types of uses in Proposition 207.

(1) The first is a '**marijuana establishment**,' which sells and cultivates marijuana and produces marijuana products. A license for such an establishment would allow the license holder to do all three things.

(2) The second is where the retail sales occur. The second is a '**marijuana testing facility**,' which is a place where marijuana is tested for potency and to determine if contaminants are present. Cultivation and production are uses that can be separated from the location where retail sales occur.

So, in the end, there are four distinct types of operations: 1) sales, 2) cultivation, 3) production; 4) testing.

As stated above, §36-2857 would, if one is not impacting existing medical marijuana provisions, appear to allow San Luis to ban the new establishments. San Luis would be allowed to permit them but limit the number in the city. San Luis would be allowed to pick which facilities it liked and ban the ones it did not. The new law allows the retail sales facilities to do home delivery – sort of like Domino's pizza delivery. Proposition 207 imposes a statewide ban on delivery until the state adopts regulatory rules. The law has sections that appear to allow San Luis to impose restrictions upon or outright ban home delivery. However, there are also sections which appear to contradict the ability to do a total ban forever. Once again, Proposition 207 is a bit unclear.

Proposition 207 specifically provides at §36-2851 that San Luis, as an employer, has the right to maintain a drug-free workplace. Hence, our current rules regarding marijuana in the workplace remain intact and unaffected.

Attached as an additional exhibit is a proposed model ordinance coming from the League of Arizona Cities and Towns. This ordinance gives the following general options:

- Option A. Prohibiting marijuana establishments and testing facilities.
- Option B. Prohibiting marijuana establishments and testing facilities except for dual license facilities (medical marijuana and recreational marijuana at the same place.)

- Option C. Prohibits marijuana establishments but allows testing facilities. (Sub-option permits dual operations only and allowing testing facilities.)

- Option D. Permits marijuana establishments but prohibits testing facilities.

If the City Council decides it wants to allow either marijuana establishments or testing facilities or both, it can still regulate them. The model ordinance gives examples of those regulations one might want to consider. If simply prohibiting these uses, then there is no need for further regulation.

An area to also consider is home delivery and whether to prohibit or restrict it. This is another area of contradictory provisions in Proposition 207. There is a statewide ban on delivery services until the state adopts regulations, so there is time to regulate. But this is an area one needs to be concerned about.

Remember, this law does not impact medical marijuana facilities or our existing regulations. So far, to date, while some have attempted to get a medical marijuana license from the state to operate in San Luis, no one has been able to get such a license, and, as a result, there is no dispensary here.

Under the medical marijuana law, folks who qualify for medical marijuana can grow up to 12 plants in their homes if no dispensary is located within a certain distance. As that distance is exceeded in San Luis, those who qualify for medical marijuana can grow their own. Current restrictions limit growing to the indoors. Under Proposition 207, any adult can grow up to 6 plants, and two adults at the same residence can grow up to a total of 12 plants. Again, this is limited to indoors or rural areas where one must use binoculars to see the plants.

Undoubtedly the Police Department and the Planning and Zoning Department will have recommendations to make to City Council. If there are any questions, please do not hesitate to ask.

AGENDA ITEM REVIEW FORM

Work Session **2. D.**

Meeting Date: 11/04/2020

Department Head: Kay Macuil, City Attorney, Attorney's Office

Submitted By: Kay Macuil, City Attorney, Attorney's Office

Action Requested: Discussion Item - No Action to be Taken

ITEM:

Discussion and possible directions to staff regarding the Ballot Initiative, Proposition No. 207 titled "Smart and Safe Arizona Act" on regulating legal sales, cultivation, and manufacturing products from marijuana and options for city ordinances. **(Glenn J. Gimbut, Assistant City Attorney)**

SUMMARY:

This agenda summary was written before the November 3rd election results when polling showed a nearly 50% chance of passing or failing. However, staff would like to advise the City Council of its options if the proposition has passed by the time of this meeting. The Proposition allows for non-medical marijuana establishments, cultivation testing of, and manufacture of marijuana products.

If one looks at the overall scheme:

· There will be one license for a marijuana establishment for every ten pharmacies. (San Luis only has three with a fourth coming. The City of Yuma has about 12)

· There is one license for a marijuana establishment per county where there is a licensed medical marijuana facility. (Yuma County has at least one (1). The City of Yuma has one (1))

So, it looks like there will be one(1) maybe two (2) recreational marijuana establishments for the entire county. It is doubtful a marijuana establishment will locate in San Luis.

Non-medical marijuana establishment Local Ordinance Option

For non-medical marijuana establishments, a complete prohibition route is possible. Basically, this means San Luis keeps what it has on the books without change. Only a medical marijuana distributor under all the current rules might be able to get established if the State issues a license, which to date it has not.

Proposition 207 and Law Enforcement

Proposition 207 restricts citations for marijuana.

Proposition 207 and Land Use Regulation

While folks have the right to grow on their own, our current zoning restrictions will apply. This means growing marijuana indoors, out of sight, under lock and key. So, what we have now remains.

Proposition 207 and Workforce

The city may continue to have a complete drug free workplace.

The presenter recommends that the city keep its current rules in place without change.

The full text of Proposition 207 is attached. For reference, the operable part of the initiative for local governments is as follows:

Section 36-2857. Localities; marijuana establishments and marijuana testing facilities:

A. A locality may:

1. Enact reasonable zoning regulations that limit the use of land for marijuana establishments and marijuana testing facilities to specified areas.

2. Limit the number of marijuana establishments or marijuana testing facilities or both.

3. Prohibit marijuana establishments or marijuana testing facilities or both.

4. Regulate the time, place, and manner of marijuana establishment and marijuana testing facility operations.

5. Establish reasonable restrictions on public signage regarding marijuana, marijuana establishments, and marijuana testing facilities.

6. Prohibit or restrict delivery within its jurisdiction.

B. A county may exercise its authority pursuant to subsection "A" of this section only in unincorporated areas of the county.

C. A locality may not enact any ordinance, regulation, or rule that:

1. Is more restrictive than a comparable ordinance, regulation, or rule that applies to nonprofit medical marijuana dispensaries.

2. Makes the operation of a marijuana establishment or marijuana testing facility unduly burdensome if the locality has not prohibited marijuana establishments or marijuana testing facilities.

3. Conflicts with this chapter or rules adopted pursuant to this chapter.

4. Prohibits the transportation of marijuana by a marijuana establishment or marijuana testing facility on public roads.

5. Restricts or interferes with the ability of a dual licensee or an entity eligible to become a dual licensee to operate a nonprofit medical marijuana dispensary and a marijuana establishment cooperatively at shared locations.

6. Except as expressly authorized by this section or section 36-2851, prohibits or restricts any conduct or transaction allowed by this chapter, or imposes any liability or penalty in addition to that prescribed by this chapter for any conduct or transaction constituting a violation of this chapter.

RECOMMENDATION / SUGGESTED MOTION:

Discussion and possible directions to staff only, no action.

Fiscal Impact

IS THERE FISCAL IMPACT ASSOCIATED WITH THIS ITEM:	No
CITY/STATE/FEDERAL FUNDS:	N/A
TOTAL:	N/A
BUDGETED AMOUNT:	N/A
AVAILABLE AMOUNT TO TRANSFER:	N/A
ACCT NAME & GL#/REMAINING BALANCE BEFORE PURCHASE:	N/A

FISCAL IMPACT STATEMENT (IF THIS IS A BUDGET TRANSFER, YOU MUST ATTACH THE BUDGET ADJUSTMENT FORM):

There is no fiscal impact for this discussion item.

Attachments

Prop 207 Text
Memorandum - Proposition 207
League Model Ordinance

AGENDA ITEM REVIEW FORM

Work Session **2. G.**

Meeting Date: 02/03/2021

Department Head: Kay Macuil, City Attorney, Attorney's Office

Submitted By: Kay Macuil, City Attorney, Attorney's Office

Action Requested: Discussion Item - No Action to be Taken

ITEM:

Discussion and possible directions to staff on any and all matters regarding Resolution No. 2153. A resolution of the Mayor and City Council of the City of San Luis, Arizona authorizing and directing the entering into an Intergovernmental Agreement with the Yuma Union High School District #70 for joint athletic and recreational facilities use through the City's Parks and Recreation Department and San Luis High School. **(Kay Marion Macuil, City Attorney and Lizandro Galaviz, Parks and Recreation Director)**

SUMMARY:

Council passed this resolution at the January 27, 2021, meeting. However, the Intergovernmental Agreement attached was the old one, not the newly negotiated one. The correct IGA is attached and unless Council Members have objections, the matter will be put on the consent agenda for the next meeting.

Summary of the Intergovernmental Agreement with Yuma Union High School District (YUHSD) #70 through the San Luis High School

The 5-year agreement with the Yuma Union High School District #70 regarding joint facility use is expiring this year. Staff has negotiated the basic terms.

The changes are that:
-the APS bill for the lights will go to the High School,
-the High School has said they will pay $150,000 for the field lights in a lump sum.
-the city will stop doing maintenance of the field,
-joint use of each other's facilities will continue and
-there are provisions for COVID-19 public health requirements.

RECOMMENDATION / SUGGESTED MOTION:

Discussion and possible directions to staff only, no action.

Fiscal Impact

IS THERE FISCAL IMPACT ASSOCIATED WITH THIS ITEM:	N/A
CITY/STATE/FEDERAL FUNDS:	N/A
TOTAL:	N/A
BUDGETED AMOUNT:	N/A

AVAILABLE AMOUNT TO TRANSFER: N/A

ACCT NAME & GL#/REMAINING BALANCE BEFORE PURCHASE: N/A

FISCAL IMPACT STATEMENT (IF THIS IS A BUDGET TRANSFER, YOU MUST ATTACH THE BUDGET ADJUSTMENT FORM):

Under the prior IGA, the High School is paying the current value of the field lights which the City of San Luis paid for and installed in 2016. There remains a 5-year warranty for the High School which was part of the valuation. The High School is paying San Luis $150,000 in a lump sum.

The IGA allows for the High School and the City to charge fees if each other's staff are needed in order to use the facilities.

Attachments

Resolution No. 2153

IGA 2021 Version

Former IGA with Yuma Union High School District #70

OFFICE OF THE
MAYOR
CITY OF SAN LUIS

Resolution

No. 2153

A resolution of the Mayor and City Council of the City of San Luis, Arizona authorizing and directing the entering into an intergovernmental agreement with the Yuma Union High School District #70 for joint athletic and recreational facilities use through the City's Parks and Recreation Department and San Luis High School.

BE IT RESOLVED by the Mayor and City Council of the City of San Luis, Arizona:

Section 1. It is deemed in the best interest of the City of San Luis and its residents that the city enter into an Intergovernmental Agreement with Yuma Union High School District #70 for joint athletic and recreational facilities use at San Luis High School and the City's Parks and Recreation Department.

Section 2. A true copy of the Intergovernmental Agreement is incorporated herein as though set forth again in full.

Section 3. The Mayor is authorized and directed to execute said Intergovernmental Agreement for and on behalf of the City of San Luis and the City Clerk to attest the same.

Section 4. City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this resolution.

Section 5. The San Luis City Clerk and the City Clerk's designee are authorized and directed to deliver this Intergovernmental Agreement to the Yuma Union High School District #70 and to maintain a fully executed Intergovernmental Agreement in the official files of the City Clerk.

PASSED, ADOPTED and APPROVED by the Mayor and City Council of the City of San Luis, Yuma County, Arizona this ____day of February 2021.

_____
Gerardo Sanchez, Mayor

ATTEST:

_____
Sonia Cornelio, City Clerk

APPROVED AS TO FORM:

_____
Kay Marion Macuil, City Attorney

INTERGOVERNMENTAL AGREEMENT REGARDING JOINT FACILITY USE AT YUMA UNION HIGH SCHOOL DISTRICT #70 AND THE CITY OF SAN LUIS RECREATIONAL FACILITIES

THIS AGREEMENT ("Agreement"), made and entered into this _____ day of February 2021 by and between the CITY OF SAN LUIS, a municipal corporation of the State of Arizona, hereafter referred to as ""CITY"" and the YUMA UNION HIGH SCHOOL DISTRICT #70, hereinafter referred to as ""DISTRICT."" The CITY and the DISTRICT may be referred to in the singular as party or owner and in the plural as parties or owners.

WHEREAS, the CITY is authorized by A.R.S. § 11-952 to enter into this Agreement; and

WHEREAS, the DISTRICT is authorized by A.R.S. § 11-952 to enter into this Agreement; and

WHEREAS, pursuant to Section 11-951 et seq. of Arizona Revised Statutes, cities and schools may enter into agreements for the construction, development, cooperative maintenance, operation, and use of parks, swimming pools, and other recreational facilities on the property used for public purposes if the governing bodies having charge and control of such properties give their consent and cooperation; and

WHEREAS; the DISTRICT has recreation facilities such as tennis courts, gymnasiums, athletic fields, weight rooms, dance rooms, auditoriums, running tracks, classrooms and stage that could be used for community health, education, and enrichment opportunities provided through the CITY during non-school hours; and

WHEREAS, the CITY has recreation facilities such as athletic fields, a swimming pool, parks, and plans for trails that could be used for physical education and school athletic opportunities provided through the DISTRICT; and

WHEREAS, it is the desire of the parties to develop and operate facilities for joint use and to conduct recreational programs that provide maximum public benefit; and

WHEREAS, it is good policy to partner in the development of facilities that can be used for school enrichment, physical fitness, athletics, and public recreation.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual promises and agreements of the parties herein contained, it is agreed as follows:

Section 1. Purpose

The purpose of this Agreement is to establish the rights, duties and responsibilities of the parties for the joint use of recreational or athletic facilities owned by each party.

Section 2. Term

This Agreement will become effective as of the date indicated above and will terminate five (5) years thereafter unless terminated earlier as provided in Section 3 or renewed. This Agreement may be renewed for three additional five (5) year periods upon 120 days written notice to the other party. Any renewal will be reduced to writing and signed by the parties.

Section 3. Termination

This Agreement may be terminated at any time by mutual agreement of the parties, or either party may terminate this Agreement, with or without cause, upon ninety

(90) days written notice to the other party of the intent to terminate.

Section 4. Facilities

This Agreement authorizes the continued joint use of each 'party's respective facilities, as shown on Exhibit ""A"" attached "("Facilities"""). This Exhibit may be amended upon written approval of the City Manager or designee and the school Superintendent or designee, without further modification of this Agreement. The Facilities listed on the attached Exhibit ""A"" that are the property of the DISTRICT shall be referred to herein individually as a ""DISTRICT Facility"" and collectively as the ""DISTRICT Facilities"." The Facilities listed on the attached Exhibit ""A"" that are the property of the CITY shall be referred to herein individually as a ""CITY Facility"" and collectively as the ""CITY Facilities."" Facilities may include, but not be limited to, buildings and grounds, recreational or athletic facilities, and parking areas.

Section 5. General Guidelines for Joint Use of Facilities

A. Facility Usage. Each party will make its Facilities listed in Exhibit ""A"" available for use by the other party after the scheduling requirements for each 'party's own programs have been met. The DISTRICT will have use of DISTRICT Facilities during the school year during regular school hours and after school hours or on weekends as required by the DISTRICT athletic schedules and other school activities. The CITY will have use of DISTRICT Facilities during the summer months and on weekends, holidays, and weeknights beginning at 6:00 p.m. during the school year, unless the DISTRICT Facilities are previously scheduled for DISTRICT events or DISTRICT maintenance. The CITY will have use of CITY Facilities year-round. The

DISTRICT may have use of CITY Facilities unless previously scheduled by others or for CITY maintenance.

B. Enforcement of Policy. DISTRICT reserves the right to enforce DISTRICT policies including, but not limited to, dress codes and policies addressing alcohol consumption at all DISTRICT sponsored activities. CITY reserves the right to enforce CITY policies at CITY sponsored events. The parties agree that the CITY may permit the consumption of alcohol, as permitted by applicable law, in a DISTRICT Facility during the 'CITY's use of the Facility, except that no alcohol shall be permitted within any DISTRICT building which contains classrooms.

C. Facilities Maintenance. Each party will maintain its own Facilities and equipment in good and reasonable repair as required by law. The DISTRICT will be solely responsible for costs of and making any repair of damages to the CITY Facilities that occur during 'DISTRICT'S use of the CITY Facilities. The CITY will be solely responsible for the cost of and making any repair of damages to DISTRICT Facilities that occur during 'CITY'S use of DISTRICT Facilities. The party responsible for the damages shall promptly notify the owning party of any damages that occur during the responsible 'party's use of the Facilities. The owning party, upon discovering any damages reasonably believed to be caused during the other 'party's use of the Facilities, shall notify the other party in writing of the damages and may make required repairs and invoice the responsible party for the actual, reasonable costs thereof. The responsible party shall pay the invoice within 30 days of receipt, unless, within ten (10) days of receipt of the written notice, the responsible party has disputed the damages or costs in writing, specifying the items in dispute and the reasons therefore. The parties

will use their best efforts to investigate and resolve the disagreement prior to filing any claim for damages. The term ""damage"" does not include ordinary wear and tear. Each party will be responsible for routine maintenance and cleaning of its Facilities unless specifically agreed otherwise.

D. Non-Interference. Each party agrees that use of the other 'party's Facilities will not interfere with the other 'party's usual conduct of its business, nor be inconsistent with the intended and normal use of the Facilities used. Each party agrees to provide necessary and appropriate supervision for activities conducted at the other 'party's Facilities, to be responsible for the expenses of supervision, security, and supplies unless otherwise noted in this Agreement, and to make reasonable efforts to inspect Facilities for safety conditions and for damage at the beginning and end of each period of use. Each party will leave the 'other's Facilities in neat and orderly condition unless specifically agreed otherwise.

Section 6. Joint Use Scheduling Confirmation Process

A. Scheduling. Each owner will be responsible for maintaining the schedule for its own Facilities.

B. Scheduling Meetings. Representatives of the parties will meet on or about December 1, March 1, June 1 and September 1 of each year to discuss scheduling for April through June, July through September, October through December, and January through March, respectively. Within two weeks following the meeting, each 'owner's representative shall prepare a joint-use confirmation form for the quarter discussed and shall send the schedule to the other party. The receiving party will either approve the proposed schedule by returning it with a signature of approval or may, within seven (7)

days, contact the other representative to discuss changes or amendments which need to be addressed. Quarterly discussions shall include a review of a calendar of projected use for the coming year and shall include times when Facilities may not be used due to appropriate maintenance of Facilities and field turf. A final, signed schedule should be in place at least three (3) months before the scheduled use for a quarter begins. During scheduling meetings, the parties shall work to resolve any issues. The parties will, in good faith, discuss how to maximize the mutual benefit of the shared use of CITY and DISTRICT Facilities.

C. Scheduling Changes. CITY and DISTRICT will cooperate in seeking a mutually acceptable alternative in the event of the need for scheduling changes. The mutual goal in rescheduling will be to maintain program continuity, to give adequate notification of scheduling changes and, where necessary, to relocate programming. In the event of no mutually acceptable alternative, use by the owner shall take priority.

D. Health and Safety. If at any time the CITY or the DISTRICT determines that a Facility does not meet applicable health and safety standards or that for any other reason, the Facility is unsafe for use, the using party may cancel its event and notify the owner of the unsafe conditions. The owner will have the authority to close the Facility until the unsafe conditions are rectified. Each party will take immediate steps to notify the other party of the cancellation/closure.

E. COVID-19 Mitigation Compliance Measures (or other public health emergencies). If a party requests to use the other party's Facility or Facilities while COVID-19 or other public health measures are required by law or desirable to the party

owner of the Facility or Facilities, the requesting party shall provide in writing to the party owning the Facility or Facilities:

1. a detailed description of the event;
2. anticipated number of attendees;
3. location of the event;
4. actions to comply with Federal, State, County and CITY Mitigation Compliance Measures, including but not limited to applicable COVID-19 Arizona Governor Emergency Executive Orders, Arizona Department of Health Services Orders, Yuma County Emergency Proclamations, Yuma County Health Services District Orders, CITY Emergency Proclamations; and
5. commitment that the requesting party will cancel the event if the applicable gating criteria, metrics or benchmarks for safe infection control for the event are not met two weeks before the event.

Section 7. Fees

A. Each party may charge the other fees for the use of their respective Facilities for reimbursement for services, maintenance or supplies, or utilities attributable to the other 'party's use of the Facilities. Fees will be established during the scheduling process. The parties agree to minimize fees to the extent possible for community benefit.

B. For clarification, the obligations under Section 7. Utilities under the Intergovernmental Agreement between the CITY and the DISTRICT dated February 24, 2016, are terminated and expired. The DISTRICT will pay all its utilities, including electricity for

the lights for "DISTRICT FIELD" as defined in the Intergovernmental Agreement between the parties dated February 24, 2016, unless stated otherwise in this 2021 Agreement, Section 7(A).

C. Under Section 8. Capital Improvements of the Intergovernmental Agreement between the parties dated February 24, 2016, the CITY installed lights at the CITY's cost on the "DISTRICT FIELD" as defined in that Intergovernmental Agreement. The DISTRICT agrees to reimburse the CITY for said lights at the reasonable depreciated value of $150,000.00 (which includes a warranty that will expire August 18, 2026) to be paid in a lump sum on or before June 30, 2021.

Section 8. General Terms and Conditions

A. Finance and Budget: Each party shall establish and maintain its own budget according to its established rules and policies and shall be responsible for financing its own activities undertaken under this Agreement. In the event of non-appropriation of funds by either party for any Fiscal Year this, Agreement is effective, this Agreement will terminate at the end of the period for which funds are appropriated unless the parties agree to a modification of this Agreement.

B. Notice: Any notice given under this Agreement shall be in writing and sent to the party and address listed below:

If to CITY:

Parks and Recreation Director
P.O. Box 1170
San Luis, Arizona 85349

If to DISTRICT:

YUHSD #70 Superintendent
3150 S. Avenue A
Yuma, Arizona 85364

C. Indemnification: Each party does hereby covenant and agree to indemnify, defend, and hold harmless the other party from and against any and all fines, suits, claims, demands, defense costs, losses, liability, actions and/or causes of action of any kind and nature (hereinafter collectively referred to as ""Claims"") for personal injury (including death) or property damage that may arise from that 'party's use, operation, maintenance, or repair of the Facilities; except for those claims which arise out of the sole negligence or willful misconduct of the other party, its agents or employees.

D. Non-Discrimination Requirements: The parties shall comply with State Executive Order #99-4, which mandates that all persons, regardless of race, color, religion, sex, national origin or political affiliation, shall have equal access to employment opportunities and all other applicable federal and state laws, rules and regulations, including Title VI, and all other federal and state employment and educational opportunity laws, rules and regulations, including Title VII of the Civil Rights Act of 1964, P.L. 88-854 (1964), and the Americans with Disabilities Act of 1999.

E. Employment Eligibility: The parties warrant, and shall require their subcontractors to warrant, that each is in compliance with all federal immigration laws and regulations that relate to their employees and with A.RS. § 23-214 relating to verification of employment eligibility. A breach of this warranty shall be deemed a material breach of the Agreement and is subject to penalties up to and including termination of this Agreement. Each party retains the legal right to inspect the papers of the other 'party's employee or subcontractor employee who works on this Agreement to ensure that the party or its subcontractors are complying with this warranty. Employees

hired by either party to provide services, whether providing those services on premises owned by the CITY or the DISTRICT, shall be the employee of the hiring party only.

F. Insurance requirements: DISTRICT and CITY shall each keep and maintain in force, during the term of this Agreement and at their own expense, liability insurance of not less than $1,000,000.00 covering their respective activities. This insurance may be comprised of self-insurance retention "("S.I.R."") and insurance, so long as the combination of the two equals the minimum required amounts stated above. Each party shall provide to the other a certificate of insurance showing such coverage. The amount of insurance shall be reviewed, and may be adjusted, every three (3) years.

G. Risk of Loss: The party sponsoring and supervising a particular event shall bear the risk of loss, including, but not limited to, loss caused by theft, vandalism or property damage or claims arising therefrom.

H. Dispute Resolution: The parties agree to make all reasonable efforts to resolve disputes arising under this Agreement. Upon written request by either party, a dispute may be submitted to mediation with a trained and neutral mediator. If the parties mutually agree, claims, disputes, or other matters in question may be submitted for arbitration and decided according to the Arizona Uniform Rules of Procedure for Arbitration. Request for arbitration must be filed in writing with the other party to this Agreement.

I. Costs and Attorney Fees: In the event any action, suit, or proceeding is brought for failure to observe any of the terms, covenants, or provisions of this Agreement, the prevailing party shall be entitled to recover as part of such action or

proceeding, all litigation and collection expenses, including, but not limited to, witness fees, court costs, and reasonable 'attorney's fees.

J. Assignments and Successors: Neither party shall assign its rights, nor delegate its duties, or otherwise dispose of any right, title, or interest in all or any part of this Agreement, or assign any monies due or payable hereunder without the prior written consent of the other party. Such consent shall not be unreasonably withheld.

K. Entire Agreement: This Agreement contains the entire agreement between the parties, and no oral or written statement, promises, or inducements made by either party or agent of either party that is not contained in this written Agreement or specifically referred to in this written Agreement shall be valid or binding. This Agreement may not be enlarged, modified, or altered except in writing signed by the parties and endorsed herein.

L. Conflicts of Interests Provisions: This Agreement is subject to the conflict of interest provisions of A.R.S. §38-511.

M. Venue: The parties must initiate and maintain any legal actions or other judicial proceedings arising from this Agreement in a court of competent jurisdiction in Yuma County, Arizona.

N. Disposal of Property: The parties do not anticipate that there will be any personal property to be disposed of upon partial or complete termination of this Agreement. However, to the extent that such disposition is necessary, the property shall be returned to its original owner.

O. Counterparts: This Agreement may be executed in multiple counterparts, each of which shall constitute one and the same instrument.

P. Governing Law: The laws of the State of Arizona govern this Agreement as to validity, interpretation, and performance.

Q. Previous Agreement Superseded: This Agreement supersedes and replaces the previous joint use Facilities Agreement between the CITY and DISTRICT dated February 24, 2016.

DATED this _____ day of February 2021

CITY OF SAN LUIS

By _____
Mayor

YUMA UNION HIGH SCHOOL DISTRICT #70

By _____
Superintendent

ATTEST:

_____
City Clerk

I state that I am an attorney for the City of San Luis, State of Arizona. Under A.R.S. § 11-952(D), I certify that I have determined that this Agreement is in proper form, and it is within the powers and authority granted to the City of San Luis under the laws of Arizona.

_____ Date: _____
Kay Marion Macuil
San Luis City Attorney

I state that I am an attorney for Yuma Union High School District #70 ("YUHSD"). State of Arizona. Under A.R.S. § 11-952(D), I certify that I have determined that this Agreement is in proper form, and it is within the powers and authority granted to the City of San Luis under the laws of Arizona.

Exhibit "A"

CITY Facilities	**DISTRICT Facilities**
Baseball Fields	Tennis Courts
Softball Fields	Gymnasium
Municipal Pool	Athletic Fields
Gymnasium	Auditorium
Athletic Field	Running Track
	Classrooms

CONFORMED COPY
2016-09939 INTERGOVERNMENTAL AGREE.
04/28/2016 02:44:11 PM Pages: 14 Fees: $19.00
Requested By:CITY OF SAN LUIS CITY CLERK
Recorded By: askaggs
Robyn Stallworth Pouquette County Recorder, YUMA County AZ

WHEN RECORDED MAIL TO:

CITY OF SAN LUIS
ATTN: SONIA CORNELIO, CITY CLERK
P.O. BOX 1170
SAN LUIS, ARIZONA 85349

The above area is to be reserved for recording information

****

CAPTION HEADING:

Intergovernmental Agreement
An Intergovernmental Agreement between the City of San Luis Arizona and the Yuma Union High School District #70

INTERGOVERNMENTAL AGREEMENT
REGARDING JOINT USE OF RECREATIONAL FACILITIES AT YUMA UNION HIGH SCHOOL DISTRICT #70 (SAN LUIS HIGH SCHOOL) AND THE CITY OF SAN LUIS

THIS AGREEMENT, made and entered into this 24th day of February, 2016 by and between the CITY OF SAN LUIS, a municipal corporation of the State of Arizona, hereinafter referred to as "CITY" and the YUMA UNION HIGH SCHOOL DISTRICT #70, hereinafter referred to as "DISTRICT".

WHEREAS, the CITY is authorized by A.R.S. §11-952 to enter into this Agreement; and

WHEREAS, the DISTRICT is authorized by A.R.S. §11-952 to enter into this Agreement; and

WHEREAS, pursuant to A.R.S. §11-951 et seq., cities and schools may enter into agreements for the construction, development, cooperative maintenance, operation, and use of parks, swimming pools, and other recreational facilities on property used for public purposes if the governing bodies having charge and control of such properties give their consent and cooperation; and

WHEREAS; the DISTRICT has recreation facilities such as tennis courts, athletic fields, and running track, that could be used for community health, education, and enrichment opportunities provided through the CITY during non-school hours; and

WHEREAS, the CITY has recreation facilities such as athletic fields, swimming pools, parks, and trails that could be used for physical education and school athletic opportunities provided through the DISTRICT; and

WHEREAS, it is the desire of the parties to develop and operate facilities for joint use and to conduct recreational programs that provide maximum public benefit; and

WHEREAS, it is good policy to cooperate in the development of facilities that can be used for school enrichment, physical fitness, athletics, and public recreation.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual promises and agreements of the parties herein contained, it is agreed as follows:

Section 1. Purpose

The purpose of this Agreement is to establish the rights, duties and responsibilities of the parties for the joint use of recreational or athletic facilities owned by each Party.

Section 2. Term

This Agreement will become effective as of the date indicated above, and will terminate five (5) years thereafter, unless terminated earlier as provided in Section 3, or renewed.

Section 3. Termination

This Agreement may be terminated at any time by mutual agreement of the parties or either Party may terminate this Agreement, with or without cause, upon one hundred eighty (180) days written notice to the other Party of intent to terminate. Upon termination of the Agreement, each Party will assume full use and responsibility for its facilities including, but not limited to, water costs, utility costs and maintenance.

Section 4. Facilities

This Agreement authorizes the continued joint use of each Party's respective facilities, as shown on Exhibit "A" attached ("Facilities"). This Exhibit may be amended upon written approval of the City Manager or designee and the school Superintendent or designee, without further modification of this Agreement. The Facilities listed on the attached Exhibit "A" that are the property of the DISTRICT shall be referred to herein individually as a "DISTRICT Facility," and collectively as the "DISTRICT Facilities." The Facilities listed on the attached Exhibit "A" that are the property of the CITY shall be referred to herein individually as a "CITY Facility" and collectively as the "CITY Facilities". San Luis High School's northeastern practice field inside the track shall be referred to herein specifically as "DISTRICT FIELD". Facilities may include, but are not limited to, buildings and grounds, recreational or athletic facilities, and parking areas.

Section 5. Joint Use of Facilities

A. **Facility Usage:** Each Party will make its Facilities listed in Exhibit "A" available for use by the other Party after the scheduling requirements for each Party's own programs have been met.

1. **Scheduling Overview:** The DISTRICT will have use of DISTRICT Facilities, during the school year during regular school hours and after school hours or on week-ends as required by the DISTRICT athletic schedules and other school activities. The CITY will have use of DISTRICT Facilities, during the summer months and on weekends, holidays, and weeknights beginning at 6:00 p.m. during the school year, unless the Facilities are previously scheduled for DISTRICT events or DISTRICT maintenance. The CITY will have use of CITY Facilities year round. The DISTRICT may have use of CITY Facilities, unless previously scheduled by others or for CITY maintenance. Scheduling of facilities may be pre-empted by circumstances beyond the control of the parties. For example, fields may not be usable due to rain or a water line break. Use of specific facilities are further described in Exhibit "A".
2. **Parking:** Each Party will make each parking facility associated with each of the Facilities listed in Exhibit "A" available for use by the other Party as part of the use of the associated Facility.

B. Enforcement of Policy: DISTRICT reserves the right to enforce DISTRICT policies including, but not limited to, dress codes and policies addressing alcohol consumption, at all DISTRICT sponsored activities on CITY facilities. CITY reserves the right to enforce CITY policies at CITY sponsored events on DISTRICT facilities. The DISTRICT and the CITY shall abide by all applicable laws and regulations on each other's facilities.

C. Facility Maintenance: Each Party will maintain its own Facilities and equipment in good and reasonable repair as required by law except that the CITY shall maintain the DISTRICT's northeastern practice field inside the track ("DISTRICT FIELD"). CITY maintenance of the DISTRICT FIELD shall include turf maintenance such as watering, seeding, fertilizing, mowing and maintaining the sprinklers in good condition. The DISTRICT shall keep the CITY informed as to the methods to preserve and maintain the track. The CITY shall make all reasonable effort in its maintenance, repair, and its use of the DISTRICT FIELD

to preserve and maintain the track in reasonable condition. The DISTRICT will be solely responsible for costs of repairing any damages to the CITY Facilities that occur and were caused by the DISTRICT during DISTRICT's use of the CITY Facilities. The CITY will be solely responsible for the cost of repairing damages to DISTRICT Facilities that occur and were caused by the CITY during CITY'S use of DISTRICT Facilities. The Party responsible for the damages shall promptly notify the owning Party of any damages that occur during the responsible Party's use of the Facilities. The owning Party, upon discovering any damages reasonably believed to be caused by the other Party during the other Party's use of the Facilities, shall notify the other Party in writing of the damages and of the cost of repair. Upon receipt of the cost of repair the Party causing the damage may elect to make the necessary repairs by notifying the owner in writing of its intent to repair. If the Party who caused the damage fails to notify the owner of its intent to repair within fifteen (15) days of receipt of the notice and cost to repair, the owner may make required repairs and invoice the responsible Party for the actual, reasonable costs thereof. The responsible Party shall pay the invoice within 30 days of receipt, unless, within ten (10) days of receipt of the written notice, the responsible Party has disputed the damages or costs in writing, specifying the items in dispute and the reasons therefore. The parties will use best efforts to investigate and resolve the disagreement prior to filing any claim for damages. The term "damage" does not include ordinary wear and tear. Each Party will be responsible for routine maintenance and cleaning of its Facilities unless specifically agreed otherwise.

D. Non-Interference: Each Party agrees that use of the other Party's Facilities will not interfere with the other Party's usual conduct of its business, nor be inconsistent with the intended and normal use of the Facilities used. Each Party will communicate with each other any conduct by the other which is outside the usual conduct of business and any use inconsistent with the intended and normal use of the facility. Each Party agrees to provide necessary and appropriate supervision for activities conducted at the other Party's Facilities, to be responsible for the expenses of supervision, security, and supplies unless

otherwise noted in this Agreement, and to make reasonable efforts to inspect Facilities for safety conditions and for damage at the beginning and end of each period of use. Each Party will leave the other's Facilities in neat and orderly condition unless specifically agreed otherwise.

Section 6. Quarterly Meetings and Scheduling Confirmation Process

A. Quarterly Meetings: The CITY and the DISTRICT shall meet regularly on or about December 1, March 1, June 1 and September 1 of each year.

1. **Scheduling Meetings:** One component of the Quarterly Meetings will be the Scheduling Meeting. Representatives of the parties will meet to discuss scheduling for April through June, July through September, October through December, and January through March respectively.
2. **Other Matters Meetings:** Another component of the Quarterly Meetings will be to discuss master planning for capital improvements, issues involving the joint use of facilities, and any other matters that parties wish to discuss for the benefit of the joint use of facilities. The Representatives for the Scheduling Meeting are not required to be the same people for this meeting.

B. Scheduling: Each owner will be responsible for maintaining the schedule for its own Facilities.

C. Joint Schedule: Within two weeks following the meeting, each owner's representative shall prepare a joint use confirmation form for the quarter discussed and shall send the schedule to the other Party. The receiving Party will either approve the proposed schedule by returning it with a signature of approval or may, within 7 days, contact the other representative to discuss changes or amendments which need to be addressed. Quarterly discussions shall include review of a calendar of projected use for the coming year and shall include times when Facilities may not be used due to appropriate maintenance of facilities and maintenance of DISTRICT FIELD turf. A final, signed schedule should be in place at least three (3) months before the scheduled use for a quarter begins. During scheduling meetings, the parties shall work to resolve

any issues. The parties will in good faith discuss how to maximize the mutual benefit of the shared use of CITY and DISTRICT Facilities.

D. Scheduling Changes: CITY and DISTRICT will cooperate to seek a mutually acceptable alternative in the event of the need for scheduling changes. The mutual goal in rescheduling will be to maintain program continuity, to give adequate notification of scheduling changes and, where necessary, to relocate programming. In the event of no mutually acceptable alternative, use by the owner shall take priority.

E. Health and Safety: If at any time the CITY or the DISTRICT determines that a Facility does not meet applicable health and safety standards, or that for any other reason the Facility is unsafe for use, the using Party may cancel its event and notify the owner of the unsafe conditions. The owner will have the authority to close the Facility until the unsafe conditions are rectified. Each Party will take immediate steps to notify the other Party of the cancellation/closure.

Section 7. Utilities

A. Electricity: The CITY will install and pay for a separate meter for the electricity feeding the lights for the DISTRICT FIELD. The CITY will pay for the Electricity to the lights for the DISTRICT FIELD.

B. Water: The DISTRICT will pay for the water to maintain the DISTRICT FIELD.

Section 8. Capital Improvements

A. From time to time during this Agreement each Party may make capital improvements to property of the other Party. The parties intend to work together to develop a strategic master plan for investment in capital improvements in order to best serve the recreational needs of the communities of both the CITY and the DISTRICT.

B. The CITY intends to install lights at its cost on the DISTRICT FIELD. The DISTRICT hereby agrees to the installation of the lights according to a plan to be developed by the CITY and reviewed by the DISTRICT. The Party proposing any other capital improvements will submit the proposal to the other Party for review and approval, which shall not be unreasonably withheld.

C. Upon termination of this Agreement all capital improvements (including but not limited to the lighting paid for by the CITY for the DISTRICT FIELD) shall become the sole and exclusive property of the owner of the underlying property. The underlying property owner shall reimburse the other Party who made and paid for the improvements for the reasonable depreciated value of the improvements at the time of termination. If the parties are unable to agree on the depreciated value at termination, they shall retain the services of an independent, neutral and qualified appraiser to determine the value.

Section 9. General Terms and Conditions

A. Finance and Budget: Each Party shall establish and maintain its own budget according to its established rules and policies and shall be responsible for financing its own activities undertaken under this Agreement. In the event of non-appropriation of funds by either Party for any Fiscal Year this Agreement is effective, this Agreement will terminate at the end of period for which funds are appropriated unless the parties agree to a modification of this Agreement.

B. Notice: Notices or other communications to the City regarding this Agreement shall be sent by registered or certified mail, postage prepaid, addressed to

If to CITY: Parks and Recreation Director
Parks and Recreation Department
City of San Luis
PO Box 1170
San Luis, Arizona 85349

If to DISTRICT: James Sheldahl,
Associate Superintendent YUHSD
3150 S. Avenue A
Yuma, Arizona 85364

C. Indemnification: To the extent permitted by law, each Party does hereby covenant and agree to indemnify, defend, and hold harmless the other Party from and against any and all fines, suits, claims, demands, defense costs, losses, liability, actions and/or causes of action of any kind and nature

(hereinafter collectively referred to as "Claims") for personal injury (including death) or property damage that may arise from that Party's use, operation, maintenance, or repair of the Facilities; except for those Claims which arise out of the negligent or willful misconduct of the other Party, its agents or employees.

D. Non-Discrimination Requirements: The parties shall comply with State Executive Order #99-4, which mandates that all persons, regardless of race, color, religion, sex, national origin or political affiliation, shall have equal access to employment opportunities, and all other applicable federal and state laws, rules and regulations, including Title VI, and all other federal and state employment and educational opportunity laws, rules and regulations, and also including Title VII of the Civil Rights Act of 1964, P.L. 88-854 (1964), and the Americans with Disabilities Act of 1999.

E. Employment Eligibility: The parties warrant, and shall require their subcontractors to warrant, that each is in compliance with all federal immigration laws and regulations that relate to their employees and with A.R.S. § 23-214 relating to verification of employment eligibility. A breach of this warranty shall be deemed a material breach of the Agreement and is subject to penalties up to and including termination of this Agreement. Each Party retains the legal right to inspect the papers of the other Party's employee or subcontractor employee who works on this Agreement to ensure that the Party or its subcontractors are complying with this warranty. Employees hired by either Party to provide services, whether providing those services on premises owned by the CITY or the DISTRICT, shall be the employee of the hiring Party only.

F. Insurance requirements:

1. **Liability Insurance:** DISTRICT and CITY shall each keep and maintain in force, during the term of this Agreement and at their own expense, liability insurance of not less than $1,000,000.00 per occurrence covering their respective activities and $5,000,000.00 per occurrence for first responder training including, but not limited to police department, fire department, and emergency medical technician training. This insurance may be comprised of self-insurance retention

("SIR") and insurance, so long as the combination of the two equals the minimum required amounts stated above. Each Party shall provide to the other a certificate of insurance showing such coverage. The amount of insurance shall be reviewed, and may be adjusted, every 3 years.

2. **Workers' Compensation:** For purposed of workers' compensation, an employee of a Party to this Agreement, who works under the jurisdiction or control of, or who works within the jurisdictional boundaries of another Party pursuant to this Agreement, is deemed to be an employee of both the Party who is his or her primary employer and the Party under whose jurisdiction or control or within whose jurisdictional boundaries he or she is then working, as provided in A.R.S. §23-1022(D). The primary employer of such employee shall be solely liable for payment of workers' compensation benefits for the purposes of this section. Each Party herein shall comply with the provisions of A.R.S. §23-1022(E) by posting the notice required.

G. Risk of Loss: The Party sponsoring and supervising a particular event shall bear the risk of loss, including, but not limited to, loss caused by theft, vandalism or property damage or claims arising therefrom.

H. Dispute Resolution: The parties agree to make all reasonable efforts to resolve disputes arising under this Agreement. Upon written request by either Party, a dispute shall be submitted to mediation with a trained and neutral mediator. If mediation is unsuccessful, the parties mutually agree, remaining claims, disputes, or other matters in question shall be submitted for arbitration and decided according to the Arizona Uniform Rules of Procedure for Arbitration. Request for arbitration must be filed in writing with the other Party to this Agreement.

I. Costs and Attorney Fees: In the event any action, suit, or proceeding is brought for failure to observe any of the terms, covenants, or provisions of this Agreement, the prevailing Party shall be entitled to recover as part of such action

or proceeding, all litigation and collection expenses, including, but not limited to, witness fees, court costs, and reasonable attorney's fees.

J. Assignments and Successors: Neither Party shall assign its rights, nor delegate its duties, or otherwise dispose of any right, title, or interest in all or any part of this Agreement, or assign any monies due or payable hereunder without the prior written consent of the other Party. Such consent shall not be unreasonably withheld.

K. Entire Agreement: This Agreement contains the entire agreement between the parties, and no oral or written statement, promises, or inducements made by either Party or agent of either Party that is not contained in this written Agreement or specifically referred to in this written Agreement shall be valid or binding. This Agreement may not be enlarged, modified, or altered except in writing signed by the parties and endorsed herein.

L. Conflicts of Interests Provisions: This Agreement is subject to the conflict of interest provisions of A.R.S. §38-511.

M. Venue: The parties must initiate and maintain any mediation, arbitration, legal actions or other judicial proceedings arising from this Agreement in a court of competent jurisdiction in Yuma County, Arizona.

N. Disposal of Property: The parties do not anticipate that there will be any personal property to be disposed of upon partial or complete termination of this Agreement. However, to the extent that such disposition is necessary, property shall be returned to its original owner.

O. Construction: Headings are solely for the parties' convenience, are not a part of this Agreement, and shall not be used to interpret this Agreement. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it.

P. Counterparts: This Agreement may be executed in multiple counterparts, each of which shall constitute one and the same instrument.

Q. Governing Law: The laws of the State of Arizona govern this Agreement as to validity, interpretation, and performance.

R. Independent entities: DISTRICT and CITY are independent entities and contractors. Nothing in this Agreement shall be deemed to constitute a partnership or joint venture between the parties or constitute any Party or its agent, representative, or employee to be the agent, representative, or employee of the other Party for any purpose. Employees of the DISTRICT and the CITY shall not be personally liable under this contract.

CITY OF SAN LUIS
a municipal corporation

By _____
Tadeo A. De La Hoya
Interim City Manager

YUMA UNION HIGH SCHOOL
DISTRICT #70

By _____
Toni Badone
Superintendent

ATTEST:

_____
City Clerk

I hereby state that I am an attorney for the City of San Luis, State of Arizona, and pursuant to the provisions of A.R.S. 11-952(D) have determined that the foregoing agreement is in proper form and is within the powers and authority granted to the City of San Luis, Arizona under the laws of the State of Arizona.

Dated this 2 day of March, 2016

By _____
City Attorney

I hereby state that I am an attorney for Yuma Unified High School District (YUHSD), State of Arizona, and pursuant to the provisions of A.R.S. 11-952(D) have determined that the foregoing agreement is in proper form and is within the powers and authority granted to the YUHSD under the laws of the State of Arizona.

Dated this 31st day of March, 2016

By _____
YUHSD Attorney

Exhibit "A" Facilities

(Note: Use of Facilities include use of associated parking.)

City Facilities (CITY Facilities)	**YUHSD #70 Facilities** (DISTRICT Facilities)
San Luis Baseball/ Softball Fields	San Luis HS northeastern practice field inside the track
San Luis Baseball/ Softball Fields	(DISTRICT Field)
	San Luis HS track
	San Luis HS Tennis Courts
	**San Luis HS Performing Arts Center
	***San Luis HS Main Soccer Field
	**** San Luis HS Campus

Use of Specific Facilities:

*San Luis Aquatic Center

The San Luis Aquatic Center will be used by the DISTRICT for official in-season Swimming Team practices. The CITY will not charge the DISTRICT a fee for life guards.

**San Luis HS Performing Arts Center

The San Luis HS Performing Arts Center will be used by the CITY for 2 events annually. The DISTRICT will not charge the CITY any fees or costs including but not limited to rental fee, costs of auditorium manager, security, student workers, and custodial services. Dates for the CITY events must be mutually agreed upon by the CITY and the DISTRICT.

Additional dates will be charged to the CITY at the DISTRICT's regular non-profit rate. Dates for additional CITY event must be mutually agreed upon by the CITY and the DISTRICT.

***San Luis High School Main Soccer Field

Soccer League Championship Games: If CITY games are played prior to the beginning of the AIA winter season, they may be scheduled with the DISTRICT and played on the main field under the lights at no rental fee for 3 games but operational costs will apply. Operational costs are outlined in DISTRICT Facilities rental fee schedule.

CITY's additional use of the main field will be scheduled with the DISTRICT and charged at the regular non-profit rate, as per the District Facilities Rental Fees Schedule

At all times CITY soccer games will only be played when the main field is lined for soccer and not in use by the school. The CITY will not schedule adult soccer games for the main field.

**** San Luis HS Campus: There shall be limited San Luis HS campus use for the CITY's police department and fire department training.

AGENDA ITEM REVIEW FORM

Work Session **2. H.**

Meeting Date: 02/03/2021

Department Head: Kay Macuil, City Attorney, Attorney's Office

Submitted By: Kay Macuil, City Attorney, Attorney's Office

Action Requested: Discussion Item - No Action to be Taken

ITEM:

Discussion and possible directions to staff on any all matters regarding a proposed resolution of the Mayor and City Council of the City of San Luis, Arizona approving and adopting the Inmate Work Intergovernmental Agreement with the Arizona Department of Corrections. **(Kay Marion Macuil, City Attorney, Lizandro Galaviz, Department of Parks and Recreation Director and Eulogio Vera, Public Works Director)**

SUMMARY:

Public Works and Parks and Recreation, from time to time, need an additional labor force to support the maintenance of city properties and projects (typically road litter clean up and parks landscaping maintenance). The Intergovernmental Agreement with the Arizona Department of Corrections for work crews through the local Arizona State Prison Complex expired at the end of June. Staff wishes to renew the Intergovernmental Agreement for a five-year term and have it ready to go when the COVID-19 pandemic is no longer a safety concern.

RECOMMENDATION / SUGGESTED MOTION:

Discussion and possible directions to staff only, no action item.

Fiscal Impact

IS THERE FISCAL IMPACT ASSOCIATED WITH THIS ITEM:	Yes
CITY/STATE/FEDERAL FUNDS:	City
TOTAL:	See fiscal impact stment
BUDGETED AMOUNT:	YES
AVAILABLE AMOUNT TO TRANSFER:	N/A
ACCT NAME & GL#/REMAINING BALANCE BEFORE PURCHASE:	Contractual Services 200-210-80000 $32,613.00 100-144-80000 $ 2,456.00

FISCAL IMPACT STATEMENT (IF THIS IS A BUDGET TRANSFER, YOU MUST ATTACH THE BUDGET ADJUSTMENT FORM):

Accounts used for this contract are:
HURF 200-210-80000 and
Parks 100-144-80000

The city is not obligated to use the inmate workforce. The contract allows the city to use the inmate workforce if it wants to do so. The city will use the inmate workforce as the city budget allows it. There is a cost of fifty cents ($0.50) per hour per inmate for work performed with the inmate workforce. The city provides equipment, supervision, mileage for work crew transportation and liability insurance.

Attachments

Proposed Resolution

IGA Inmate Workforce

No. 21XX

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA AUTHORIZING AND DIRECTING THE ENTERING INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF CORRECTIONS FOR AN INMATE WORK CONTRACT.

WHEREAS, A.R.S. § 11-952 authorizes the City of San Luis to enter into intergovernmental agreements;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of San Luis, Arizona:

Section 1. It is deemed in the City of San Luis and its residents' best interest that the city enter into an Intergovernmental Agreement with the Arizona Department of Corrections for the attached "Inmate Work Contract."

Section 2. A true copy of the Intergovernmental Agreement is incorporated herein as though set forth again in full.

Section 3. The appropriate authority and staff are authorized and directed to execute said Intergovernmental Agreement for and on behalf of the City of San Luis and the City Clerk to attest the same.

Section 4. City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this Resolution.

Section 5. The San Luis City Clerk and the City Clerk's designee are authorized and directed to deliver this Intergovernmental Agreement to the Department of Corrections and maintain a fully executed Intergovernmental Agreement in the official files of the City Clerk.

PASSED, ADOPTED and APPROVED by the Mayor and City Council of the City of San Luis, Yuma County, Arizona this ____day of February 2021.

_____
Gerardo Sanchez, Mayor

ATTEST:

_____
Sonia Cornelio, City Clerk

APPROVED AS TO FORM:

_____
Kay Marion Macuil, City Attorney

STATE OF ARIZONA
DEPARTMENT OF CORRECTIONS
1645 West Jefferson Street, Mail Code 55302
Phoenix, Arizona 85007-3002

INMATE WORK CONTRACT

This **Contract** is entered into between **City of San Luis**, hereinafter referred to as the **Contractor**, and the Director of the **Arizona Department of Corrections**, for and on behalf of its **Arizona State Prison Complex – Yuma**, hereinafter known as the **Department**.

This document, including the Scope of Services, Special Terms and Conditions, Standard Work Provisions, any addendums, attachments or modifications, shall constitute the entire Contract between the parties and supersedes all other understandings, oral or written.

IN WITNESS WHEREOF, the parties hereto agree to carry out the terms of this Contract.

CITY OF SAN LUIS **FEDERAL TAX I.D. #860376164**		**ARIZONA DEPARTMENT OF CORRECTIONS**	
Signature of Authorized Individual	Date	Signature of Authorized Individual	Date
Tadeo A. De La Hoya Typed Name		**Denel Pickering** Typed Name	
City Manager Typed Title		Chief Procurement Officer Typed Title	
1090 E. Union Street San Luis, Arizona 85349 Address		1645 West Jefferson Street Phoenix, Arizona 85007-3002 Address	

Additional Signatures as Applicable

Signature of Authorized Individual	Date	Signature of Authorized Individual	Date
Gerardo Sanchez Typed Name		Typed Name	
Mayor Typed Title		Typed Title	

Prepared by: Keith Montoya, Senior Procurement Specialist
Date: October 6, 2020

WITNESSETH

WHEREAS, the Department is duly authorized by A.R.S. § 41-1604, et seq.; § 31-252 and § 31-254, to execute and administer contracts and;

WHEREAS, the Contractor is authorized by A.R.S. § 9-240 to enter into agreements for services, and;

WHEREAS, the Department desires to implement the requirement that each able-bodied inmate under commitment to the Department shall engage in work activity during such term of imprisonment, and;

WHEREAS, the Director of the Department has the authority to maintain and administer facilities and programs as may be required for the custody, control and rehabilitation of all inmates committed to the Department, and;

WHEREAS, the Director of the Department may authorize inmate work crews to perform acceptable tasks in any part of the State, and;

WHEREAS, the Contractor has a need for a labor force to support its normal property maintenance and construction projects, and;

WHEREAS, the Department is able to supply an inmate labor pool to support this work program for its Arizona State Prison Complex – Yuma, as identified herein.

NOW, THEREFORE, the Department and the Contractor do hereby agree as follows:

1 THE CONTRACTOR AGREES:

1.1 To provide necessary tools/equipment, drinking water, sanitary facilities and any special clothing required to accomplish work assignments.

1.2 To appoint a work crew leader who may provide both technical and job supervision as necessary. Appointed supervisors shall abide by and put into operational practice the Standard Work Provision for Inmate Work Programs utilizing On-Site Correctional Officer Supervision included as Attachment #1 of this contract.

1.2.1 Technical supervision means the Contractor shall provide staff who know the types of work tasks to be accomplished and correct way to complete each task. Technical supervisors teach assigned inmates how to complete their job assignments.

1.2.2 Job supervision means that Contractor personnel shall remain with assigned inmates for the length of the work day to ensure inmates are supervised and accounted for, and report results to the Department liaison. If an inmate fails to remain at the work site, if an inmate becomes ill at the work site and needs to be returned to the prison and if an inmate poses security concerns, the liaison shall be contacted immediately.

1.3 To obtain the Department's written approval for the Contractor's technical supervisor prior to initiation of this contract.

1.3.1 Subsequent to Contract initiation, should the Contractor's technical supervisor(s) change, the Contractor shall notify the Department at least two (2) workdays prior to the impending change to permit completion of the Department's approval process.

1.3.2 If prior notice is not possible, the Department may withhold the inmate work crew from

further service until the necessary approval process is completed.

1.4 To provide, if applicable, pesticide protection and Hazardous Material Training (HAZMAT) for inmates prior to initiating the work activities described in this Contract.

1.4.1 The Contractor shall comply with the Site Safety and Health Plan included as Attachment #2 of this contract.

1.4.2 Inmates shall not be allowed to be present while hazardous materials, inclusive of pesticides, are being used or applied. Pursuant to the Arizona Office of Pest Management, no inmate shall be allowed to handle or to apply pesticides. However, all hazardous materials (inclusive of pesticides), if stored and/or used on this site, and while ADC staff and/or inmates are present, require they be trained to recognize such hazardous materials and relative adverse medical signs and symptoms associated with the chemical, in accordance with the federal chemical "Right-to-Know Act" (SARA Title III).

1.5 To provide a working environment which meets the requirements of the Occupational Safety and Health Act (OSHA), Safety and Health Standards for General and or Construction Industry, 29 CFR Part 1910 and 1926, as adopted by the State of Arizona.

1.6 To provide emergency first aid for minor injuries or to contact the nearest medical provider to assist if more extensive first aid services are needed.

1.7 The Contractor shall follow all Department Orders (DO's), and Director's Instructions (DI's), i.e. drug-free workplace, grooming code, etc. The policies, procedures, DO's, and DI's are available on the following web site www.azcorrections.gov.

1.8 To designate a staff member who shall serve as liaison between the Contractor and the Department. The Contractor shall ensure that the Department is given the name and phone number/extension of the contact person.

1.9 To notify the Department 24 hours prior to necessity should workload require inmates to stay beyond their normal work hours. Said notice shall be provided by contacting the Department's institution contact person.

1.10 To assign work hours, work location(s), and job assignments subject to the concurrence of the Department. Work sites shall be confined to locations which are within the Contractor's authority to manage, maintain and finance.

1.11 To allocate sufficient time from job responsibilities to allow Contractor's staff assigned to this work program to attend mandatory training given by the Department prior to initiating the work activities described in this Contract. Subsequent to Contract execution, replacement staff assigned to this program must receive Department training prior to assuming work responsibilities.

1.12 To maintain the work site in the manner/condition in which it was approved by the Department as complying with the requirements imposed by the custody level of assigned inmates and assigned work responsibilities. If, during the term of this Contract, security/safety concerns become evident, or the Contractor wishes to change or alter the work site(s), the following procedures shall be followed:

1.12.1 Security/safety concerns shall be rectified immediately by the Contractor in accordance with direction received from the Department.

1.12.2 The Contractor shall provide written notice to the Department if changes or alterations are planned for the work site(s) prior to any changes or alteration being accomplished.

1.12.3 Representatives from the Department and the Contractor shall conduct an inspection of the work site(s). If the proposed change or alteration shall negatively impact the security and/or safety of assigned inmate workers, corrective action shall be determined by the Department.

1.12.4 If in the opinion of the Department, said security/safety concern(s) poses an immediate threat to the inmate workers, the Department may withhold further assignments of the inmate work crew until the concern is rectified.

1.13 To pay for inmate labor at the rate of fifty cents (50¢) per hour, to include approved extra hours, if applicable as authorized by the Department.

1.14 If applicable; to pay for Correctional Officer (CO) supervision of inmate work crews under this Contract, including overtime approved by Contractor, if applicable, and all employee related expenses. Should additional crews be needed, Contractor will hire additional staff to supervise inmate work crews. The Contractor in agreement with the Department must authorize the expense of additional Departmental staff before the expense is incurred.

1.15 If applicable; in addition to payment for inmate labor and CO overtime, the Contractor shall pay the Department for transportation costs at the State prevailing rate per mile, as determined by the Arizona Department of Administration, General Accounting Office, for distance traveled by each Department transportation vehicle to and from the work site(s). Such payment shall be rendered by separate check or warrant at the same time and place as payment for inmate wages.

1.16 That on or before the 15th business day of each calendar month, the Contractor shall make payment for all work performed during the preceding month. The check or warrant shall be made payable to Arizona State Prison Complex-Yuma and sent to the following address:

Arizona State Prison Complex – Yuma
Attention: Business Manager
P.O. Box 8909
San Luis, Arizona 85349

1.17 To maintain records and other evidence sufficient to reflect properly all payments related to this work program. Such records shall be made available for inspection and audit upon request by the Department.

1.18 That inmates assigned to this work program **shall not** drive any licensed, over-the road vehicle as part of their job responsibilities. However, assigned inmates may be permitted to operate the Contractor's off-road mobile equipment, in accordance with the following guidelines.

1.18.1 The Contractor shall provide written notice to the Department advising of the need to have inmates operate mobile equipment. The notice shall describe the type(s) of off-road mobile equipment to be operated in accordance with Attachment #3.

1.18.2 No inmate shall operate any mobile equipment until the Contractor receives written authorization from the Department in accordance with Attachment #3.

1.18.3 If the Contractor receives written authorization from the Department, the Contractor shall document training provided to inmates specific to each type of off-road mobile equipment to be operated.

1.18.4 Acquire and maintain applicable insurance in compliance with State requirements.

1.18.5 Designated off-road mobile equipment may be:

1.18.5.1 Riding lawnmowers and golf carts or similar type equipment.

1.19 That any of Contractor's employees who have, or may have, contact with any inmate workers or ADCRR staff who have contact with the inmate workers, are required to provide proof of a negative result from a test for infection of the COVID-19 coronavirus (SARS-CoV-2) within a preceding time period as required by ADCRR (which may normally range from one (1) week to one (1) month). Such test results must be provided to, and accepted by, ADCRR at least two (2) days before Contractor's employee is expected to have contact with inmate workers or ADCRR staff who have contact with the inmate workers. Contractor is responsible for the testing, testing costs, and providing test results to ADCRR.

1.19.1 Contractor shall notify ADCRR within two (2) hours upon learning that any of its employees associated with this work program has received a positive COVID-19 test result, along with all relevant information.

1.19.2 This will be an ongoing requirement, requiring such employees to be tested on a frequency determined by ADCRR requirements as long as they continue to have, or may have, contact with the inmate workers or ADCRR staff who have contact with the inmate workers. These ongoing negative test results must be provided to ADCRR's Prison Operations and accepted by ADCRR in a time frame acceptable to ADCRR.

1.19.3 For the purposes of these provisions, "contact" shall mean being within twelve (12) feet of another person at any time, or having the potential to be within that distance of another person at any time. ADCRR shall exercise its sole discretion in resolving any questions or disagreements about whether contact is occurring or may occur.

1.19.4 ADCRR will provide inmate workers with a face cover to assist with virus protection. Any additional COVID-19 related PPE (such as plastic or rubber gloves, hand sanitizer, etc.) shall be considered as part of the PPE referred to in Section 1.1, and shall be provided by Contractor as determined by ADCRR.

1.19.5 All test results shall be from a medical provider acceptable to ADCRR.

1.19.6 All testing shall be a diagnostic molecular, or antigen, type of test for current infection (not an antibody test). If an antigen test is used, it must be of the type using the BinaxNOW COVID-19 Ag CARD authorized by the FDA, or any other antigen test type which may be acceptable to ADCRR.

1.19.7 Specific testing and other related requirements above are subject to change depending on new guidance from the federal U.S. Centers for Disease Control and Prevention (CDC), State of Arizona guidelines or directives, ADCRR policy changes, and/or any other dynamic aspects of the COVID-19 pandemic. Upon notification, Contractor shall abide by and carry out revised written direction from ADCRR. Whenever ADCRR determines any guidelines or conditions impacting this Contract must be tightened or may be relaxed, Contractor will likewise be informed of any changes in writing (to include via email).

1.19.8 While the above Sections 1.19 through 1.19.7 address specific concerns associated with the COVID-19 coronavirus (SARS-CoV-2) pandemic, the same or similar provisions may be applied, without a Contract amendment, in the event some other type of virus, bacteria, or other public health hazard should bring about the need for similar efforts to help control or limit the spread of illness or disease to the inmate population, ADCRR staff, or the public at large. Contractor will be notified and informed in writing (to include via email), should any such matters arise, and Contractor will be likewise obligated to abide by ADCRR's direction.

2 **THE DEPARTMENT AGREES**:

2.1 To provide a mutually agreed number of inmates, subject to availability of said work force, to support the Contractor's property maintenance and construction projects.

2.2 Inmates classified as sexual predators/offenders **shall not** be utilized for this public works Contract.

2.3 That work assignments shall be performed at the Contractor's business location(s) as shown on Attachment No. 4.

2.4 To provide transportation of inmate workers to and from selected work site(s) in Department owned vehicles. Inmate workers shall not be transported in privately owned vehicles at any time.

2.5 To provide sack lunches for inmates and furnish all clothing, except special protective clothing or footwear.

2.6 To provide security supervision of inmate workers in accordance with Department written instructions.

2.7 When mutually agreed to by the Department and the Contractor: to provide a Correctional Officer (CO) who shall remain on site to provide security supervision of the inmate workers each workday. The assigned CO shall follow Department notification procedures if:

2.7.1 An inmate fails to remain at the work site.
2.7.2 An inmate has an accident or becomes seriously ill at the work site.

2.8 To remove and replace as soon as possible any inmate who does not perform to the satisfaction of the Contractor.

2.9 To approve/disapprove the Contractor's technical supervisor(s) assigned to this work program in accordance with Department written instructions.

2.10 To present training to Contractor's staff who will be involved in supervising or interacting with inmate workers. This training shall be given **prior** to initiating the work activities described in this Contract. Subsequent to Contract execution, replacement staff assigned to this work program must receive Department training prior to assuming work responsibilities.

2.11 To keep the Contractor fully informed of Department written instructions and activities that have bearing upon the Contractor fulfilling assigned obligations under this Contract.

2.12 To designate an institutional contact person who shall function as a liaison between the Institution,

Department and the Contractor in developing and coordinating work schedules, assignments, hours and transportation. The Department shall ensure the Contractor is given the name and telephone number/extension of the contact person.

2.13 To ensure that any inmate(s) who drives the Contractor's off-road mobile equipment as an assigned work duty is in compliance with Department written instructions governing the use of inmate drivers.

2.14 That prior to the initiation of this work program, the proposed work site shall be inspected relative to security and safety concerns to ensure the work environment satisfies all requirements imposed by custody level of assigned inmate workers and assigned work responsibilities. If, during the term of this Contract, security or safety concerns should become evident, or the Contractor wishes to change or alter the work site, the procedure described in Section 1.12 of this Contract shall be followed.

2.15 To invoice the Contractor for payments due no later than the fifth (5^{th}) business day of each month. Invoices shall identify the following:

2.15.1 Inmate name and ADC number
2.15.2 Hours worked
2.15.3 Rate of pay
2.15.4 Mileage (if applicable)
2.15.5 Vehicle repair expense (if applicable)
2.15.6 Total amount invoiced

2.16 Invoices for CO supervision shall identify at a minimum the following:

2.16.1 CO name(s)
2.16.2 CO hours worked including overtime hours, if applicable
2.16.3 Total amount invoiced

2.17 That invoices shall be sent to the Contractor at the following address:

City of San Luis
Attention: City Manager
1090 E. Union Street
San Luis, Arizona 85349

3 SPECIAL TERMS AND CONDITIONS

3.1 Term of Contract This Contract shall begin when all signatures are affixed and executed by the Department and shall continue for a period of five (5) years thereafter, unless terminated, canceled or extended as otherwise provided herein.

3.2 This Contract may be terminated, without cause, by either party by provision of prior written notice to the other. Such **Notice of Termination** shall be effective thirty (30) calendar days after mailing by certified mail, return receipt requested, to the other party.

3.3 Circumstances may arise during the term of this Contract which may prohibit the assignment of inmates for work assignments. Such circumstances could include acts of nature, institution riots, lockdowns, inmate work strikes, etc. The following guidelines shall govern, if such circumstances should occur:

3.3.1 The Department shall provide verbal notice within 24 hours to the Contractor if circumstances will impact work activities.

3.3.2 The Contractor shall not hold the Department liable for failure to perform, or in default of Contract terms due to circumstances described above.

3.4 Inmates working under this Contract are not employees of the Contractor and any compensation is provided solely pursuant to A.R.S. § 31-254.

3.5 Non-Availability of Funds In accordance with A.R.S. § 35-154, every payment obligation of the State under the Contract is conditioned upon the availability of funds appropriated or allocated for payment of such obligation. If funds are not allocated and available for the continuance of this Contract, this Contract may be terminated by the State at the end of the period for which funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

3.6 Cancellation for Conflict of Interest In accordance with A.R.S. § 38-511, State may within three years after execution cancel the Contract, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State, at any time while the Contract is in effect, becomes an employee or agent or any other party to the Contract in any capacity or a consultant to any other party of the Contract with respect to the matter of the Contract.

3.7 The Department reserves the right to terminate the contract for default in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits. The Department shall provide written notice of the termination and the reasons for it to the Contractor.

3.8 Changes to the Contract shall be handled by formal amendment through Procurement Services

3.9 Arbitration In accordance with A.R.S. § 12-1518, the parties agree to resolve all disputes arising out of or relating to this Contract through arbitration, after exhausting applicable administrative review except as may be required by other applicable statutes.

3.9.1 Records which relate to disputes, litigations or the settlement of claims arising out of the performance of this Contract, or to cost and expenses of this Contract as to which exception has been taken by either party, or their designees, shall be retained by the parties

until such appeals, litigations, claims or exceptions have been finally resolved.

3.10 Applicable Law In accordance with A.R.S. § 41-2501, et seq. and AAC R2-7-101, et seq. Contract shall be governed and interpreted by the laws of the State of Arizona and the Arizona Procurement Code.

3.11 Non-Discrimination In accordance with A.R.S. § 41-1461, Contractor shall provide equal employment opportunities for all persons, regardless of race, color, creed, religion, sex, age, national origin, disability or political affiliation. Contractor shall comply with the Americans with Disabilities Act.

3.12 Each party to this contract shall be responsible for any and all costs, including but not limited to, attorney fees, court costs and other litigation expenses incurred as a result of the errors and omissions of its officers, employees, agents, or assigns arising out of the performance of this contract.

3.13 Audit of Records In accordance with A.R.S. § 35-214, the Contractor shall retain and shall contractually require each subcontractor to retain all data, books and other records ("records") relating to this Contract for a period of five years after completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce the original of any or all such records.

3.14 Any and all notices, requests or demands given or made upon the parties hereto, pursuant to or in connection with this Contract, unless otherwise noted, shall be delivered in person or sent by United States Mail, postage prepaid, to the parties at their respective addresses as shown on the signature page of this document.

3.15 Third Party Antitrust Violations The Contractor assigns to the State any claims for charges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to the Contractor.

3.16 Notice Warning Any person who takes into or out of or attempts to take into or out of correctional facility or the grounds belonging to or adjacent to a correctional facility, any item not specifically authorized by the correctional facility, shall be prosecuted under the provisions of the Arizona Revised Statues. All persons, including employee and visitors, entering upon these confines are subject to routine searches of their persons, vehicles, property of packages.

Definition: A.R.S. § 13-2501:
A.R.S. § 13-2505:
ADC Department Order 708

3.17 Unlawful Sexual Conduct

3.17.1 A person – who is employed by the State Department of Corrections or the Department of Juvenile Corrections; is employed by a private prison facility or a city or county jail; Contracts to provide services with the State Department of Corrections, the Department of Juvenile Corrections, a private prison facility or a city or county jail; is an official visitor, volunteer or agency representative of the State Department of Corrections, the Department of Juvenile Corrections, a private prison facility or a city or county jail – commits unlawful sexual conduct by intentionally or knowingly engaging in any act of a sexual nature with an offender who is in the custody of the State Department of Corrections, the Department of Juvenile Corrections, a private prison facility or a city or county jail or with an offender who is under the supervision of either Department or a city or county

3.17.2 This section does not apply to a person who is employed by the State Department of Corrections, a private prison facility or a city or county jail or who Contracts to provide services with the State Department of Corrections, a private prison facility or a city or county jail or an offender who is on release status if the person was lawfully married to the prisoner or offender on release status before the prisoner or offender was sentenced to the State Department of Corrections or was incarcerated in a city or county jail.

3.17.3 Unlawful sexual conduct with an offender who is under fifteen years of age is a class 2 felony. Unlawful sexual conduct with an offender who is between fifteen and seventeen years of age is a class 3 felony. All other unlawful sexual conduct is a class 5 felony.

3.17.4 Unlawful sexual conduct; correctional facilities; classification; Definition A.R.S. § 13-1419.

3.18 Federal Prison Rape Elimination Act 2003 The Contractor shall comply with the Federal Prison Rape Elimination Act of 2003. Reference 28 C.F.R., Part § 115.

3.19 Contraband

3.19.1 Contraband means any dangerous drug, narcotic drug, intoxicating liquor of any kind, deadly weapon, dangerous instrument, explosive or any other article whose use of or possession would endanger the safety, security or preservation of order in a correctional facility or any person therein. (Any other article includes any substance which could cause abnormal behavior, i.e. marijuana, nonprescription medications, etc.

Promoting prison contraband A.R.S. § 13-2505:

A person, not otherwise authorized by law, commits promoting prison contraband:

- By knowingly taking contraband into a correctional facility or the grounds of such a facility; or
- By knowingly conveying contraband to any persons confined in a correctional facility; or
- By knowingly making, obtaining, or possessing contraband while being confined in a correctional facility.

Promoting Prison Contraband is a Class 5 felony.

Authority A.R.S. § 13-2501
A.R.S. § 13-2505
ADC Department Order 708

3.20 Offshore Performance of Work Prohibited. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or overhead services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

3.21 Electronic and Information Technology. Unless specifically authorized in the Contract, any

electronic or information technology offered to the State of Arizona under this Contract shall comply with A.R.S. § 41-2531 and A.R.S. § 41-2532 and Section 508 of the Rehabilitation Act of 1973, which requires that employees and members of the public shall have access to and use of information technology that is comparable to the access and use by employees and members of the public who are not individuals with disabilities.

3.22 E-Verify Requirement

3.22.1 In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with AAC Section A.R.S. § 23-214, Subsection A.

3.23 **INDEMNIFICATION:**

3.23.1 Each party (as "Indemnitor") agrees to indemnify, defend, and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers. The State of Arizona, Department of Corrections is self-insured per A.R.S. 41-621.

INMATE WORK PROGRAM UTILIZING ON-SITE CORRECTIONAL OFFICER(S) (CO)

A. The Contractor shall provide training and special protective clothing if work environment necessitates use of specific safety precautions or if inmates must work with, near, or around hazardous materials, e.g., asbestos, explosives, radioactive substances. Provision of training shall be documented in writing for each inmate participant. Special protective clothing may include, but shall not be limited to, shoes, safety glasses, gloves, goggles, protective outerwear, hats, etc.

B. The Contractor shall provide instruction to all inmate workers regarding necessary safety precautions at the job site. If inmate workers are required to operate special equipment as part of their job duties, appropriate training specific to its use shall be provided and documented.

C. Contractor's supervisors shall have knowledge and training related to the particular work tasks described in the Contract to ensure that qualified technical supervision and assistance shall be provided to inmate workers as applicable to job requirements.

D. All equipment, machinery and tools needed to accomplish designated work assignments shall be maintained in good repair and working condition by the Contractor.

E. The Contractor shall comply with the required standards of the Occupational Safety and Health Act (OSHA) during the term of this Contract relative to safety of the work environment and equipment used by assigned inmate workers.

F. The confidentiality of information regarding any inmate worker acquired in the course of service pursuant to this Contract shall be maintained in accordance with A.R.S. §31-221, and ***no*** information shall be released without prior written authorization from a representative of the Department.

G. The Contractor's personnel shall be instructed that it is unlawful for anyone to give, take or in any manner barter with inmates, i.e., the supplying of any goods, including food and soft drinks or monies, constitutes a felony for which they can be prosecuted. Inmates are not permitted to work where there are alcoholic beverages or illegal drugs. The Contractor's personnel shall not handle any mail, notes, packages, or verbal messages for assigned inmates. No inmate shall be permitted to make or receive telephone calls unless the call is made to or received from the prison facility in which the inmate is incarcerated.

H. An authorized representative of the Department shall be permitted to visit or telephone assigned inmates at the prescribed place of work, or to otherwise communicate with the Contractor to discuss each inmate's work performance, work attendance and general behavior.

I. No inmate shall be placed in a supervisory capacity over any other inmate.

J. The Contractor shall provide immediate notification to the onsite CO of the following:

1. Unsatisfactory work or malingering of inmates. If requested, the Contractor shall furnish a written account of such unsatisfactory performance.

2. The discovery or suspicion of any intoxicant or un-prescribed drug in the possession of any inmate worker.

K. **The visiting of an inmate by any unauthorized person shall not be permitted**. If any person is found visiting with an inmate, his or her name and description shall be given to Department authorities. If it is not possible or feasible to obtain names, other identification such as automobile make, description and license number shall be obtained when possible.

L. Any allegations of non-compliance with Department written instructions, or other Contractor misconduct, shall be subject to investigation by the Department.

INMATE WORK PROGRAM UTILIZING CONTRACTOR SUPERVISION

A. No inmate shall be placed in a supervisory capacity over any other inmate.

B. Department authorities shall be notified of unsatisfactory work or malingering of inmates and, if requested, the Contractor shall furnish a written account of such unsatisfactory performance.

C. The Department shall receive immediate notification of an inmate's failure to remain at work in accordance with assigned job duties.

D. The Department shall receive immediate notification of the discovery or suspicion of any intoxicant or unprescribed drug in the possession of any inmate worker.

E. In the event of accident or serious illness while on the job, the Contractor may administer first aid as necessary and shall notify Department authorities without delay. If necessary, in the interest of life or limb, the inmate may be transported to the nearest hospital. Inmate workers shall not be transported in privately owned vehicles at any time.

F. The Contractor shall provide training and special protective clothing if work environment necessitates use of specific safety precautions or if inmates must work with, near, or around hazardous materials, e.g., asbestos, explosives, radioactive substances. Provision of training shall be documented in writing for each inmate participant. Special protective clothing may include, but shall not be limited to, shoes, safety glasses, gloves, goggles, protective outerwear, hats, etc.

G. The Contractor shall provide instruction to all inmate workers regarding necessary safety precautions at the job site. If inmate workers are required to operate special equipment as part of their job duties, appropriate training specific to its use shall be provided and documented.

H. Contractor's supervisors shall have knowledge and training related to the particular work tasks described in the Contract to ensure that qualified technical supervision and assistance shall be provided to inmate workers as applicable to job requirements.

I. All equipment, machinery and tools needed to accomplish designated work assignments shall be maintained in good repair and working condition by the Contractor.

J. The Contractor shall comply with the required standards of the Occupational Safety and Health Act (OSHA) during the term of this Contract relative to safety of the work environment and equipment used by assigned inmate workers.

K. The confidentiality of information regarding any inmate worker acquired in the course of service pursuant to this Contract shall be maintained in accordance with A.R.S. § 31-221,

and no information shall be released without prior written authorization from a representative of the Department.

L. The Contractor's personnel shall be instructed that it is unlawful for anyone to give, take or in any manner barter with inmates, i.e., the supplying of any goods, including food and soft drinks or monies, constitutes a felony for which they can be prosecuted. Inmates are not permitted to work where there are alcoholic beverages or illegal drugs.

M. The Contractor's personnel shall not handle any mail, notes, packages, or verbal messages for assigned inmates. No inmate shall be permitted to make or receive telephone calls unless the call is made to or received from the prison facility in which the inmate is incarcerated.

N. An authorized representative of the Department shall be permitted to visit or telephone assigned inmates at the prescribed place of work, or to otherwise communicate with the Contractor to discuss each inmate's work performance, work attendance and general behavior.

O. The visiting of an inmate by any unauthorized person shall not be permitted. If any person is found visiting with an inmate, his or her name and description shall be given to Department authorities. If it is not possible or feasible to obtain names, other identification such as automobile make, description and license number shall be obtained when possible.

P. Any allegations of non-compliance with Department written instructions, or other Contractor misconduct, shall be subject to investigation by the Department.

Developed by: State of Arizona, Department of Administration
Risk Management Section

Provided by: Mike Foster, Manager, Safety and Environmental Services,
Administrative Services Division

1 PROGRAM OBJECTIVES

1.1 This Safety and Loss Prevention Program is established to exercise all available means of eliminating or controlling hazards and risks associated with renovation and construction projects.

1.1.1 Minimize Personal injuries;

1.1.2 Maximize Property Conservations;

1.1.3 Achieve Greater Efficiency; and

1.1.4 Reduce Direct and Indirect Costs

1.2 The effectiveness of Safety and Loss Prevention Program will depend on the active participation and full cooperation of all involved with the project to include management, supervisors, inmates, and employees, and their efforts in carrying out the following basic responsibilities.

1.2.1 Plan all work to minimize personal injury, property damage and loss of productive time.

1.2.2 Properly select inmates/employees based upon their skill level for the necessary job tasks.

1.2.3 Provide for the protection of adjacent property and safety of the public.

1.2.4 Coordinate activities with others at the work location.

1.2.5 Establish and conduct an educational program to stimulate and maintain interest and participation of all inmates and employees through:

1.2.5.1 Safety Meetings;
1.2.5.2 Prompt investigation of all accidents and serious potential incidents to determine cause or causes and take necessary corrective action to eliminate a recurrence of a loss or incident:
1.2.5.3 Use of proper work methods, personal protective equipment, and mechanical guards;
1.2.5.4 Employee/inmate safety instructions to all assigned work; and
1.2.5.5 Safety training programs.

2 RESPONSIBILITIES

2.1 It is the purpose of the program to organize and direct activities, which will:

2.1.1 Avoid injuries.
2.1.2 Reduce construction interruption due to an accident.
2.1.3 Assure a safe and healthy place to work.

2.2 The Project Manager is required to establish and administer a site-specific safety program and will:

2.2.1 Make periodic loss prevention surveys.

2.2.2 Submit written recommendations.

2.2.3 Periodically attend safety meetings.

2.2.4 Assure safety orientation meetings for employees/inmates are conducted and documented.

2.2.5 Provide warning signs, safety literature, reporting forms, and other educational and training materials as deemed appropriate.

2.2.6 Maintain a written comprehensive Safety and Loss Prevention manual.

2.2.7 Give due consideration to all safety factors during pre-planning.

2.2.8 Employ only those individuals physically and mentally capable of performing in a safe manner.

2.2.9 Comply with the Occupational Safety and Health Act and all other applicable Federal, State and Local regulations.

2.2.10 Provide and enforce the use of all necessary testing equipment for employee/inmate health and safety. Provide and enforce the use of personal protective equipment and use only where Engineering controls are not feasible.

2.2.11 Provide properly guarded and maintained tools, machinery and equipment.

2.2.12 Maintain necessary accident records and promptly file the reports required by the State or Federal authorities and the insurer.

2.2.13 Promptly investigate any incident that causes injury or damage to property.

2.2.14 Plan and schedule work operations so as to control personal injury and property damage hazards.

2.2.15 Maintain good housekeeping conditions and fire protection equipment.

2.2.16 Maintain an effective equipment inspection and maintenance program.

2.2.17 Provide proper and specific work task training for employees/inmates regarding the hazards of their jobs and how to work safely.

2.2.18 Correct unsafe work habits of employees/inmates as soon as they are observed.

2.2.19 Eliminate unsafe conditions under their control and promptly report those they cannot eliminate to the proper authority.

2.2.20 Conduct weekly toolbox meetings with all employees/inmates and maintain written records of these meetings. The written record shall include the date, topic discussed, comments, and attendees.

2.2.21 Ensure each employee/inmate understands that violations of the project safety program will not be tolerated and that proper disciplinary action will be administered, including removal from the Project for violation of safety policy.

3 GENERAL SAFETY REQUIREMENTS

3.1 Laws and Regulations:

3.1.1 Responsible project management representatives shall comply with and enforce all local, state and federal laws, rules, statutes and regulations of governing or regulatory bodies within the geographical scope of its operations. They will also cooperate with all regulatory agencies regarding job site safety and health, and allow full access to the project for visitation.

3.2 Audit Procedures:

3.2.1 All documentation regarding safety training, hazard communication, electrical safety programs, equipment safety programs, equipment inspection and maintenance records, and fire protection inspection shall be kept on the job site.

3.3 Drug and Alcohol Policy:

3.3.1 The possession or use of any non-prescribed drug or any alcohol beverage on the job site is strictly prohibited.

4 SPECIFIC REQUIREMENTS

4.1 Emergency Procedures Guideline:

4.1.1 The Project Manager will set up emergency procedures for the following categories:

4.1.1.1 Fire
4.1.1.2 Injuries
4.1.1.3 Injury to the general public
4.1.1.4 Property damage, particularly to utilities; i.e., gas, water, sewage, electrical, telephone, or pedestrian and vehicle routes.
4.1.1.5 Public demonstrations
4.1.1.6 Bomb threats
4.1.1.7 Other exposures at the construction site

4.1.2 In order that necessary emergency services are supplied promptly, the Project Manager shall:

4.1.2.1 Post in a conspicuous place, a list of emergency phone numbers, along with the type of information to be transmitted for each emergency situation.

4.1.2.2 Delegate responsibility for making emergency calls.

4.1.3 It is the responsibility of the Project Manager to ensure immediate (5 min or less) reliable emergency medical response is available or to provide full time dedicated, trained emergency medical staff and facilities to be available to all employees/inmates If employees/inmates are working with materials that could adversely affect their respiration, or are subject to electrical shock that could cause loss of the breathing function, and medical response is longer than 3 to 4

minutes, the Project Manger must adhere to the OSHA rules and regulations, 29 CFR 1926.50, regarding medical response for a construction site.

4.1.4 The Project Manager's emergency procedures should be reviewed regularly and, where necessary, adjusted to provide maximum effectiveness.

4.2 Protection of the Public:

4.2.1 The Project Manager shall take all necessary precautions to prevent injury to the public or damage to property of others. The term "public" shall include all persons not engaged in the project or others working under his/her direction. Precautions to be taken shall include, but not limited to, the following:

4.2.1.1 Work shall not be performed in any area occupied by the public unless specified permitted by the contract or in writing by the Project Manager.

4.2.1.2 When it is necessary to maintain public use of work areas involving sidewalks, entrances to buildings, lobbies, corridors, aisles, stairways and vehicular roadways, the Project Manager s shall protect the public with appropriate guardrails, barricades, temporary partition shields, and adequate visibility. Such protection shall guard against harmful radioactive rays or particles, flying materials, falling or moving materials and equipment, hot or poisonous materials, explosives and explosive atmospheres, flammable or toxic liquids and gasses, open flames, energized circuits or other harmful exposures.

4.2.1.3 Sidewalks, entrances to buildings, lobbies, corridors, aisles, doors or exits shall be kept clear of obstructions to permit safe ingress and egress of the public at all times.

4.2.1.4 Appropriate warnings, signs, and instructional safety signs shall be conspicuously posted where necessary. In addition, a signal shall control the movement of motorized equipment in areas where the public might be endangered.

4.2.1.5 Sidewalk sheds, canopies, catch platforms and appropriate fences shall be provided when it is necessary to maintain public pedestrian traffic adjacent to the erection, demolition or structural, alteration of outside walls on any structure. The protection required shall be in accordance with the laws and regulations of the regulatory bodies.

4.2.1.6 A temporary fence shall be provided around the perimeter of above ground operations adjacent to public areas except where a sidewalk shed or fence is, if provided by the contract or as required by Subparagraph 5 above. Perimeter fences shall be at least six feet high and/or in compliance with the laws and regulations of the regulatory bodies involved.

4.2.1.7 Guardrails shall be provided on both sides of vehicular and pedestrian bridges, ramps, runways and platforms. Pedestrian walkways elevated above adjoining surfaces, or walkways within six feet of the top of excavated slopes or vertical banks shall be protected with guardrails, except where sidewalk sheds or fences are provided as required by Subparagraph 5 above. Guardrails shall be made of

rigid materials capable of withstanding a force of at least 200 pounds applied in any direction at any point in their structure. Their height shall be approximately 42-inches. Top rails and post may be 2-inches by 4-inches dressed wood or equal. Intermediate horizontals rails at mid-height and toe boards at platform level may be 1-inch by 6-inch wood or equal. Posts shall not be over eight feet apart.

4.2.1.8 Barricades meeting the requirements of the political subdivision involved shall provided where sidewalk sheds, fences or guardrails as referenced above, are not required between work areas and pedestrian walkways, roadways or occupied buildings. Barricades shall be secured against accidental displacement and shall be maintained to perform the work. During the period a barricade is removed temporarily for the purposes of work, a watchman shall be placed at all openings.

4.2.1.9 Temporary sidewalks shall be provided when a permanent sidewalk is obstructed by the Trade Subcontractor's or any tier operations. They shall be in accordance with the requirements of the political subdivision involved. Guardrails shall be provided on both sides of temporary sidewalks.

4.2.1.10 Warning signs and lights including lanterns, torches, flares and electric lights, meeting requirements of the political subdivision involved, shall be maintained from dusk to sunrise along guardrails, barricades, temporary sidewalks and at every obstruction to the public. These shall be placed at both ends of such protection or obstructions and not over 20 feet apart alongside of such protection or obstructions.

4.3 Housekeeping

4.3.1 During the course of construction/renovation, housekeeping practices will be followed to keep the work areas, passageways, and stairs in and around the buildings or other structures, free from debris of all types.

4.3.1.1 This shall include scrap lumber and form lumber with protruding nails.

4.3.1.2 Combustible scrap and debris shall be removed at regular intervals. Containers shall be provided for the collection of scrap, trash and other debris.

4.4 Personal Protective Equipment:

4.4.1 The Project Manager shall be responsible for requiring the wearing of appropriate personal protective equipment in all operation where there is an exposure to hazardous conditions or where there is an indication of the need for using such equipment to reduce the hazard to employees/inmates. Such equipment will be used where engineering out the hazard is not feasible.

4.5 Flammable and Combustible Liquids:

4.5.1 Flammable and combustible liquids shall be stored and dispensed in compliance with regulations and rules established by the governing regulatory bodies.

4.5.2 Any leakage or spillage of flammable or combustible liquids shall be cleaned up immediately and disposed of promptly and safely.

4.5.3 Transfer of flammable liquids from one container to another shall require electrically bonding the containers.

4.5.4 Small quantities of flammable liquids that may be used at various points on the Job Site shall be handled in approved safety cans.

4.5.5 No smoking, matches, or open flames will be permitted within 50 feet of the area where flammable liquids are used or transferred, unless conditions warrant greater clearance.

4.5.6 Fuel trucks will properly marked, contents clearly identified, posted and with proper fire protection.

4.5.7 Fuel tanks over 500 gallons will be diked, grounded, and protected from contact by vehicles on all sides. Proper identification of tanks and access for measurement will be maintained.

4.6 Tools – Hand and Power:

4.6.1 All hand and power tools and equipment shall be maintained in a safe condition. The Project Manager shall be responsible for the condition of all tools or equipment used by employees/inmates.

4.6.2 Power operated tools that are designed to accommodate guards shall be equipped with such guards while in use.

4.6.3 Belts, gears, shafts, pulleys, sprockets, spindles, drums, flywheels, chains, or other reciprocating, rotating or moving parts of such equipment or tools shall be guarded if such parts are exposed to contact.

4.6.4 Wrenches shall not be used when the jaws are sprung or worn to the point that slippage occurs.

4.6.5 Impact tool such as wedges and chisels shall be kept free of mushroomed heads.

4.6.6 Wooden handles of tool shall be kept free of splinters and cracks and shall be kept tight in the tool.

4.6.7 All hand-held powered drills, fastener drivers, grinders with wheels greater than 2-inches in diameter, disc sanders, belt sanders, reciprocating saws, saber saws and similar operating power tools shall be equipped with a momentary contact off-on control and may have a lock-on control provided that turn off can be accomplished with a single motion of the same finger or fingers that turn it on.

4.6.8 All other hand-held powered tools such as circular saws, chain saws, and percussion tools with positive accessory holding means, shall be equipped with a constant pressure switch that will shut off power when the pressure is released.

4.6.9 The use of electrical cords for hoisting or lowering tools shall not be permitted.

4.6.10 Pneumatic power tools shall be secured to the hose or whip by some positive means to prevent the tool from becoming accidentally disconnected. Each section of supply hose to pneumatic tool shall also be secured by some positive means to prevent accidental disconnection.

4.6.11 Safety clips or retainers shall be securely installed and maintained on pneumatic impact tools to prevent attachments from being accidentally expelled.

4.6.12 Pneumatic hoses shall not be used as a means of hoisting or lowering tools.

4.6.13 Only employees/inmates who have been trained in the operation of the particular tool in use shall be allowed to operate a power-actuated tool.

4.6.14 Power-actuated tools shall be tested each day before loading to see that safety devices are in proper working condition. The testing shall be done in accordance with the manufacturer's recommended pressure.

4.7 Earth Moving Equipment:

4.7.1 Operators will receive instructions on proper mounting and dismounting of equipment.

4.7.2 Operators shall wear seat belts while vehicle is in motion.

4.7.3 Equipment shall be in safe operating condition and inspected daily for proper braking and hydraulic systems and tires.

4.7.4 Dozer, loader, scraper, backhoe buckets, glades and pans will be grounded before the operator dismounts.

4.7.5 Prior to mounting any equipment, the operator will visually inspect the area not visible from the operator's station.

4.7.6 Equipment will have audible warning devices in good working order.

LETTER OF INSTRUCTION
REQUEST FOR AUTHORIZATION

UTILIZING INMATE WORKERS FOR OPERATION OF OFF-ROAD MOBILE EQUIPMENT

Inmate Work Contracts between the Department and the Contractor provide authorization for assigned inmate workers to operate off-road mobile equipment under certain conditions. This Letter of Instruction provides the procedure for obtaining approval to utilize inmate workers on Contractor's off-road mobile equipment.

1 The Contractor shall provide written notice advising of the need to utilize inmate workers to operate specific off-road mobile equipment. The request shall include the following information:

1.1 A complete list describing the type(s) of off-road mobile equipment to be operated;

1.2 Identification of specific training inmates will receive for each type of off-road mobile equipment; and

1.3 A list of inmates, to include the inmate's Department identification number, for whom approval is being requested. The list **shall** reflect the type(s) of mobile equipment to be operated, specific to each inmate worker.

2 The Department shall acknowledge the Contractor's request and, after coordinating with institution officials, notify the Contractor in writing of those inmates approved to be trained to operate off-road mobile equipment. The Contractor **shall not** proceed with training until written notice of authorization is received from the Department.

3 Once approval to proceed with training is received, the Contractor shall provide safety and operational training to approved inmates for each type of specified off-road mobile equipment. The manufacturer's supplied training materials and/or materials developed in accordance with Occupational Safety and Health Act (OSHA) guidelines, for each specific type of mobile equipment, should meet the training requirements for each inmate operator. Copies of training materials shall be provided to the Department for record keeping purposes.

4 Once training is complete, the Contractor shall furnish documentary evidence of satisfactory completion of training for each inmate. The documentation shall include the inmate's certification by signature that he/she understands the operation and safety issues of each type of mobile equipment he/she has been trained to operate.

5 Following review of training documents provided by the Contractor, and/or designee, the Department shall furnish the Contractor with notification of approval for individual inmates. Contractor shall maintain records of training and authorization for all inmate workers as long as they are engaged in this inmate work program.

6 The Contractor shall acquire and maintain applicable insurance in compliance with State requirements.

1	**City of San Luis and other City properties; i.e., City Hall, parks and roadways** **1090 E. Union Street** **San Luis, Arizona 85349**

AGENDA ITEM REVIEW FORM

Work Session **2. I.**

Meeting Date: 02/03/2021

Department Head: Sonia Cornelio, City Clerk, City Clerk's Office

Submitted By: Melissa Lopez, Deputy City Clerk, City Clerk's Office

Action Requested: Discussion Item - No Action to be Taken

ITEM:

Discussion and possible directions to staff on any and all matters regarding a Business Grant Program to assist small local businesses impacted by the pandemic. **(Council Member Luis E. Cabrera; Jenny Torres, Economic Development Manager; and Monica Castro, Director of Finance)**

SUMMARY:

Council Member Luis E. Cabrera asked that this item be placed on the Work Session for February 3, 2021.

RECOMMENDATION / SUGGESTED MOTION:

Discussion and possible directions to staff only, no action.

Fiscal Impact

IS THERE FISCAL IMPACT ASSOCIATED WITH THIS ITEM:	No
CITY/STATE/FEDERAL FUNDS:	N/A
TOTAL:	N/A
BUDGETED AMOUNT:	N/A
AVAILABLE AMOUNT TO TRANSFER:	N/A
ACCT NAME & GL#/REMAINING BALANCE BEFORE PURCHASE:	N/A

FISCAL IMPACT STATEMENT (IF THIS IS A BUDGET TRANSFER, YOU MUST ATTACH THE BUDGET ADJUSTMENT FORM):

There is no fiscal impact associated with this item.

AGENDA ITEM REVIEW FORM

Work Session **2. J.**

Meeting Date: 02/03/2021

Department Head: Sonia Cornelio, City Clerk, City Clerk's Office

Submitted By: Melissa Lopez, Deputy City Clerk, City Clerk's Office

Action Requested: Discussion Item - No Action to be Taken

ITEM:

Discussion and possible directions to staff on any and all matters regarding a citywide Beautification Program. **(Council Member Luis E. Cabrera; Lizandro Galaviz, Director of Parks & Recreation; Eulogio Vera, Director of Public Works; and Richard Jessup, Chief of Police)**

SUMMARY:

Council Member Luis E. Cabrera asked that this item be placed on the Work Session for February 3, 2021.

RECOMMENDATION / SUGGESTED MOTION:

Discussion and possible directions to staff only, no action.

Fiscal Impact

IS THERE FISCAL IMPACT ASSOCIATED WITH THIS ITEM:	No
CITY/STATE/FEDERAL FUNDS:	N/A
TOTAL:	N/A
BUDGETED AMOUNT:	N/A
AVAILABLE AMOUNT TO TRANSFER:	N/A
ACCT NAME & GL#/REMAINING BALANCE BEFORE PURCHASE:	N/A

FISCAL IMPACT STATEMENT (IF THIS IS A BUDGET TRANSFER, YOU MUST ATTACH THE BUDGET ADJUSTMENT FORM):

There is no fiscal impact associated with this item.

AGENDA ITEM REVIEW FORM

Work Session **2. K.**

Meeting Date: 02/03/2021

Department Head: Sonia Cornelio, City Clerk, City Clerk's Office

Submitted By: Melissa Lopez, Deputy City Clerk, City Clerk's Office

Action Requested: Discussion Item - No Action to be Taken

ITEM:

Discussion and possible directions to staff on any and all matters regarding the speed limit on Urtuzuastegui Street. **(Council Member Luis E. Cabrera; Richard Jessup, Chief of Police; and Eulogio Vera, Director of Public Works)**

SUMMARY:

Council Member Luis E. Cabrera asked that this item be placed on the Work Session for February 3, 2021.

RECOMMENDATION / SUGGESTED MOTION:

Discussion and possible directions to staff only, no action.

Fiscal Impact

IS THERE FISCAL IMPACT ASSOCIATED WITH THIS ITEM:	No
CITY/STATE/FEDERAL FUNDS:	N/A
TOTAL:	N/A
BUDGETED AMOUNT:	N/A
AVAILABLE AMOUNT TO TRANSFER:	N/A
ACCT NAME & GL#/REMAINING BALANCE BEFORE PURCHASE:	N/A

FISCAL IMPACT STATEMENT (IF THIS IS A BUDGET TRANSFER, YOU MUST ATTACH THE BUDGET ADJUSTMENT FORM):

There is no fiscal impact associated with this item.