



Requesting
Department:
Management Services

TO: HONORABLE MAYOR AND TOWN COUNCIL

THROUGH: JOHN KROSS, TOWN MANAGER

**FROM: KIM CLARK, SR. FINANCIAL SERVICES ANALYST
YOLANDA BRACAMONTE, CONTROLLER**

**RE: CONSIDERATION AND POSSIBLE APPROVAL OF
EXPENDITURES \$25,000 AND OVER**

DATE: June 20, 2012

Staff Recommendation:

Staff recommends approval of expenditures \$25,000 and over.

Proposed Motion:

Move to approve Town expenditures \$25,000 and over, pursuant to Town purchasing policy.

Discussion:

The following items being requested are:

1. Replenish Town's stock of trash and recycling carts
2. Lease agreement to replace end of life computers, payment 4 of 4
3. Agreement for GIS development
4. MUNIS (financial system) annual support costs
5. Annual maintenance agreement for printers/copiers
6. Cisco maintenance agreement for Town equipment
7. Town Council broadcasting and filming contract

See attachment for additional explanation on the above expenditures.

Fiscal Impact:

The initial fiscal impact of the requested spending authority for the above expenditure is \$340,600. Funds have been identified within the line item budget as approved in the 2012-2013 fiscal year budgets.

Alternatives:

1. Trash and Recycling carts are necessary for the Town's Solid Waste program. Council could direct staff to order in smaller, more frequent quantities. However,

there is a four (4) month lead time on order and cost savings by ordering bulk. In addition, the Town's holding costs for the inventory are negligible.

2. The current lease agreement with Hewlett Packard is for over 100 desktop, and laptops that are currently in use. An alternative would be for the Town to conduct their own solicitation for this service; however, it would require additional staff time, and no guarantee that the Town would be successful in reducing current costs, especially since the Town is utilizing a National Cooperative Contract.
3. The GIS agreement allows for unlimited copies of GIS software and training. An alternative would be to discontinue the services to the Town for GIS development. In addition, supplemental funding would need to be provided in order to provide the tools necessary for GIS technical work.
4. MUNIS is proprietary software that supports the Town's Financial Software system. The only alternative would be to discontinue the support, which would no longer maintain the system through needed updates, software patches, and support.
5. IKON provides the maintenance on copiers, printers, and MFD fleet (including toner, supplies, parts, and support) which will be eliminated if Council chooses not to approve this expenditure. The alternative would be to have services based on time and material calls, which would increase repair time dramatically as well as decrease the level of support the Town staff needs in order to complete their assignments.
6. Council could choose not to approve the expenditure. The impact of this action would void the Town's entire telephone network as well as data connectivity service of support, maintenance and technical assistance covered under this agreement. By not properly maintaining the Town's networking services, risks involving mission critical services affecting the health and welfare of our residents, such as Fire communications, and the Utilities department's real-time access to well and pump sites.
7. Orange Screen currently provides all audio, video, production and broadcasting services for Town Council Sessions. The alternative would be to discontinue these services.

Attachments:

- A detailed list of requested expenditure.

Attachment: Expenditures \$25,000 and over

**For Fiscal Year 2013
June 20, 2012**

Item #	Vendor	Description	Purpose	Requesting Dept	Fiscal Impact \$	Procurement Method
1.	Toter Inc	Replenish the Town's Stock of trash and recycling carts in order to meet FY13 demand	Replenish the Town's stock of trash and recycling carts in order to meet FY13 demand, based on the phasing in of the final four subdivisions, new home projections, the absorption of vacant homes, and lead time/safety stock needs. Order quantity is 1,872 carts (936 trash, 936 recycling).	Development Services	\$97,600	NIPA contract # 084008
2.	Hewlett Packard	Master Lease Agreement Amendment 1	Lease agreement entered in FY10 to replace end of life PC equipment for the Town. This is a 4 year lease agreement, requesting approval to proceed with payment.	Information Technology	\$34,500	WSCA A63309
3.	ESRI	ESRI / ARC Agreement	Agreement provides aid to municipalities in GIS development. Grant the community to access unlimited copies of software, and GIS training	Information Technology	\$27,500	Town Contract 2008-14
4.	Tyler Technologies	MUNIS Financial System	Annual support costs for the Town's financial system	Information Technology	\$70,300	Sole Source
5.	IKON	Annual Service Agreement	Annual fees associated with maintaining and servicing all Town copiers, printers, and MFD fleet including toner, supplies, and parts	Information Technology	\$35,000	AHCCS YH04-0014-01
6.	NEC	Cisco Maintenance / TAC Agreement	Annual maintenance agreement covering all of the Towns Cisco equipment including telephony, server and network related items.	Information Technology	\$45,700	City of Tempe T11-048-01 Schedule A
7.	Orange Screen	Town Council Broadcasting and Filming Contract	Providing audio, video and production services specifically for filming all Town Council meetings	Communications & Marketing	\$30,000	Town Contract 2009-33

Requesting Department:

Town Manager



TO: HONORABLE MAYOR AND TOWN COUNCIL

THROUGH: JOHN KROSS, TOWN MANAGER

**FROM: TRACY CORMAN
SENIOR MANAGEMENT ASSISTANT**

**RE: DISCUSSION AND POSSIBLE ACTION ON RENEWAL OF AN
INTERGOVERNMENTAL AGREEMENT (IGA) WITH THE
MARICOPA COUNTY LIBRARY DISTRICT FOR THE USE OF
TOWN PROPERTY FOR LIBRARY SERVICES**

DATE: JUNE 20, 2012

Recommendation:

Staff recommends renewing the IGA with the Maricopa County Library District for the use of Town property for library services.

Relevant KRA(s):

KRA 5: Financial Management / Internal Services and Sustainability

KRA 7: Intergovernmental Relations

Proposed Motion:

Move to renew the IGA with the Maricopa County Library District for the use of Town property for library services.

Discussion:

The existing IGA with the Maricopa County Library District for library operations at the Queen Creek Library expires on June 30, 2012. The Library District considers 5-year terms for IGA's, therefore, the renewed IGA will expire on June 30, 2017.

The terms included in the new IGA match those set forth in the current IGA. The Town provides the library building and is responsible for payment of utility services, insurance, janitorial services, and maintenance of the building and landscaping. The Library District is responsible for providing library programs, administration, staffing, equipment, books, computers, and other materials necessary for the provision of library services.

Fiscal Impact:

Approval of this IGA allows for the continued operations of the library under the existing terms and conditions.

Alternatives:

1. The Mayor and Council may decide to delay action on this matter and continue it to another meeting.
2. The Mayor and Council may decide not to renew the IGA with Maricopa County Library District, and have the Town provide library services instead. Under this option a new revenue source would need to be identified, or funds would need to be reallocated from existing programs, in order to cover the approximately \$1.3 million annual expense for operating the library.

Attachments:

Town/Maricopa County Library District IGA

INTERGOVERNMENTAL AGREEMENT
BETWEEN THE
MARICOPA COUNTY LIBRARY DISTRICT
AND THE TOWN OF QUEEN CREEK

Agenda # _____

This Intergovernmental Agreement ("Agreement") is made this ___ day of _____, 2012, between the Maricopa County Library District, a political subdivision of the State of Arizona ("LIBRARY DISTRICT") and the Town of Queen Creek, Arizona, a municipal corporation ("TOWN").

RECITALS:

The parties have the legal capacity to enter into this Intergovernmental Agreement pursuant to A.R.S. § 11-951, et seq.

A.R.S. § 48-3901 provides for the establishment of a library district within Maricopa County and further provides that cities and towns within the County may elect to become a part of or to participate in said library district; and

The TOWN is a member of the Maricopa County Library District and desires to continue to make library services available to its residents.

Participation by TOWN with the LIBRARY DISTRICT in this project provides expanded benefits to the TOWN and its residents, such as public library service, specialized library programs, and other services which are not otherwise available to TOWN residents.

The LIBRARY DISTRICT benefits from the Agreement by providing library services to Maricopa County residents in the south eastern region of Maricopa County and by the use of space which is provided by the TOWN.

NOW, THEREFORE, IN CONSIDERATION OF THE COVENANTS HEREINAFTER SET FORTH, the parties agree as follows:

1. General:

- 1.1. Term of Agreement. The term of this Agreement shall be for five (5) years commencing on the date the Agreement is signed and subject to annual appropriations by each party to fund the Agreement. After the initial five (5) year term, this Agreement may be renewed by the parties for additional five (5) year terms by mutual consent of the parties, on the same terms and conditions as set forth in this

Agreement or as modified, in writing, and subject to annual appropriations to fund the Agreement.

- 1.2. Authorized Representatives. Within thirty (30) days after the effective date of this Agreement, TOWN and LIBRARY DISTRICT shall each appoint an authorized representative to carry out the duties set forth in this Agreement delegated to such authorized representatives. Either party may change the designation of its authorized representative by giving notice the other party pursuant to Paragraph 8.1 herein.

2. DEFINITIONS.

- 2.1. "Library" means 23,000 square-foot area of the 47,000 square-foot building located at 21802 S. Ellsworth Road, Queen Creek, Maricopa County, Arizona, and owned by TOWN which houses the library materials collection for use by the public.
- 2.2. "Capital Improvements" means the permanent improvements to the library and any fixtures attached thereto.
- 2.3. "Library materials collection" means the books, magazines, audiovisual items and other materials which are used by the patrons.
- 2.4. "Contents of the library" means the furniture, shelving, equipment, library materials collection, computers, and like items.

3. The TOWN shall:

- 3.1. Cooperate with the LIBRARY DISTRICT at all times in good faith in order to facilitate the provision and delivery of library services.
- 3.2. Provide to the LIBRARY DISTRICT, the Library facilities located at 21802 S. Ellsworth Road, Queen Creek, Arizona under the following terms:
 - 3.2.1. TOWN shall be responsible for the payment of utility services, to include gas, water, and electric, and ancillary services provided to the premises.
 - 3.2.2. TOWN shall, at its own expense, insure the premises for all perils and risk coverage on the structure(s) including, but not limited to fire, wind, burglaries and other casualties. TOWN understands and acknowledges that LIBRARY DISTRICT is self-insured for loss or damage to property and will provide TOWN with a certificate to this effect.
 - 3.2.3. TOWN shall maintain the structure of the premises in good repair and shall correct any hazardous conditions existing as the result of any damage, structural defect, or unsoundness. The term "structure" as used herein

includes walls, roofs, floors, foundations, stairways, exterior sidewalks and all electrical, plumbing, heating and air-conditioning systems and equipment. It is understood and agreed that the structure and premises are currently in a state of good repair.

3.2.4. TOWN shall, at its own expense, conform to all applicable standards contained in the "Uniform Building Code for Life Safety" (U.B.C.), and also to all provisions and standards in "Arizona Revised Statutes for Handicapped Accessibility" in Title 9-499.02 and Title 34-401 through 34-439. This will include, but not be limited to, Handicapped Accommodations such as restrooms, drinking fountains, pedestrian ramps, etc. TOWN shall also, at its own expense, conform to all Americans with Disabilities Act requirements for Public Accommodations.

3.2.5. Routine maintenance shall be the responsibility of TOWN, which shall include: electrical and plumbing repairs, painting the interior walls, replacement of all broken glass of the premises resulting from all perils including, but not limited to fire, wind, burglaries and other casualties. TOWN shall perform all repair/replacement maintenance of installed building utility systems and maintain all installed floor covering in a state of good repair. Equipment (including water heaters, furnaces, air conditioners and fire extinguishers) of the library shall be maintained by TOWN in a safe operating condition.

3.2.6. Janitorial and landscape services shall be provided by the TOWN or TOWN's contractors, as determined by TOWN in its sole discretion and TOWN shall pay cost of said services.

4. The LIBRARY DISTRICT shall:

4.1. Provide, and pay for from revenues received pursuant to the County LIBRARY DISTRICT Tax levied pursuant to A.R.S. 48-3903, all salaries and employee benefits; office supplies, automation, audiovisual materials, books and other similar materials, office equipment, telephone, telefacsimile, electronic mail, catalogues, automated circulation system and public access catalogue, installation and all charges for telecommunication and wire service, other equipment, services and for supplies necessary to provide full library services to the TOWN;

4.2. Provide centralized acquisitions, cataloging, processing and graphic arts services;

4.3. Provide centralized personnel, fiscal, procurement, supply any other necessary administrative services;

4.4. Provide coordinating and consulting services;

- 4.5. Provide access to all library programs and materials within the LIBRARY DISTRICT'S system;
 - 4.6. Provide policies, procedures and operations manuals and support network;
 - 4.7. Coordinate with local schools to offer assistance in developing literacy improvement;
 - 4.8. Provide coordinated children's programs and services which may include summer reading, film programs, storytelling, school visits, crafts, read-aloud programs, performances and special events;
 - 4.9. Encourage input from citizens in the selection of library materials and programs;
 - 4.10. Operation of Library.
5. Future Improvements to Library. If TOWN and LIBRARY DISTRICT mutually agree the Library should be expanded, TOWN and LIBRARY DISTRICT will analyze the number of library users associated with TOWN and other communities and unincorporated areas of Maricopa County. TOWN will use good faith efforts to fund expansion of the Library if TOWN and LIBRARY DISTRICT agree expansion is appropriate at that time.
 6. Termination, Expiration or Non-renewal. This Agreement shall terminate under the following circumstances:
 - 6.1. Upon non-appropriation by either party for continued funding of the Agreement;
 - 6.2. Upon 365 days written notice by a party;
 - 6.3. By mutual written agreement of the parties on an agreed upon date.
 7. Upon termination, expiration or non-renewal of this Agreement, the parties will dispose of property related to the Library pursuant to the following:
 - 7.1. TOWN shall:
 - 7.1.1. Purchase the Library Materials collection of the Library from the LIBRARY DISTRICT after valuation of said collection, subject to appropriation of funds by TOWN for that purpose.
 - 7.1.2. Purchase any computers and related equipment, software; network equipment and related items that the LIBRARY DISTRICT has purchased subject to appropriation of funds by TOWN for that purpose. This excludes any items still in use that were purchased by the TOWN.

7.2. LIBRARY DISTRICT shall:

7.2.1. Value the then current Library Materials Collection of the Library for purchase by TOWN pursuant to Paragraphs 7.1.1. and 7.1.2 above

7.2.2. Transfer to TOWN bibliographic and patron data in MARC format; provided however, the TOWN shall pay the full costs of such transfer. LIBRARY DISTRICT shall provide technical assistance on the design and transfer of such computer files to TOWN at no cost to the TOWN.

7.3. Failure of TOWN and LIBRARY DISTRICT to Agree on Valuation of Contents of Library. Should TOWN not agree with the valuation of the Library Materials Collection conducted by the LIBRARY DISTRICT pursuant to Paragraph 7.2.1 above, TOWN and LIBRARY DISTRICT will agree on an independent evaluation and share the cost of the evaluation equally. The TOWN and LIBRARY DISTRICT agree the results of that independent evaluation shall be final and binding.

7.4. Failure of TOWN to Purchase Contents of Library. Failure of TOWN to purchase the contents of the Library pursuant to Paragraphs 7.1.1 and 7.1.2 above will release LIBRARY DISTRICT to dispose of the contents of the Library as it deems appropriate with no further financial obligation to TOWN.

8. Miscellaneous.

8.1. Notices. Notices required pursuant to this Intergovernmental Agreement shall be given by first class mail, postage prepaid, to the following:

For the LIBRARY DISTRICT:
Director
Maricopa County Library District
2700 N. Central Avenue, Suite 700
Phoenix, AZ 85004

For the TOWN:
Town Manager
Town of Queen Creek
22350 S. Ellsworth Road
Queen Creek, AZ 85242

8.2. This Agreement comprises the entire agreement of the parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith. This Agreement may only be amended in writing by mutual agreement of the parties.

8.3. LIBRARY DISTRICT will indemnify, defend and hold harmless TOWN and its agents, officials and employees from liability for damages resulting from injury, death, property damage and economic loss suffered by a third person as a result of the negligent or wrongful act or omission of the LIBRARY DISTRICT or the LIBRARY DISTRICT'S agent, official or employee which arises out of the LIBRARY DISTRICT'S performance of, or the failure to perform, its obligations under this Agreement. The

damages which are subject of this indemnity shall include, but not be limited to attorney fees, court costs, settlement expenses and litigation expenses related to liability described in this paragraph and/or related to any claim or action asserting such liability against TOWN or any of its agents, officials and employees.

- 8.4. TOWN will indemnify, defend and hold harmless the LIBRARY DISTRICT and its agents, officials and employees from liability for damages resulting from injury, death, property damage and economic loss suffered by a third person as a result of the negligent or wrongful act or omission of TOWN or TOWN's agent, official or employee which arises out of TOWN's performance of, or the failure to perform, its obligations under this Agreement. The damages, which are subject of this indemnity shall include, but not be limited to, attorney fees, court costs, settlement expenses and litigation expenses related to liability described in this paragraph and/or related to any claim or action asserting such liability against the LIBRARY DISTRICT or any of its agents, officials and employees.
- 8.5. The LIBRARY DISTRICT's responsibility, whether by insurance coverage or self-insurance, shall be primary or designated as primary in respect to the acts and omissions of its employees through the provision of its obligations under this Agreement.
- 8.6. TOWN's responsibility, whether by insurance coverage or self-insurance, shall be primary or designated as primary in respect to the acts and omissions of its employees through the provision of its obligations under this Agreement.
- 8.7. This Agreement shall be governed by Arizona law without regard to its conflict of interest provisions.
- 8.8. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement, since it is the intent of the parties to have this Agreement enforced to the fullest extent possible.
- 8.9. This Agreement has been approved by the respective governing bodies of the parties at a duly noticed public meeting.
- 8.10. E-Verify Requirements. The PARTIES are subject to the requirements and provisions in A.R.S. §§23-214 and 41-4401 and Federal Immigration Laws and Regulations and shall verify compliance upon request.
- 8.11. Iran and Sudan Requirements. The PARTIES are subject to the requirements and provisions in A.R.S. §§ 35-391.06 and 35-393.06 (Scrutinized Business Relations with Sudan and Iran) and shall certify compliance upon request.

9. Future Transfer

- 9.1. Town Operation: The parties recognize that the Town of Queen Creek may grow in the future to a degree that warrants full ownership and operation of the Library by the Town. If the parties agree that this condition has occurred, they will negotiate in good faith as to ways and means to effect such a transfer as efficiently as possible, including assistance and cooperation by the District in making available to the Town appropriate data bases and other technical support.

IN WITNESS WHEREOF, the TOWN OF QUEEN CREEK and the MARICOPA COUNTY LIBRARY DISTRICT have executed this Agreement effective on the date first above written.

TOWN OF QUEEN CREEK

MARICOPA COUNTY LIBRARY DISTRICT

By: _____
Mayor
Town of Queen Creek

By: _____
Chairman, Board of Directors
Maricopa County Library District

ATTEST:

ATTEST:

By: _____
Town Clerk Date

By: _____
Clerk of the Board Date

The foregoing Agreement has been reviewed by the undersigned counsel who has determined that it is in proper form and within the power and authority granted under the laws of the State of Arizona.

By: _____
Attorney Date
Town of Queen Creek

By: _____
Attorney Date
Maricopa County Library District



Economic Development:

TO: HONORABLE MAYOR AND TOWN COUNCIL

**THROUGH: JOHN KROSS, AICP
TOWN MANAGER**

FROM: DOREEN COTT, ECONOMIC DEVELOPMENT DIRECTOR

**RE: CONSIDERATION AND POSSIBLE APPROVAL OF THE AGREEMENT
BETWEEN THE QUEEN CREEK CHAMBER OF COMMERCE AND THE
TOWN OF QUEEN CREEK IN THE AMOUNT OF \$55,000 FOR FISCAL
YEAR 2012-2013.**

DATE: JUNE 20, 2012

Staff Recommendation:

Staff recommends that the Council approve the FY12-13 Agreement between the Queen Creek Chamber of Commerce and the Town of Queen Creek in the amount of \$55,000.

Proposed Motion:

Move to approve the annual Agreement between the Queen Creek Chamber of Commerce and the Town of Queen Creek in the amount of \$55,000 and authorize the Mayor to execute the necessary documents.

Discussion:

The Corporate Strategic Plan KRA 8: Land Use/Economic Development - Goal 10: Continue partnership with Chamber of Commerce for strategic economic development initiatives.

Currently the Chamber is responsible for a significant element of the Business Retention and Expansion (BR&E) program for the Town; a strategic component of a successful economic development program. The Chamber President meets monthly with Queen Creek businesses to identify opportunities and/or issues the Town should be aware of. The Chamber also assists businesses looking to expand or relocate in the Town and serves a vital role in providing small business resource information.

The Chamber also engages in marketing and promotional activities to enhance the business image of Queen Creek. This includes partnering with the Town on the "Shop Queen Creek" program, coordinating business ribbon cutting and ground breaking events, facilitating meetings of the Old Town Queen Creek Alliance and offering support for Town events as requested.

The Chamber promotes the Town's special points of interest to visitors and tourists, operates the Tourism/Visitors Center and promotes the venues of the Town's marketing partners.

Fiscal Impact:

The proposed agreement with the Chamber requires the Town to pay \$55,000 for the services outlined in the agreement. Payments are made on a monthly basis in the amount of \$4583.33/month. Funding is available in the General Fund line item 101-410-0100-00000-403436.

Alternative:

The Town Council could choose not to approve the Agreement between the Town and the Queen Creek Chamber of Commerce.

The Town Council could choose to increase or decrease the contract amount and modify the services outlined in the agreement.

Attachments:

1. Proposed agreement between the Town of Queen Creek and Chamber of Commerce.

AGREEMENT

This AGREEMENT is made and entered into by and between the TOWN OF QUEEN CREEK, an Arizona municipal corporation ("Town"), and the QUEEN CREEK CHAMBER OF COMMERCE, an Arizona non-profit corporation ("Chamber"), effective the 1st day of July 2012.

RECITALS

The Town wishes to promote its advantages as a residential, business, educational, cultural and recreational community for the purpose of developing a balanced community as described in the voter-approved Queen Creek General Plan, including a full range of retail services for Queen Creek residents, and appropriate employment opportunities in the community.

The Town wishes to promote existing businesses and recognizes the benefit of disseminating information concerning promotional opportunities to such businesses.

The Town is authorized by Arizona Revised Statutes § 9-500.11 to appropriate and spend public monies for and in connection with economic development activities, where such activities will assist in the creation or retention of jobs or will otherwise improve or enhance the economic welfare of the inhabitants of the Town. The Chamber of Commerce is organized and equipped to carry on economic development activities for the Town, by promoting the Town's advantages and opportunities, and promoting existing businesses and new opportunities in the Town.

NOW, THEREFORE, in consideration of the mutual agreements contained herein, and other good and sufficient consideration, the receipt and sufficiency of which is hereby acknowledged, Town and Chamber agree as follows:

AGREEMENTS

Article I: Scope of Services.

Chamber agrees to provide the following services to Town pursuant to the terms of this Agreement:

Business Retention & Expansion

Assist in the retention and the expansion of existing Queen Creek businesses.

- i) Contact a minimum of 45 existing Chamber members, potential members and Queen Creek businesses over the course of the 12 month contract period.
 - Hold meetings designed to address any challenges or issues businesses may be experiencing; work to develop solutions that are relevant and applicable; and engage Town Staff as necessary.
 - Said meetings will be designed to encourage and inform businesses about Chamber / Town partnership programs.

- Identify businesses with plans to expand in the near future and forward leads to the Economic Development Department so they can assist with site selection needs.
- Business planning services.
- Invite Economic Development staff and members of the Economic Development Commission (EDC) to the BR&E appointments.(more involved scheduling will involve more Chamber staff time to coordinate)
- Provide monthly reports on BR&E program/results at the monthly EDC meetings.
- Work with Economic Development staff to refine the BR&E questions as appropriate.

ii) Report to Town Staff quarterly on:

- Progress and outcomes related to businesses that have utilized the Chamber for issue resolution.
- Businesses with an interest in expansion opportunities within Queen Creek.

Marketing

Engage in different marketing and promotional activities to enhance the business image of Queen Creek; help Queen Creek businesses succeed; position Queen Creek as a business friendly community.

- a) Distribute relocation, new member and renewal packets
- b) Coordinate monthly member meetings and mixers featuring speakers and information on issues impacting local business
- c) Coordinate business ribbon cutting and ground breaking events.
- d) Chamber website maintenance featuring the Community Calendar
- e) Bi-weekly e-newsletter distribution
- f) Procurement of Queen Creek area map and directory as feasible
- g) Media partnerships and advertising
- h) Support for Town events as requested
- i) Support the development of film & television activities in Town as necessary
- j) Participation on the Town's EDC (Economic Development Commission); leadership role in the EVCCA (East Valley Chambers of Commerce Alliance) and Participation in ACE (Arizona Chamber Executives) representing Queen Creek
- k) Partner with the Town on the promotion of the "Shop Queen Creek" program
- l) Annual Chamber events, e.g. golf tournament, business awards dinner, holiday parade

Promote the Town of Queen Creek's special points of interest to visitors and tourists; educate the public about tourism opportunities in Queen Creek and surrounding areas.

- a) Operation of Tourism/Visitors Center
- b) Distribution of Town marketing materials as well as other Arizona city and town marketing brochures.

- c) Research grant opportunities through the Arizona Office of Tourism (AOT).

Article II: Town Liaison on the Chamber Board

Town shall have Economic Development staff to be a liaison (ex-officio member) of the Chamber Board to enhance communication between the Town and the Chamber of Commerce.

Article III: Reports to Town Council.

1. Chamber shall provide an annual report to the Town, which shall include a review of the previous year's programs and a list of the activities scheduled for the next year. The annual report shall be presented at a Town Council meeting.

2. Chamber shall provide monthly written reports to the Council in addition to the quarterly reports which shall summarize Business Retention and Expansion activities and Marketing Services including business promotion activities, publicity, business educational seminars, events, etc. held in the preceding quarter, and those scheduled for the next quarter. Quarterly reports shall be presented to the Town Council at a formal meeting at least fifteen (15) days after the end of each quarter.

Article IV: Payment by the Town.

Town shall pay Chamber the sum of \$55,000 annually beginning July 1, 2012 in twelve (12) equal monthly payments of Four Thousand Eighty Three Dollars and Thirty Three Cents (\$4583.33). Payments shall be made on or before the 30th day of the month in which they are due.

Article V: Records and Audit Rights.

Chamber's records (hard copy, as well as computer readable data), and any other supporting evidence deemed necessary by the Town to substantiate charges and claims related to this Agreement shall be open to inspection and subject to audit and/or reproduction by Town's authorized representative to the extent necessary to adequately permit evaluation and verification of cost of the work. The Town's authorized representative shall be afforded access, at reasonable times and places, to all of the Chamber's records and personnel pursuant to the provisions of this article throughout the term of this Agreement and for a period of three years after last or final payment.

Article VI: Terms and Termination.

Term of the Agreement is for a term of one year, from July 1, 2012 through June 30, 2013, unless terminated earlier as provided herein.

In the event that there are any differences that arise between the Town and the Chamber in reference to the construction of this agreement, or the performance of either of the parties in reference to this agreement, each of the parties shall appoint a committee of two from the Town's Council and the Chamber's Board of Directors, respectively, to meet and discuss said disagreement. If no settlement can be effected at this meeting, or at such other meetings as said committee may agree to hold, then either of the parties may terminate this agreement upon thirty (30) days written notice to the other.

1. The Town has the right to terminate this Contract for cause or convenience or to abandon any portion of the Services have not been performed by the Chamber.
2. In the event the Town terminates this Contract or any part of the Services as herein provided, the Town shall notify the Chamber in writing, and immediately upon receipt of such notice, the Chamber shall discontinue all work under this Contract.
3. Upon such termination or abandonment, the Chamber shall immediately deliver to the Town any and all documents or work product generated by the Chamber under the Contract (collectively, the "Work Product"), together with all unused material supplied by the Town. Chamber shall be responsible only for such portion of the work as has been completed and accepted by the Town. Use of incomplete data by the Town shall be the Town's sole responsibility.
4. Upon receipt of notice of termination, Chamber shall appraise work it has completed but has not yet been paid for and shall submit the work and appraisal to the Contract Administrator for evaluation.
5. The Chamber shall receive as compensation in full for Services performed and approved by the Contract Administrator to the date of such termination or abandonment, a fee for the percentage of Services actually completed and accepted by the Town. This fee shall be in an amount to be mutually agreed-upon by the Chamber and the Town, based upon the Scope of Work set forth in Article I and the payment schedule set forth in Article IV of this Contract. If mutual agreement between the Parties cannot be reached after reasonable negotiation, the Contract Administrator shall determine the percentage of satisfactory completion of each task set forth in the Scope of Work and the amount of compensation Chamber is entitled to for such work, and the Contract Administrator's determination in this regard shall be final. The Town shall make such final payment within 60 days after the latest of: (i) Chamber's completion or delivery to the Town of any portion of the Services not terminated; or (ii) Chamber's delivery to the Town of all Work Product and any unused material supplied by the Town, in accordance with Article V.
6. If for any reason the Chamber fails to fulfill in a timely and proper manner its obligations under this Contract, or if the Chamber violates any of the covenants, agreements, or stipulations of this Contract, the Town may withhold from payment due to the Chamber such amounts as are necessary to protect the Town's position for the purpose of set-off until such time as the exact amount of damages due to the Town from Chamber is determined by a court of competent jurisdiction.

Article VII: Insurance.

The Chamber shall secure and maintain during the life of this contract, insurance coverage which shall include statutory workman's compensation, comprehensive general and automobile liability, and owner's and contractor's protective liability insurance. The comprehensive general and automobile liability limits shall be no less than one million dollars (\$1,000,000.00) combined single limit. The owner's and contractor's protective liability limits shall be no less than one million dollars (\$1,000,000.00) for each occurrence and one million dollars (\$1,000,000.00) policy aggregate naming the Town as Insured. In other than owner's and contractor's protective liability, and workman's compensation, the Town of Queen Creek shall be named as an additional insured.

All insurance coverage shall be written through carriers licensed in Arizona, or on an approved non-admitted list of carriers published by the Arizona Department of insurance, and possessing an A.M. Best rating of at least B+7 or through Lloyd's of London. Should coverage be written on a claims-made basis, the Chamber shall provide, prior to commencement of any work, an initial certificate of insurance evidencing required coverage limits from date of contract execution through date of policy expiration. Subsequently, a certificate of insurance or a renewal quotation accompanied by evidence of premium payment shall be presented a minimum of fifteen (15) days prior to date of expiration of current certificate. Such certificate or evidence of continuous coverage shall be provided on a periodic basis for a minimum of two (2) years after completion of contract, and shall contain a certification that the claim's period for such insurance is retroactive to the effective date of this contract.

In the event the Chamber fails to provide such certificate of coverage retroactive to the beginning date of this contract, the Town may, but shall not be required to, purchase insurance, if available to protect itself against any losses which would have been covered by the errors and omissions policy Chamber is required to maintain under this article. If the Town elects to purchase the insurance under this provision, Chamber shall be liable to the Town for all costs incurred by the Town for purchasing such insurance.

Article VIII: No Political Activity.

Chamber hereby covenants that it will not use the Town's name, funds or other resources, or permit or suffer the Town's name, funds or other resources to be used for the purpose of influencing the outcome of municipal elections.

Article IX: General Provisions.

A. Entire Agreement.

This Agreement constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein. The Agreement may not be modified or amended except by a written document, signed by authorized representatives of each party.

B. Governing Law.

This Contract shall be governed by and construed in accordance with the substantive laws of the State of Arizona, without reference to conflict of laws and principles. Exclusive jurisdiction and venue for any action brought to enforce or construe any provision of this Contract shall be proper in the Superior Court of Maricopa County, Arizona and both Parties consent to the sole jurisdiction of, and venue in, such court for such purposes.

C. Modifications

Any amendment, modification or variation from the terms of this Agreement shall be in writing and shall be effective only after approval of all parties signing the original Agreement.

D. Assignment

Services covered by this Agreement shall not be assigned or sublet in whole or in part without the prior written consent of the Town Manager or the Chamber President.

E. Successors and Assigns.

This Agreement shall extend to and be binding upon Chamber, its successors and assigns, including any individual, company, partnership or other entity with or into which Chamber shall merge, consolidate or be liquidated, or an person, corporation, partnership or other entity to which Chamber shall sell its assets.

F. Attorney's Fees

In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement, or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

G. Independent Contractor

The services the Chamber provides under the terms of this Contract to the Town are that of an Independent Contractor, not an employee, or agent of the Town. As an independent contractor, Chamber shall: (a) have discretion in deciding upon the method of performing the services provided; (b) not be entitled to worker's compensation benefits from the Town; (c) not be entitled to any Town sponsored benefit plan; (d) shall select the hours of his/her work; (e) shall provide her/her own equipment and tools; and (f) to the extent required by law, be responsible for obtaining and remaining licensed to provide the Services.

H. Conflict of Interest

Pursuant to the provisions of A.R.S. § 38-511, the Town may cancel any contract or agreement, without penalty or obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the Town is, at any time while the contract or any extension thereof is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party to the contract with respect the subject matter of the contract.

I. Notices

All notices or demands required to be given pursuant to the terms of this Agreement shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of Chamber: Mailing Address:
Queen Creek Chamber of Commerce
P.O. Box 505
Queen Creek, Arizona 85142
ATTN: President Marquis Scott

Physical Address:
22713 S. Ellsworth Rd. Bldg. A
Queen Creek, Arizona 85142
Tel: (480) 888-1709
Fax: (480) 279-3776

In the case of the Town: Town of Queen Creek
22350 S. Ellsworth Rd.
Queen Creek, Arizona
ATTN: John Kross, Town Manager
Tel: (480) 358-3905
Fax: (480) 358-3909

With a copy to: Mariscal, Weeks, McIntyre & Friedlander
Town Attorneys
2901 North Central Avenue, Suite 200
Phoenix, AZ 85012
Attn: Fredda J. Bisman, Esq.

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

J. Force Majeure.

Neither party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, power failures, or earthquakes.

K. Taxes.

Chamber shall be solely responsible for any and all tax obligations which may result out of the Chambers performance of this Agreement. The Town shall have no obligation to pay any amounts for taxes, of any type, incurred by the Chamber.

The Town will report the value paid for these Services each year to the Internal Revenue Service (I.R.S.) using Form 1099. The Town shall not withhold income tax as a deduction from contractual payments. Chamber acknowledges that Chamber may be subject to I.R.S. provisions for payment of estimated income tax. Chamber is responsible for consulting the local I.R.S. office for current information on estimated tax requirements.

L. Counterparts

This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, binding on all of the Parties. The Parties agree that this Contract may be transmitted between them via facsimile. The Parties intend that the faxed signatures constitute original signatures and that a faxed contract containing the signatures (original or faxed) of all the Parties is binding upon the Parties.

M. Compliance with Immigration Laws and Regulations.

Pursuant to the provisions of A.R.S. §41-4401, the Chamber warrants to the Town that the Chamber and all its subconsultants are in compliance with all Federal Immigration laws and regulations that relate to their employees and with the E-Verify Program under A.R.S. §23-214(A). Chamber acknowledges that a breach of this warranty by the Chamber or any of its subconsultants is a material breach of this Contract subject to penalties up to and including termination of this Contract or any subcontract. The Town retains the legal right to inspect the papers of any employee of the Chamber or any subconsultant who works on this Contract to ensure compliance with this warranty.

The Town may conduct random verification of the employment records of the Chamber and any of its subconsultants to ensure compliance with this warranty.

The Town will not consider the Chamber or any of its subconsultants in material breach of the foregoing warranty if Chamber and its subconsultants establish that they have complied with the employment verification provisions prescribed by 8 USCA § 1324(a) and (b) of the Federal Immigration and Nationality Act and the e-verify requirements prescribed by Arizona Revised Statutes § 23-214(A).

The provisions of this Article must be included in any contract the Chamber enters into with any and all of its subconsultants who provide services under this Contract or any subcontract. As used in this Section M "services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

N. Prohibition Of Doing Business With Sudan and Iran.

Pursuant to A.R.S. §§35-391.06 and 35-393-06, Chamber hereby certifies to the Town that Chamber does not have "scrutinized" business operations, as defined in A.R.S. §§35-391 and 35-393, in either Sudan or Iran. Chamber acknowledges that, in the event either of the certifications to the Town by Chamber contained in this paragraph is determined by the Town to be false, the Town may terminate this Contract and exercise other remedies as provided by law, in accordance with A.R.S. §§35-391.06 and 35-393-06.

O. Captions

The captions used in this agreement are solely for the convenience of the parties, and do not constitute a part of the agreement and are not to be used to construe or interpret this agreement.

P. Indemnity

To the fullest extent permitted by law, the Chamber shall defend, indemnify, save and hold harmless the Town and its officials, officers, employees and agents (collectively "Indemnitees") from and against any and all damages, claims, losses, liabilities, actions or expenses (including, but not limited to, attorneys' fees, court costs, and the cost of appellate proceedings) (collectively, "Claims") relating to, arising out of or alleged to have resulted from the performance of Services pursuant to this Contract including, but not limited to, any such performance by any subconsultant. The Chamber's duty to defend, hold harmless and indemnify Indemnitees pursuant to this section shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, including death, or to injury to, impairment, or destruction of property including loss of use resulting therefrom, caused in whole or in part by the acts, errors, mistakes, omissions, work or services of the Chamber or anyone for whose acts the Consultant may be legally liable. It is the specific intention of the Parties that the Indemnitee shall be indemnified by the Chamber from and against all Claims other than those arising from the Indemnitees' sole negligence. The Chamber will be responsible for primary loss investigation and defense and judgment costs where this Indemnification applies.

In the event that any action or proceeding shall at any time be brought against any of the Indemnitees by reason of any Claim referred to in this Article, the Chamber at Chamber's sole cost and upon at least 10 day's written notice from Town, shall defend the same with counsel acceptable to Town, in Town's sole discretion.

The Chamber's obligations under this Article shall survive the expiration or earlier termination of this Contract.

Insurance provisions set forth in this Contract are separate and independent from the indemnity provisions of this Article and shall not be construed in any way to limit the scope and magnitude of this Indemnification, nor shall this Indemnification be construed in any way to limit the scope, magnitude or applicability of the insurance provisions.

Q. Severability

If any term or provision of this Agreement shall be found to be illegal or unenforceable, then all other terms and provisions will remain in full force and effect, notwithstanding the illegality or unenforceability of the term or provision in question. This Agreement as a whole shall remain in full force and effect and the illegal or unenforceable term shall be deemed to be deleted.

R. Authority.

Each party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

In WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their properly authorized officers on this 20th day of June 2012.

TOWN:

TOWN OF QUEEN CREEK, an Arizona
Municipal Corporation

By: _____
Gail Barney, Mayor

ATTEST:

By: _____
Jennifer Robinson, Town Clerk

APPROVED AS TO FORM:

By: _____
For Mariscal, Weeks, McIntyre & Friedlander
Town Attorneys

CHAMBER:

Marquis Scott
President and Executive Director of the Chamber



TO: HONORABLE MAYOR AND TOWN COUNCIL

**THROUGH: JOHN KROSS, AICP
TOWN MANAGER**

FROM: DOREEN COTT, ECONOMIC DEVELOPMENT DIRECTOR

**RE: CONSIDERATION AND POSSIBLE APPROVAL OF THE
AGREEMENT BETWEEN THE GREATER PHOENIX ECONOMIC
COUNCIL AND THE TOWN OF QUEEN CREEK IN THE
AMOUNT OF \$10,691 FOR FISCAL YEAR 2012-2013.**

DATE: JUNE 20, 2012

Staff Recommendation:

Staff recommends that the Council approve the FY12-13 Agreement between the Greater Phoenix Economic Council and the Town of Queen Creek in the amount of \$10,691.

Proposed Motion:

Move to approve the Agreement between the Greater Phoenix Economic Council and the Town of Queen Creek.

Discussion:

The Greater Phoenix Economic Council (GPEC) is a performance driven, public-private economic development partnership that leverages resources to attract businesses to Greater Phoenix. GPEC is governed by a Board of Directors, representative of both the public and the private sector, and is managed on a day-to-day basis by its executive management team and professional staff. GPEC is supported by Maricopa County, 20 communities, major utilities, higher education institutions and over 150 private-sector businesses.

GPEC works to ensure the economic vitality of Greater Phoenix and serves as a catalyst that strengthens the region's economic base ensuring that it is both diversified and competitive. GPEC's mission is to attract quality business to the region from around the world and to advocate and champion foundational efforts to improve the region's competitiveness.

One of the fundamental benefits of continuing as a member of GPEC is the ability to build strategic alliances with not only other communities in the region, but also private businesses, utilities, and educational institutions. Queen Creek also benefits through GPEC's extensive marketing and business development programs, and will continue to receive research and other technical assistance, including participation in industry education events. GPEC offers Queen Creek access to unique tools and expertise including comprehensive demographic, labor, targeted industry information and marketing assistance as well as access to the CoStar real estate database.

Membership in GPEC requires the Town to enter into a formal agreement that outlines GPEC's responsibilities, as well as the Town's. The attached contract, Exhibit F, details the support the Town agrees to provide, the respective roles of GPEC and the Town and the payment for services.

GPEC membership dues are assessed on an annual basis, running from July 1-June 30. Dues are based on approximately \$0.5752 per capita applied to the portion of the Town's population outside of Maricopa County plus approximately \$.3897 per capita applied to the portion of the Town's population within Maricopa County. Based on the 2011 Office of Employment and Population Statistics, Arizona Department of Administration population estimates, Queen Creek had a population of 454 in Pinal County and 26,764 in Maricopa County.

Staff will work with GPEC to schedule a presentation for the Town Council providing a detailed overview of the GPEC Action Plan for FY12-13

Fiscal Impact:

Funding is available in the Economic Development Department Budget - line item 101-465-0212-00000-403005.

Alternative:

The Town Council could choose not to approve the Agreement between the Town and GPEC.

Attachments:

1. GPEC Action Plan (Exhibit A)
2. GPEC Performance Measures (Exhibit B)
3. Targeted Industries (Exhibit C)
4. Reporting Mechanism for Contract Fulfillment (Exhibit D)
5. Insurance Requirements (Exhibit E)
6. GPEC Contract (Exhibit F)

**AGREEMENT BETWEEN
THE GREATER PHOENIX ECONOMIC COUNCIL
AND THE TOWN OF QUEEN CREEK
Town Contract No. _____**

The Town Council of the TOWN OF QUEEN CREEK, a municipal corporation (the "Town"), has approved participation in and support of the regional economic development program of the GREATER PHOENIX ECONOMIC COUNCIL ("GPEC"), an Arizona non-profit corporation. The purpose of this agreement ("Agreement") is to set forth the regional economic development program that GPEC agrees to undertake, the support that the Town agrees to provide, the respective roles of GPEC and the Town and the payments of the Town to GPEC for the fiscal year July 1, 2012 - June 30, 2013.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the TOWN and GPEC agree as follows:

I. RESPONSIBILITIES OF GPEC

A. MISSION: Attract quality businesses to the Greater Phoenix Region from around the world, and advocate and champion foundational effects to improve the region's competitiveness.

B. GOALS: GPEC is guided by and strategically focused on two specific long-range goals:

1. Marketing the region to generate qualified business/industry prospects in targeted economic clusters
2. Leveraging public and private allies and resources to locate qualified prospects, improve overall competitiveness, and sustain organizational vitality

C. RETENTION AND EXPANSION POLICY:

1. GPEC's primary role is image building, marketing and new business attraction for the Greater Phoenix region.
2. Retention and expansion of existing businesses is primarily a local issue.
3. GPEC can add value to retention and expansion of existing businesses through regional support and research on key retention and expansion projects.
4. GPEC has a responsibility to advise the Town when an existing company contacts GPEC regarding a retention or expansion issue.

D. ACTION PLAN AND BUDGET: In accordance with the Mission, Goals and Retention Policy set forth above and subject to the availability of adequate funding, GPEC shall implement the Action Plan and Budget adopted by GPEC's Board of Directors, a copy of which has been delivered to the Town, receipt of which is hereby acknowledged. A summary of the Action Plan is attached hereto as **Exhibit A** ("GPEC Action Plan"). The Town shall be informed of any changes in the adopted Action Plan, which will materially affect or alter the priorities established therein. Such notification will be in writing and will be made prior to implementation of such changes. Notwithstanding the foregoing, the Town acknowledges and agrees that GPEC may, in its reasonable judgment in accordance with

its own practices and procedures, substitute, change, reschedule, cancel or defer certain events or activities described in the Action Plan as required by a result of changing market conditions, funding availability, unforeseen expenses or other circumstances beyond GPEC's reasonable control. GPEC shall solicit the input of the Town on the formulation of future marketing strategies and advertisements. The Action Plan will be revised to reflect any agreed upon changes to the Action Plan.

- E. PERFORMANCE TARGETS:** Specific performance targets, established by GPEC's Executive Committee and Board of Directors, are attached hereto as **Exhibit B** ("GPEC Performance Measures") and shall be used to evaluate and report progress on GPEC's implementation of the Action Plan. In the event of changing market conditions, funding availability, unforeseen expenses or other circumstances beyond GPEC's reasonable control, these performance targets may be revised with the Town's prior written approval, or with the prior written approval of a majority of the designated members of GPEC's Economic Development Directors Team ("EDDT"). GPEC will provide monthly reports to the Town discussing in detail its progress in implementing the Action Plan as well as reporting the numerical results for each performance measurement set forth in Exhibit B. GPEC shall provide a copy of its annual external audit for the preceding fiscal year to the Town no later than December 31, 2012.

In the case of any benchmark, which is not met, GPEC will meet with the EDDT to provide an explanation of the relevant factors and circumstances and discuss the approach to be taken in order to achieve the target(s). Failure to meet a performance target will not, by itself, constitute an event of default hereunder unless GPEC (i) fails to inform the Town of such event or (ii) fails to meet with EDDT to present a plan for improving its performance during the balance of the term of the Agreement will constitute an event of default for which the Town may terminate this Agreement pursuant to paragraph IV.J. below.

II. RESPONSIBILITIES OF THE TOWN

- A. STAFF SUPPORT OF GPEC EFFORTS:** The Town shall provide staff support to GPEC's economic development efforts as follows:
1. The Town shall respond to leads or prospects referred by GPEC in a professional manner within the time frame specified by the lead or prospect if the Town desires to compete and if the lead is appropriate for the Town. When available, the Town agrees to provide its response in the format developed jointly by EDDT and GPEC;
 2. The Town shall provide appropriate local hospitality, tours and briefings for prospects visiting sites in the Town;
 3. The Town shall provide an official economic development representative to represent the Town on the EDDT, which advises GPEC's President and CEO;
 4. The Town shall cooperate in the implementation of GPEC/EDDT process improvement recommendations including the use of common presentation formats, exchange of information on prospects with GPEC's staff, the use of shared data systems, land and building data bases and private sector real estate industry interfaces;

5. The Town shall use its best efforts to respond to special requests by GPEC for particularized information about the Town within three business days after the receipt of such request;
 6. In order to enable GPEC to be more sensitive to the Town's requirements, the Town shall, at its sole option, deliver to GPEC copies of any Town approved economic development strategies, work plan, programs and evaluation criteria. GPEC shall not disclose the same to the other participants in GPEC or their representatives;
 7. The Town shall utilize its best good faith efforts to cause an economic development professional representing the Town to attend all marketing events and other functions to which the Town has committed itself;
 8. The Town agrees to work with GPEC to improve the Town's Competitiveness and market readiness to support the growth and expansion of the targeted industries as identified for the Town in **Exhibit C** ("Targeted Industries");
- B. RECOGNITION OF GPEC:** The Town agrees to recognize GPEC as the Town's officially designated regional economic development organization for marketing the Greater Phoenix region.

III. ADDITIONAL AGREEMENTS OF THE PARTIES:

- A. PARTICIPATION IN MARKETING EVENTS AND PROVISION OF TECHNICAL ASSISTANCE:** Representative(s) of the Town shall be entitled to participate in GPEC's marketing events provided that such participation shall not be at GPEC's expense. When requested and appropriate, GPEC will use its best efforts to provide technical assistance and support to Town economic development staff for business location prospects identified and qualified by the Town and assist the Town with presentations to the prospect in the Town or their corporate location.
- B. COMPENSATION:**
1. The Town agrees to pay **\$10,691.00** for services to be provided by GPEC pursuant to the Agreement during the fiscal year ending on June 30, 2013, as set forth in this Agreement. This amount is based on \$0.5752 per capita applied to that portion of the Town's population outside of Maricopa County plus approximately \$0.3897 per capita applied to that portion of the Town's population within Maricopa County, based upon the 2011 Office of Employment and Population Statistics, Arizona Department of Administration population estimate, which listed the Town as having a population of **454** in Pinal County and **26,764** in Maricopa County. The payment by the Town may, upon the mutual and discretionary approval of the board of directors of GPEC and the Town Council, be increased or decreased from time to time during the term hereof in accordance with the increases or decreases of general application in the per capita payments to GPEC by other municipalities which support GPEC.
 2. Funding of this Agreement shall be subject to the annual appropriations of funds for this activity by the Town Council pursuant to the required budget process of the Town;

3. Nothing herein shall preclude the Town from contracting separately with GPEC for services to be provided in addition to those to be provided hereunder, upon terms and conditions to be negotiated by the Town and GPEC; and
4. GPEC shall submit an invoice for payment on an annual basis. The foregoing notwithstanding, if GPEC has not provided the Town with the audit required pursuant to paragraph I.E. above no later than December 31, 2012, no payments shall be made hereunder until the Town receives the audit report. Invoices and monthly activity reports, substantially in the form of **Exhibit D** ("Reporting Mechanism for Contract Fulfillment") attached hereto, are to be submitted to the address listed under paragraph IV.P.

C. COOPERATION:

1. The parties acknowledge that GPEC is a cooperative organization effort between GPEC and the Town. Accordingly, the Town and GPEC covenant and agree to work together in a productive and harmonious working relationship, to cooperate in furthering GPEC's goals for the 2012-2013 fiscal year.
2. The Town agrees to work with GPEC, as necessary or appropriate, to revise the performance measures, and/or benchmarks, and/or goals for the FY 2013-2014 contract.
3. The Town agrees to work with GPEC during the FY2012-2013 program year to develop a revised public sector funding plan, including a regional allocation formula for FY2013-2014, if determined to be necessary or appropriate.

IV. GENERAL PROVISIONS:

- A. COVENANT AGAINST CONTINGENT FEES:** GPEC warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. For a breach or violation of this warranty, the Town shall have the right to terminate this Agreement without liability or, in its discretion, to deduct the commission, brokerage or contingent fee from its payment to GPEC.
- B. PAYMENT DEDUCTION OFFSET PROVISION:** GPEC recognizes the provisions of the Town Code of the Town of Queen Creek which require and demand that no payment be made to any contractor as long as there is any outstanding obligation due to the Town, and directs that any such obligation be offset against payment due to GPEC.
- C. ASSIGNMENT PROHIBITED:** No party to this agreement may assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and no effect.
- D. INDEPENDENT CONTRACTOR; NO AGENCY:** Nothing contained in this Agreement creates any partnership, joint venture or agency relationship between the Town and GPEC. At all times during the term of this Agreement, GPEC shall be an independent contractor and shall not be an employee of Town. Town shall have the right to control GPEC only insofar as to the results of GPEC's services rendered pursuant to this Agreement. GPEC shall have

no authority, express or implied, to act on behalf of Town in any capacity whatsoever as an agent. GPEC shall have no authority, express or implied, pursuant to this Agreement to bind Town to any obligation whatsoever.

- E. INDEMNIFICATION AND HOLD HARMLESS:** During the term of this Agreement, GPEC shall indemnify, defend, hold, protect and save harmless the Town and any and all of its Council members, officers and employees from and against any and all actions, suits, proceedings, claims and demands, loss, liens, costs, expense and liability of any kind and nature whatsoever, for injury to or death of persons, or damage to property, including property owned by Town, brought, made, filed against, imposed upon or sustained by the Town, its officers, or employees in and arising from or attributable to or caused directly or indirectly by the negligence, wrongful acts, omissions or from operations conducted by GPEC, its directors, officers, agents or employees acting on behalf of GPEC and with GPEC's knowledge and consent.

Any party entitled to indemnity shall notify GPEC in writing of the existence of any claim, demand or other matter to which GPEC's indemnification obligations would apply, and shall give to GPEC a reasonable opportunity to defend the same at its own expense and with counsel reasonably satisfactory to the indemnified party.

Nothing in this Subsection E shall be deemed to provide indemnification to any indemnified party with respect to any liabilities arising from the fraud, negligence, omissions or willful misconduct of such indemnified party.

- F. INSURANCE:** GPEC shall procure and maintain for the duration of this Agreement, at GPEC's own cost and expense, insurance against claims for injuries to persons or damages to property which may arise from or in connection with this Agreement by GPEC, its agents, representatives, employees or contractors, in accordance with the Insurance Requirements set forth in **Exhibit E** ("Insurance Requirements"), attached hereto. The Town acknowledges that it has received and reviewed evidence of GPEC's insurance coverage in effect as of the execution of this Agreement.
- G. GRATUITIES.** The Town may, by written notice to GPEC, terminate the right of GPEC to proceed under this Agreement upon one (1) calendar day notice, if it is found that gratuities in the form of entertainment, gifts, or otherwise were offered or given by GPEC, or any agent or representative of GPEC, to any officer or employee of the Town with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performance of such contract; provided that the existence of the facts upon which the Town makes such findings shall be an issue and may be reviewed in any competent court. In the event of such termination, the Town shall be entitled to pursue all legal and equitable remedies against GPEC available to the Town.
- H. EQUAL EMPLOYMENT OPPORTUNITY.** During the performance of this Agreement, GPEC agrees as follows:
1. GPEC will not discriminate against any employee or applicant for employment because of race, color, religion, gender, sexual orientation, national origin, age or disability. GPEC shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to

their race, color, religion, gender, sexual orientation, national origin, age or disability. 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. GPEC agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

2. GPEC will, in all solicitations or advertisements for employees place by or on behalf of GPEC, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, gender, sexual orientation, national origin, age or disability.
3. GPEC will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement, provided that the foregoing provisions shall not apply to Agreements or subcontracts for standard commercial supplies or new materials.
4. Upon request by the Town, GPEC shall provide Town with information and data concerning action taken and results obtained in regard to GPEC's Equal Employment Opportunity efforts performed during the term of this Agreement. Such reports shall be accomplished upon forms furnished by the Town or in such other format as the Town shall prescribe.

I. COMPLIANCE WITH APPLICABLE FEDERAL AND STATE LAWS REQUIRED. GPEC understands and acknowledges the applicability of the Immigration Reform and Control Act of 1986, the Drug Free Workplace Act of 1989 and the American with Disabilities Act, and agrees to comply therewith in performing under any resultant agreement and to permit Town inspection of its records to verify such compliance.

1. GPEC warrants to the Town that, to the extent applicable under A.R.S. §41-4401, GPEC is in compliance with all Federal Immigration laws and regulations that relate to its employees and with the E-Verify Program under A.R.S. §23-214(A). GPEC acknowledges that a breach of this warranty by GPEC or any subconsultants providing services under this Agreement is a material breach of this Agreement subject to penalties up to and including termination of this Agreement or any applicable subcontract. The Town retains the legal right to inspect the papers of any employee of GPEC or any subconsultant who works on this Agreement to ensure compliance with this warranty.
2. The Town may conduct random verification of the employment records of GPEC and any of its subconsultants who work on this Agreement to ensure compliance with this warranty.
3. The Town will not consider GPEC or any of its subconsultants who work on this Agreement in material breach of the foregoing warranty if GPEC and such subconsultants establish that they have complied with the employment verification provisions prescribed by 8 USCA § 1324(a) and (b) of the Federal Immigration and Nationality Act and the e-verify requirements prescribed by Arizona Revised Statutes § 23-214(A).

4. The provisions of this Section I must be included in any contract GPEC enters into with any and all of its subconsultants who provide services under this Agreement or any subcontract to provide services under this Agreement. As used in this Section I "services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.
 5. Pursuant to A.R.S. §§35-391.06 and 35-393-06, GPEC hereby certifies to the Town that GPEC does not have "scrutinized" business operations, as defined in A.R.S. §§35-391 and 35-393, in either Sudan or Iran. GPEC acknowledges that, in the event the Town reasonably determines after notice to GPEC and a hearing granting the opportunity for GPEC to provide information, that either of the certifications to the Town by GPEC contained in this paragraph is false, the Town may terminate this Agreement and exercise other remedies as provided by law, in accordance with A.R.S. §§35-391.06 and 35-393-06.
- J. TERMINATION.** Town shall have the right to terminate this Agreement if GPEC shall fail to duly perform, observe or comply with any covenant, condition or agreement on its part under this Agreement and such failure continues for a period of 30 days (or such shorter period as may be expressly provided herein) after the date on which written notice requiring the failure to be remedied shall have been given to GPEC by the Town; provided, however, that if such performance, observation or compliance requires work to be done, action to be taken or conditions to be remedied which, by their nature, cannot reasonably be accomplished within 30 days, no event of default shall be deemed to have occurred or to exist if, and so long as, GPEC shall commence such action within that period and diligently and continuously prosecute the same to completion within 90 days or such longer period as the Town may approve in writing. The foregoing notwithstanding, in the event that the Town decides, for whatever reason, to disassociate itself with GPEC, or in the event of circumstances which render GPEC incapable of providing the services required to be performed hereunder, including, but not limited to, insolvency or an award of monetary damages against GPEC in excess of its available insurance coverage and assets, the Town may immediately and without further notice terminate this Agreement.
- K. RESPONSIBILITY FOR COMPLIANCE WITH LEGAL REQUIREMENTS.** GPEC's performance hereunder shall be in material compliance with all applicable federal, state and local health, environmental, and safety laws, regulations, standards, and ordinances in effect during the performance of this Agreement.
- L. INSTITUTION OF LEGAL ACTIONS.** Any legal actions instituted pursuant to this Agreement must be filed in the county of Maricopa, State of Arizona, or in the Federal District Court in the District of Arizona. In any legal action, the prevailing party in such action will be entitled to reimbursement by the other party for all costs and expenses of such action, including reasonable attorneys' fees as may be fixed by the Court.
- M. APPLICABLE LAW.** Any and all disputes arising under any Agreement to be awarded hereunder or out of the proposals herein called for, which cannot be administratively resolved, shall be tried according to the laws of the State of Arizona, and GPEC shall agree that the venue for any such action shall be in the State of Arizona.

- N. **CONTINUATION DURING DISPUTES.** GPEC agrees that, notwithstanding the existence of any dispute between the parties, each party shall continue to perform the obligations required of it during the continuation of any such dispute, unless enjoined or prohibited by an Arizona court of competent jurisdiction.
- O. **TOWN REVIEW OF GPEC RECORDS.** GPEC must keep all Agreement records separate and make them available for audit by Town personnel upon request.
- P. **NOTICES.** Any notice, consent or other communication required or permitted under this Agreement shall be in writing and shall be deemed received at the time it is personally delivered, on the day it is sent by facsimile transmission, on the second day after its deposit with any commercial air courier or express service or, if mailed, three (3) days after the notice is deposited in the United States mail addressed as follows:

If to Town: John Kross
 Town Manager
 Town of Queen Creek
 22350 S. Ellsworth Road
 Queen Creek, Arizona 85142
 Phone: (480) 358-3003

If to GPEC: Barry Broome
 President and Chief Executive Officer
 Greater Phoenix Economic Council
 Two North Central Avenue, Suite 2500
 Phoenix, Arizona 85004-4469
 (602) 256-7700
 FAX: (602) 256-7744

Any time period stated in a notice shall be computed from the time the notice is deemed received. Either party may change its mailing address or the person to receive notice by notifying the other party as provided in this paragraph.

- Q. **TRANSACTIONAL CONFLICT OF INTEREST.** All parties hereto acknowledge that this Agreement is subject to cancellation by the Town pursuant to the provisions of Section 38-511, Arizona Revised Statutes.
- R. **NONLIABILITY OF OFFICIALS AND EMPLOYEES.** No member, official or employee of the Town will be personally liable to GPEC, or any successor in interest, in the event of any default or breach by the Town or for any amount which may become due to GPEC or successor, or on any obligation under the terms of this Agreement. No member, official or employee of GPEC will be personally liable to the Town, or any successor in interest, in the event of any default or breach by the GPEC or for any amount which may become due to the Town or successor, or on any obligation under the terms of this Agreement.
- S. **NO WAIVER.** Except as otherwise expressly provided in this Agreement, any failure or delay by any party in asserting any of its rights or remedies as to any default, will not operate as a waiver of any default, or of any such rights or remedies, or deprive any such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

- T. SEVERABILITY.** If any provision of this Agreement shall be found invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement will not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law, provided that the fundamental purposes of this Agreement are not defeated by such severability.
- U. CAPTIONS.** The captions contained in this Agreement are merely a reference and are not to be used to construe or limit the text.
- V. NO THIRD PARTY BENEFICIARIES.** No creditor of either party or other individual or entity shall have any rights, whether as a third-party beneficiary or otherwise, by reason of any provision of this Agreement.
- W. ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS.** This Agreement may be executed in up to three (3) duplicate originals, each of which is deemed to be an original. This Agreement, including ten (10) pages of text and the below-listed exhibits, which are incorporated herein by this reference, constitutes the entire understanding and agreement of the parties.

Exhibit A – GPEC Action Plan
Exhibit B - GPEC Performance Measures
Exhibit C - Targeted Industries
Exhibit D - Reporting Mechanism for Contract Fulfillment
Exhibit E - Insurance Requirements

This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.

All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the Town or GPEC, and all amendments hereto must be in writing and signed by the appropriate authorities of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed the Agreement this _____ day of _____, 2012.

TOWN OF QUEEN CREEK,
a municipal corporation
John Kross

By: _____
Its: Town Manager

GREATER PHOENIX ECONOMIC COUNCIL,
an Arizona nonprofit corporation

By: _____
Barry Broome
President & Chief Executive Officer

ATTEST:

Jennifer Robinson, Town Clerk

REVIEWED AS TO FORM:

Mariscal Weeks, McIntyre & Friedlander, P.A.
Town Attorney

Requesting Department:
Parks and Recreation



TO: HONORABLE MAYOR AND TOWN COUNCIL

THROUGH: PATRICK FLYNN, ASSISTANT TOWN MANAGER;

FROM: ADAM ROBINSON, RECREATION SUPERINTENDENT

RE: CONSIDERATION AND POSSIBLE APPROVAL OF AN ANNUAL SERVICE AGREEMENT BETWEEN THE BOYS AND GIRLS CLUB OF THE EAST VALLEY AND THE TOWN OF QUEEN CREEK FOR COMMUNITY RECREATION SERVICES IN THE AMOUNT OF \$75,000 FOR FISCAL YEAR 2012-2013

DATE: June 20, 2012

Staff Recommendation:

Staff recommends approval of an annual service agreement between the Boys and Girls Club of the East Valley and the Town of Queen Creek for Community Recreation Services in the amount of \$75,000 for fiscal year 2012-2013.

Relevant Council Goal(s):

- Parks, Trails and Open Space Master Plan
 - Goal 4, Policy 4.3 – Promote recreation opportunities for all citizens in Queen Creek. (Executive Summary, page 15)
 - Recommendation #6 – Analyze current programs and determine if there is a for-profit or non-profit organization that can provide the programs in lieu of the Town doing so. (Executive Summary, page VI)
 - Future Priorities – Establish partnerships and encourage other providers to come into the market place, such as school districts, YMCA and the Boys and Girls Club. (Needs Analysis, page 59)

Proposed Motion:

Move to approve the annual service agreement between the Boys and Girls Club of the East Valley and the Town of Queen Creek for Community Recreation Services in the amount of \$75,000 for fiscal year 2012-2013.

Discussion:

The Town has partnered with the Boys and Girls Club of the East Valley since 2005 to assist the Town in providing youth development programs and recreational opportunities for youth ages 6-18. The goal of the Club is to provide a positive place for kids by providing a safe haven for children to enjoy and participate in activities that help build character, self-esteem, values and skills.

The annual service agreement, if approved, will commence July 1, 2012; and in general calls for services to be provided before-school, after-school, early-release, inter-session, and summer programs for youth and teens in the areas of recreation, education, peer leadership, computer technology, substance abuse prevention, physical fitness, and the performing arts at the Town of Queen Creek Community Center, Desert Mountain Elementary School and Frances Brandon Pickett Elementary School.

The service agreement would also require that the Boys and Girls Club of the East Valley provide the following:

1. Impact assessments on a quarterly basis including a review of the previous quarter's activities, participation numbers, programs and services rendered.
2. Appropriate level of staffing for the delivery of services in a professional, safe and industry-compliant manner that complies with all local, state and federal laws, including the regulations, policies and procedures governing the Boys & Girls Clubs of the East Valley and the Boys & Girls Clubs of America.
3. Measurement of the ratings or reviews related to the overall satisfaction of the quality of programs, customer service, quality of facilities, communication between staff and parents, value of services, safety and security of programs.

Boys and Girls Club of the East Valley representative Kevin McKoy, Branch Executive, will be available to provide additional information and answer questions. Staff will continue to work with the Boys and Girls Club of the East Valley to schedule quarterly reports to the Town Council.

Fiscal Impact:

The fiscal impact for the annual service agreement is \$75,000. The funds are allocated in the FY 12-13 budget, line item # 101-410-0010-00000-447019 (non-profit funding). In-kind support includes use of the Community Center for Teen programming and two (2) cubicle office spaces within the Municipal Services Building.

Alternatives:

1. Council could choose to not approve the annual service agreement for FY 2012-2013. This alternative would eliminate the youth development programs and recreational opportunities for youth ages 6-18 outlined in the agreement.
2. Council could choose to have the Town's Recreation Services Division provide the services. This alternative would call for a significant increase in the Town's budget above the amount proposed by the Boys and Girls Club of the East Valley for the annual services.

Attachments:

1. Annual Service Agreement with the Boys and Girls Club of the East Valley, Queen Creek Branch for Fiscal Year 2012-2013

TOWN OF QUEEN CREEK

PROFESSIONAL SERVICES CONTRACT WITH THE BOYS & GIRLS CLUBS OF THE EAST VALLEY – QUEEN CREEK BRANCH

This Contract is made and entered into effective as of the 1st day of July, 2012 (the "Effective Date"), by and between the Town of Queen Creek, an Arizona municipal corporation ("Town"), and Boys and Girls Club of the East Valley-Queen Creek Branch, a non-profit agency, ("Club"). Town and Club may be referred to in this Contract collectively as the "Parties" and each individually as a "Party."

RECITALS

The Town wishes to enter into a contract for community recreation and professional services which provides before-school, after-school, early-release, inter-session, and summer programs for youth and teens in the areas of recreation, education, peer leadership, computer technology, substance abuse prevention, physical fitness, and the performing arts at the Town of Queen Creek Founders Park Community Center, Desert Mountain Elementary School and Frances Brandon Pickett Elementary School in the Town of Queen Creek; and

The Club, operating in good standing with the Boys & Girls Clubs of America, is qualified to perform the Services; and

The Mayor/Town Manager is authorized and empowered by the Town Code to execute contracts for professional services.

Now therefore, in consideration of the mutual promises and obligations set forth in this Contract the Parties agree as follows:

AGREEMENTS

ARTICLE 1. SCOPE OF SERVICES

- A. The Club shall provide the following services to the Town pursuant to the terms of this Agreement (the "Services"):
1. Provide before-school, after-school, early-release, inter-session, and summer programs for youth and teens (ages 6-18) in the areas of recreation, education, peer leadership, computer technology, substance abuse prevention, physical fitness, and the performing arts at the Town of Queen Creek Founders Park Community Center, Desert Mountain Elementary School and Frances Brandon Pickett Elementary School in the Town of Queen Creek.
 2. Provide the Teen Services (ages 13-19) five (5) days a week, a minimum of 20 hours per week, Monday through Friday during weeks school is in session at the Community Center at Founder's Park; and provide the Services five (5) days a week, Monday through Friday during Summer Break programming, a minimum of

30 hours, through the term of this Agreement at either the Community Center or at the Boys & Girls Club Summer Program location.

3. Provide Youth Services (ages 6-18) during the regular public school year on regular school days from (before school) 6:30 a.m. through 8:00 a.m. (may change due to time of school district) and (after school) 2:50 pm through 6:00 pm. (may change due to time of school district). On early release days during the regular public school year, extend the provision of Services from 12:25 pm through 6:00 pm.
4. Provide Youth Services on non-public school days from 7:00 am through 6:00 pm, with the exception of 10 days (Independence Day, Labor Day, Thanksgiving Day, day after Thanksgiving, Christmas Eve, Christmas Day, New Year's Eve, New Year's Day, Good Friday, and Memorial Day).
5. Provide the Services in a manner that complies with all local, state and federal laws, including the regulations, policies and procedures governing the Boys & Girls Clubs of the East Valley and Boys & Girls Clubs of America.
6. Maintain and make available to Town the relevant details regarding the Services delivered to youth, teens and members in the Town, including but not limited to, special and regular programs, new programs, regular delivery of Services, retention of members, acquisition of new members, the budget for the Queen Creek Branch, and all accounting materials necessary for the payments provided by Town pursuant to this Agreement.
7. Maintain the Club's records (hard copy, as well as computer readable data), and any other supporting evidence deemed necessary by the Town to substantiate charges, claims and payments related to this Agreement which shall be open to inspection and subject to audit and/or reproduction by Town's authorized representative to the extent necessary to adequately permit evaluation and verification of cost of the Services. The Town's authorized representative shall be afforded access, at reasonable times and places, to all of the Club's records and personnel pursuant to the provisions of this section throughout the term of this Agreement and for a period of three years after the last or final payment.
8. Organize and promote ceremonies and events for new or expanding Service programs in order to raise awareness of the success and growth of the Services available in the Town. Ensure that Town Council members and other related Town staff, including the Contract Administrator, are notified in advance of such ceremonies and events to permit their attendance.
9. Maintain a monthly calendar of events and programs and make this monthly calendar available to all active members. Deliver the monthly calendar to the Contract Administrator two weeks prior to the quarter from which the month is a part.

10. Provide and maintain an active link on the Club's official websites for the Town's official website, including the Recreation Services Division, as determined in the sole discretion of the Town's Contract Administrator.
11. Coordinate with Town's Recreation Services Division to develop and deliver a youth recreation and services seminar (may include town special events) for delivery at least once during the term of the Agreement.
12. Provide a supporting role in Town community recreation events and special events involving youth recreation and services.
13. Provide such additional programs and projects as may be agreed upon from time to time by the Town and the Club.
14. Provide in a quarterly report to the Town Council an impact assessment, which shall include a review of the previous quarter's activities, programs and Services rendered, including the number of actual participants in each, and a list of activities, programs and Services proposed for the next Quarter. The quarterly report may be presented to the Town Council at a public meeting. Quarterly reports may be presented to the Town Council at a public meeting no later than forty-five (45) days after the end of each quarter.
15. Provide a Participant Survey to all participants of each special program. The response rate for the survey shall be at least 80% of the participants. Surveys shall include, at a minimum, ratings or reviews related to the overall satisfaction with the program; new information provided by the program; and level of fun experienced during the program.
16. Provide a Parent Survey to parent members on a quarterly basis. The response rate for the Parent survey shall be at least 80% of the parent members. The Parent Survey shall include questions concerning:
 - a. overall satisfaction with programs
 - b. customer service provided by staff
 - c. quality of facilities / fields
 - d. communication between Club and parent
 - e. value of services
 - f. number and variety of programs offered
 - g. safety and security of programs
 - h. quality of programs
17. Provide a minimum of four (4) programs on a weekly basis through the term of the Agreement as described in **ARTICLE 3 TERM OF CONTRACT**. There shall not be more than 3% of optional time programmed as free time.

All Services may be reviewed and approved by the Contract Administrator to determine acceptable completion. Review and approval by the Contract Administrator shall not relieve the Club of any liability for improper, negligent or inadequate Services rendered pursuant to this Agreement.

All references to the school calendar, including but not limited to the school year, summer breaks, public school and regular days, shall mean the calendar of the Queen Creek Unified School District.

B. Town shall provide for purposes of administering the services two (2) workstations and phone and internet services.

ARTICLE 2. FEES

1. The amount paid to Consultant under this Contract, including reimbursable expenses, shall not exceed seventy-five thousand dollars (\$75,000.00).

2. Quarterly payments may be made to the Club on the basis of a progress report prepared and submitted by Club for the Services completed through the last day of the preceding quarter. The Contract Administrator reserves the exclusive right to determine the Services performed and payment due the Club on a quarterly basis. Quarterly billings shall be accompanied by such documentation as the Contract Administrator may require to make his/her determination of Services performed and payment due.

3. If for any reason the Consultant fails to fulfill in a timely and proper manner its obligations under this Contract, or if the Consultant violates any of the covenants, agreements, or stipulations of this Contract, the Town may withhold from payment due to the Consultant such amounts as are necessary to protect the Town's position for the purpose of set-off until such time as the exact amount of damages due to the Town from Consultant is agreed to by the parties in writing, or is determined by a court of competent jurisdiction.

ARTICLE 3. TERM OF CONTRACT

1. This Contract shall be in full force and effect when approved by the Town Council of Queen Creek, Arizona and signed by its Mayor/Town Manager as attested by the Town Clerk.

2. The Club shall proceed with providing the Services July 1st, 2012. All work shall be completed and approved on or before June 30, 2013.

ARTICLE 4. TERMINATION OF CONTRACT

1. The Town has the right to terminate this Contract for cause or convenience or to terminate any portion of the Services which have not been performed by the Club.

2. In the event the Town terminates this Contract or any part of the Services as herein provided, the Town shall notify the Club in writing, and immediately upon receipt of such notice, the Club shall discontinue all Services, or the specific Services being terminated, as applicable,

under this Contract.

3. Upon such termination, the Club shall immediately deliver to the Town any and all documents or work product generated by the Club under the Contract (collectively, the "Work Product"), together with all unused material supplied by the Town, applicable to the Services being terminated. Club shall be responsible only for such portion of the work as has been completed and accepted by the Town. Use of incomplete data by the Town shall be the Town's sole responsibility.

4. Upon receipt of notice of termination, Club shall appraise the Services it has completed but has not yet been paid for and shall submit the Services and appraisal to the Contract Administrator for evaluation.

5. The Club shall receive as compensation in full for Services performed and approved by the Contract Administrator to the date of such termination, a fee for the percentage of Services actually completed and accepted by the Town. This fee shall be in an amount to be mutually agreed-upon by the Club and the Town, based upon the Scope of Work set forth in **ARTICLE 1 SCOPE OF SERVICES** and the payment schedule set forth in Article 2 of this Contract. If mutual agreement between the Parties cannot be reached after reasonable negotiation, the Contract Administrator shall determine the percentage of satisfactory completion of each task set forth in the Scope of Work and the amount of compensation Club is entitled to for such work, and the Contract Administrator's determination in this regard shall be final. The Town shall make such final payment within 60 days after the latest of: (i) Club's completion or delivery to the Town of any portion of the Services not terminated; or (ii) Club's delivery to the Town of all Work Product and any unused material supplied by the Town, in accordance with Paragraph 3 of Article 4.

ARTICLE 5. ALTERATIONS OR ADDITIONAL SERVICES

The entire Scope of Services to be performed in accordance with this Contract is set forth in **ARTICLE 1 SCOPE OF SERVICES**. Services which are not included in **ARTICLE 1 SCOPE OF SERVICES** will be considered Additional Services, only if approved in writing by the Contract Administrator prior to their performance. The Club shall not perform such Additional Services without prior written authorization in the form of an approved change order or contract amendment from the Town. In the event the Club performs such claimed Additional Services without prior written authorization from the Town, it shall be conclusively presumed that the claimed Additional Services were included in the Scope of Services and Club shall not be permitted to request or receive any additional compensation for such claimed Additional Services.

ARTICLE 6. ASSIGNMENT AND SUBCONTRACTING

1. This Contract may not be assigned in whole or in part without the prior written consent of the Town, and any such attempted assignment shall be null and void and a material breach of this Contract, and shall transfer no rights to the purported assignee.

2. The Club may engage such subconsultants or professional associates as Club may

deem necessary or desirable for the timely and successful completion of this Contract. However, the use of such subconsultants or professional associates for the performance of any part of the Services specified in **ARTICLE 1 SCOPE OF SERVICES** shall be subject to the prior written approval of the Town. Club will submit a complete list of subconsultants on Exhibit D and will update the information on the list during the term of the Contract, should the status or identity of said subconsultants change. Employment of such subconsultants or professional associates in order to complete the work set forth in **ARTICLE 1 SCOPE OF SERVICES** shall not entitle Club to additional compensation beyond that set forth in Article 2. The Club shall be responsible for and shall warrant all Services including work delegated to such subconsultants or professional associates.

ARTICLE 7. COMPLETENESS AND ACCURACY

The Club shall be responsible for and shall and hereby does warrant the completeness, accuracy and quality of all work done pursuant to the Contract including, but not limited to the Services, the Work Product, and the reports, survey work, plans, supporting data and special provisions prepared or compiled pursuant to Club's obligations under this Contract and shall correct at Club's expense all errors or omissions which may be discovered therein. Town's acceptance or approval of the Club's Services shall in no way relieve the Club of any of Club's responsibilities hereunder.

ARTICLE 8. OWNERSHIP OF DOCUMENTS

All documents including but not limited to data computation, studies, reports, design notes and any original drawings which are prepared in the performance of this Contract are to be and remain the property of the Town and are to be delivered to the Contract Administrator before final payment under this Contract is made to the Club or upon termination of this Contract for any reason. To the extent any such documents or the Work Product is deemed to be the property of Club, Club hereby assigns all of Club's right, title and interest (including any applicable copyrights) in such documents and Work Product to the Town.

ARTICLE 9. INDEMNIFICATION

1. To the fullest extent permitted by law, the Club shall defend, indemnify, save and hold harmless the Town and its officials, officers, employees and agents (collectively "Indemnitees") from and against any and all damages, claims, losses, liabilities, actions or expenses (including, but not limited to, attorneys' fees, court costs, and the cost of appellate proceedings) (collectively, "Claims") relating to, arising out of or alleged to have resulted from the performance of Services pursuant to this Contract including, but not limited to, any such performance by any subconsultant. The Club's duty to defend, hold harmless and indemnify Indemnitees pursuant to this section shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, including death, or to injury to, impairment, or destruction of property including loss of use resulting therefrom, caused in whole or in part by the acts, errors, mistakes, omissions, work or services of the Club or anyone for

whose acts the Club may be legally liable. It is the specific intention of the Parties that the Indemnitee shall be indemnified by Club from and against all Claims other than those arising from the Indemnitees' sole negligence. The Club will be responsible for primary loss investigation and defense and judgment costs where this Indemnification applies.

2. In the event that any action or proceeding shall at any time be brought against any of the Indemnitees by reason of any Claim referred to in this Article, the Club, at Club's sole cost and upon at least 10 day's written notice from Town, shall defend the same with counsel acceptable to Town, in Town's sole discretion.

3. The Club's obligations under this Article shall survive the expiration or earlier termination of this Contract.

4. The insurance provisions set forth in this Contract are separate and independent from the indemnity provisions of this Article and shall not be construed in any way to limit the scope and magnitude of this Indemnification, nor shall this Indemnification be construed in any way to limit the scope, magnitude or applicability of the insurance provisions.

ARTICLE 10. INSURANCE

Club shall secure and maintain during the life of this Contract, the insurance coverages set forth on Exhibit A.

ARTICLE 11. WARRANTIES

1. The Club shall be responsible for and shall and hereby does warrant that all Services provided shall: (i) be of good quality; (ii) be provided by properly trained, qualified, and licensed workers, subconsultants, and/or subvendors; (iii) conform to the requirements of this Contract (including all applicable descriptions, specifications, drawings and samples); (iv) be free from defects; (v) be appropriate for the intended purpose; (vi) meet or exceed all specifications, requirements and legal regulations, statues and/or codes that apply thereto, including, without limitation, all federal, state, county, and Town rules regulations, ordinances and/or codes that may apply; and (vii) be fully covered by Club's warranties running in favor of the Town under this Contract.

2. Immediately upon notice from the Contract Administrator thereof, Club shall correct or replace as required by the Contract Administrator, at Club's expense, all defects, noncompliance, or inadequacies which may be discovered in any of the Services provided under this Contract. The Town's acceptance or approval of the Services shall in no way relieve the Club of any of Club's responsibilities hereunder. Unless a longer period is provided in the Contract Documents, this obligation to correct or replace shall continue for a period of two (2) years after acceptance of the specific Services.

ARTICLE 12. DISCLOSURES BY CLUB.

1. The Club shall reveal fully and in writing any financial or compensatory agreements

which the Club has with any prospective contractor prior to the Town's publication of requests for proposals or comparable documents.

2. The Club hereby warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Club, to solicit or secure this contract, and that the Club has not paid or agreed to pay any person, company, corporation, individual or firm other than a bona fide employee working solely for the Club any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this contract.

3. The Club shall comply with Executive Order No. 11246 entitled "Equal Opportunity Employment" as amended by Executive Order no. 11375, and supplemented Department of Labor Regulations 41 CFR, Part 16.

ARTICLE 13. CONTRACT ADMINISTRATOR

The Town's Contract Administrator for this Contract shall be the Town Manager or his/her designee(s).

ARTICLE 14. NOTICE

All notices or demands required to be given, pursuant to the terms of this contract, shall be given to the other Party in writing, delivered in person, sent by facsimile transmission, deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested or deposited with any commercial air courier or express service at the addresses set forth below, or to such other address as the Parties may substitute by written notice, given in the manner prescribed in this paragraph.

Town: John Kross, Town Manager
22350 South Ellsworth Road
Queen Creek, Az 85242
Facsimile: (480) 358-3189

With a copy to: MARISCAL, WEEKS, MCINTYRE & FRIEDLANDER, P.A.
2901 North Central Avenue, Suite 200
Phoenix, Arizona 85012
Att'n: Fredda J. Bisman, Esq.
Facsimile: (602) 285-5100

Club: Ramon Elias, President and CEO
Boys and Girls club
1405 East Guadalupe Road, Suite 4
Tempe, AZ 85283
Facsimile: (489) 820-4093_

With a copy to: _____

Facsimile: () _____

A notice shall be deemed received on the date delivered, if delivered by hand, on the day it is sent by facsimile transmission, on the second day after its deposit with any commercial air courier or express services or, if mailed, three (3) working days (exclusive of United States Post Office holidays) after the notice is deposited in the United States mail as above provided, and on the delivery date indicated on receipt, if delivered by certified or registered mail. Any time period stated in a notice shall be computed from the time the notice is deemed received. Notices sent by facsimile transmission shall also be sent by regular mail to the recipient at the above address.

This requirement for duplicate notice is not intended to change the effective date of the notice sent by facsimile transmission. E-mail is not an acceptable means for meeting the requirements of this section unless otherwise agreed in writing.

ARTICLE 15. GENERAL PROVISIONS

A. **RECORDS AND AUDIT RIGHTS.** Club's records (hard copy, as well as computer readable data), and any other supporting evidence deemed necessary by the Town to substantiate charges and claims related to this contract shall be open to inspection and subject to audit and/or reproduction by Town's authorized representative to the extent necessary to adequately permit evaluation and verification of cost of the work, and any invoices, change orders, payments or claims submitted by the Club or any of his payees pursuant to the execution of the contract. The Town's authorized representative shall be afforded access, at reasonable times and places, to all of the Club's records and personnel pursuant to the provisions of this article throughout the term of this contract and for a period of three years after last or final payment.

B. **INCORPORATION OF RECITALS AND EXHIBITS.** The Recitals, Exhibits and Appendices attached hereto are acknowledged by the Parties to be substantially true and correct, and hereby incorporated as agreements of the Parties.

C. **ATTORNEYS' FEES.** In the event either Party brings any action for any relief, declaratory or otherwise, arising out of this Contract, or on account of any breach or default hereof, the prevailing Party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses (including expert witness fees), determined by the arbitrator or court sitting without a jury, which fees shall be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.

D. **ENTIRE AGREEMENT.** This Contract constitutes the entire understanding of the Parties and supersedes all previous representations, written or oral, with respect to the services specified herein.

E. **GOVERNING LAW.** This Contract shall be governed by and construed in accordance with the substantive laws of the State of Arizona, without reference to conflict of laws and principles. Exclusive jurisdiction and venue for any action brought to enforce or construe any provision of this Contract shall be proper in the Superior Court of Maricopa County, Arizona and both Parties consent to the sole jurisdiction of, and venue in, such court for such purposes.

F. INDEPENDENT CONTRACTOR. The services Club provides under the terms of this Contract to the Town are that of an Independent Contractor, not an employee, or agent of the Town. As an independent contractor, Club shall: (a) have discretion in deciding upon the method of performing the services provided; (b) not be entitled to worker's compensation benefits from the Town; (c) not be entitled to any Town sponsored benefit plan; (d) shall select the hours of his/her work; (e) shall provide her/her own equipment and tools; and (f) to the extent required by law, be responsible for obtaining and remaining licensed to provide the Services.

G. TAXES. Club shall be solely responsible for any and all tax obligations which may result out of the Club's performance of this contract. The Town shall have no obligation to pay any amounts for taxes, of any type, incurred by the Club. The Town will report the value paid for these Services each year to the Internal Revenue Service (I.R.S.) using Form 1099. The Town shall not withhold income tax as a deduction from contractual payments. Club acknowledges that Club may be subject to I.R.S. provisions for payment of estimated income tax. Club is responsible for consulting the local I.R.S. office for current information on estimated tax requirements.

H. AMENDMENTS. Any amendment, modification or variation from the terms of this Contract shall be in writing and signed by all Parties hereto.

I. COMPLIANCE WITH LAW. The Club specifically agrees and hereby warrants to the Town that in the performance of the Services, Club and anyone acting on Club's behalf, including but not limited to Club's subconsultants, will comply with all state, federal and local statutes, ordinances and regulations, and will obtain all permits and licenses applicable for performance under this contract.

J. SEVERABILITY. In the event that any provision of this Contract shall be held to be invalid and/or unenforceable, the remaining provisions shall be valid and binding upon the Parties.

K. WAIVER. No delay in exercising any right granted by this Contract will constitute a waiver of that right. One or more waivers by either Party of any provisions, terms, conditions, or covenants of this Contract, or any breach thereof, shall not be construed as a waiver of a subsequent breach by the other Party.

L. COUNTERPARTS. This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, binding on all of the Parties. The Parties agree that this Contract may be transmitted between them via facsimile. The Parties intend that the faxed signatures constitute original signatures and that a faxed contract containing the signatures (original or faxed) of all the Parties is binding upon the Parties.

M. COMPLIANCE WITH IMMIGRATION LAWS AND REGULATIONS.

Pursuant to the provisions of A.R.S. §41-4401, the Club warrants to the Town that the Club and all its subconsultants are in compliance with all Federal Immigration laws and regulations that relate to their employees and with the E-Verify Program under A.R.S. §23-214(A). Club acknowledges that a breach of this warranty by the Club or any of its subconsultants is a material breach of this Contract subject to penalties up to and including

termination of this Contract or any subcontract. The Town retains the legal right to inspect the papers of any employee of the Club or any subconsultant who works on this Contract to ensure compliance with this warranty.

The Town may conduct random verification of the employment records of the Club and any of its subconsultants to ensure compliance with this warranty.

The Town will not consider Club or any of its subconsultants in material breach of the foregoing warranty if Club and its subconsultants establish that they have complied with the employment verification provisions prescribed by 8 USCA § 1324(a) and (b) of the Federal Immigration and Nationality Act and the e-verify requirements prescribed by Arizona Revised Statutes § 23-214(A).

The provisions of this Article must be included in any contract the Club enters into with any and all of its subconsultants who provide services under this Contract or any subcontract. As used in this Section M "services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

N. PROHIBITION OF DOING BUSINESS WITH SUDAN AND IRAN. Pursuant to A.R.S. §§35-391.06 and 35-393.06, Club hereby certifies to the Town that Club does not have "scrutinized" business operations, as defined in A.R.S. §§35-391 and 35-393, in either Sudan or Iran. Club acknowledges that, in the event either of the certifications to the Town by Club contained in this paragraph is determined by the Town to be false, the Town may terminate this Contract and exercise other remedies as provided by law, in accordance with A.R.S. §§35-391.06 and 35-393.06.

O. CANCELLATION FOR CONFLICT OF INTEREST. Pursuant to the provisions of A.R.S. § 38-511, the Town may cancel any contract or agreement, without penalty or obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the Town is, at any time while the contract or any extension thereof is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party to the contract with respect the subject matter of the contract.

P. LICENSES. Club shall maintain in current status all Federal, State, and Local licenses and permits required for the operation of the business conducted by Club and the services to be performed under the resultant contract.

Q. PERMITS AND RESPONSIBILITIES. Club shall, without additional expense to the Town, be responsible for obtaining any necessary licenses and permits and for complying with any applicable Federal, State and Municipal Laws, codes and regulations in connection with the execution of the work.

R. LIENS. Club shall cause all materials, service or construction provided or performed under the resultant contract to be free of all liens, and if the Town requests, Club shall deliver appropriate written releases, in statutory form of all liens to the Town.

S. PATENTS AND COPYRIGHTS. All services, information, computer program elements, reports and other deliverables, which may be patented or copyrighted and created

under this contract are the property of the Town and shall not be used or released by Club or any other person except with the prior written permission of the Town.

T. **WORKPLACE COMPLIANCE.** The Contractor understands and acknowledges the applicability to it of the American with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989.

U. **PRIORITY OF DOCUMENTS.** In the event of a conflict between the terms of this Contract and the terms of any other document related to the Services, including but not limited to Scope of Services, the terms of this Contract shall prevail. In the event of a conflict between the terms of any bid document (RFP, RFQ, IFB) and the terms of a response, the terms of the bid document will control.

ARTICLE 16. FUNDS APPROPRIATION

If the term of this Contract or provision of any Services hereunder extends beyond the current fiscal period of the Town and the Town Council does not appropriate funds to continue this Contract and pay for charges hereunder, the Town may terminate this Contract at the end of the current fiscal period. The Town agrees, to the extent reasonably practical, to give written notice of such termination pursuant to Article 14 of this Agreement at least thirty (30) days prior to the end of the current fiscal period and will pay to the Club approved charges incurred through the end of such period.

THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK.

In witness whereof, the parties hereto have executed and caused to be signed by their duly authorized representatives, this agreement on the date first written above.

TOWN OF QUEEN CREEK:

Approval of Town Council:

Approval of Contract Administrator:

Gail Barney, Mayor

John Kross, Town Manager

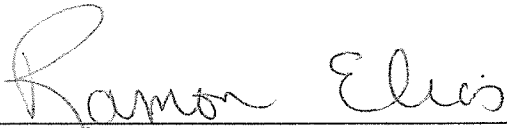
ATTEST:

Jennifer Robinson, Town Clerk

REVIEWED AS TO FORM:

Mariscal, Weeks, McIntyre & Friedlander, P.A.
Town Attorneys

CLUB:



Ramon Elias
Boys and Girls Club, President and CEO

EXHIBIT A
INSURANCE

1. The Club shall secure and maintain during the life of this Contract, the insurance coverage set forth in this Exhibit A, which shall include statutory workman's compensation, comprehensive general and automobile liability, Consultant's liability insurance and errors and omissions professional liability. The comprehensive general and automobile liability limits shall be no less than one million dollars (\$1,000,000.00) combined single limit. The Consultant's general liability limits shall be no less than one million dollars (\$1,000,000.00) for each occurrence and one million dollars (\$1,000,000.00) policy aggregate naming the Town as an additional insured. The minimum amounts of coverage for Consultant's professional liability shall be one million dollars (\$1,000,000.00). In other than professional liability and workman's compensation, the Town shall be named as an additional insured for all coverage. All insurance coverage shall be written through carriers licensed in Arizona, or on an approved non-admitted list of carriers published by the Arizona Department of Insurance, and possessing an A.M. Best rating of at least A or better through Lloyd's of London. Should coverage be written on a claims-made basis, the Consultant shall provide, prior to commencement of any work, an initial certificate of insurance evidencing required coverage limits from date of contract execution through date of policy expiration. Subsequently, a certificate of insurance or a renewal quotation accompanied by evidence of premium payment shall be presented a minimum of thirty (30) days prior to date of expiration of current certificate. Such certificate or evidence of continuous coverage shall be provided on a periodic basis for a minimum of two (2) years after completion of contract, and shall contain a certification that the claims period for such insurance is retroactive to the effective date of this Contract. In the event the Consultant fails to provide such certificate of coverage retroactive to the beginning date of this Contract, the Town may, but shall not be required to, purchase insurance, if available, to protect itself against any losses which would have been covered by the errors and omissions policy Consultant is required to maintain under this Article. If the Town elects to purchase the insurance under this provision, Consultant shall be liable to the Town for all costs incurred by the Town for purchasing such insurance.

2. The Consultant shall submit to the Town a certificate of insurance evidencing the coverage and limits stated in the foregoing paragraph **within ten (10) days** of award of this Contract. Insurance evidenced by the certificate shall not expire, be canceled, or materially changed without thirty (30) days prior written notice to the Town, and a statement to that effect must appear on the face of the certificate and the certificate shall be signed by a person authorized to bind the insurer. The amount of any errors and omissions deductible shall be stated on the face of the certificate. The Contract Administrator may require the Consultant to furnish a financial statement establishing the ability of Consultant to fund the deductible. If in the sole judgment of the Contract Administrator the financial statement does not establish the Consultant's ability to fund the deductible, and no other provisions acceptable to the Contract Administrator are made to assure funding of the deductible, the Contract Administrator may, in his/her sole discretion, terminate this Contract and the Town will have no further obligation to the Consultant.



Economic Development:

TO: HONORABLE MAYOR AND TOWN COUNCIL

**THROUGH: JOHN KROSS, AICP
TOWN MANAGER**

FROM: DOREEN COTT, ECONOMIC DEVELOPMENT DIRECTOR

**RE: CONSIDERATION AND POSSIBLE APPROVAL OF THE AGREEMENT
BETWEEN THE QUEEN CREEK CULTURAL FOUNDATION (QCCF)
AND THE TOWN OF QUEEN CREEK IN THE AMOUNT OF \$100,000
FOR FISCAL YEAR 2012-2013.**

DATE: JUNE 20, 2012

Staff Recommendation:

Staff recommends that the Council approve the FY12-13 Agreement between the Queen Creek Cultural Foundation (QCCF) and the Town of Queen Creek in the amount of \$100,000

Proposed Motion:

Move to approve the Agreement between the QCCF and the Town of Queen Creek in the amount of \$100,000 and authorize the Mayor to execute the necessary documents.

Discussion:

The Town of Queen Creek has recognized the importance of a strong arts program in the community and has supported the Queen Creek Performing Arts Center (QCPAC) since its inception in 2003. The award winning partnership between the Town, Queen Creek Unified School District and the QCCF has created a strong arts program for the community and has provided an economic benefit to the Town with its first class programming, including national tour productions that draw visitors throughout the region. Since opening in 2003, QCPAC has welcomed over 100,000 people each year to the facility.

Arts, Culture and Experience is a targeted sector in the Economic Development Strategic Plan with Performing Arts specifically listed as a focus area within this sector. Arts and Culture is an important component of the community's distinctiveness and vibrancy.

In 2008 the QCCF incorporated and is designed to support and cooperate in the development of services and facilities for the community including support for the QCPAC. The QCCF's mission is to enrich the quality of life within our community by presenting quality professional theatre; creating an education outreach and children's theatre programs, nurturing and developing emerging talent.

The proposed agreement for FY12-13 includes the Main Theater Series, Community Theater Series, Special Event Series, Experience Queen Creek Series, which features Events presented by the QCCF in different locations throughout the Town, and the new Community Movie Series.

Fiscal Impact:

The proposed agreement with the QCCF requires the Town to pay \$100,000 for the services outlined in the agreement. Four equal payments will be made in the amount of \$25,000. Funding is available in the General Fund line item 101-410-0010-00000-403425.

Alternatives:

The Town Council could choose not to approve the Agreement between the Town and the QCCF.

The Town Council could choose to increase or decrease the contract amount and modify the services outlined in the agreement.

Attachments:

1. Proposed agreement between the Town of Queen Creek and Queen Creek Cultural Foundation.

AGREEMENT

This AGREEMENT is made and entered into by and between the TOWN OF QUEEN CREEK, an Arizona municipal corporation ("Town"), and the QUEEN CREEK CULTURAL FOUNDATION, an Arizona non-profit corporation ("QCCF"), for the purpose of setting forth the terms and conditions pursuant to which the Town will contribute to the operation of the Queen Creek Performing Arts Center ("QCPAC"), which is owned and operated under the auspices of the Queen Creek Unified School District ("QCUSD"), effective the 1st day of July 2012.

RECITALS

The Town wishes to promote its advantages as a residential, business, educational, cultural and recreational community for the purpose of developing a balanced community as described in the voter-approved Queen Creek General Plan.

The QCPAC provides an economic benefit to the community with its high quality programming which draws visitors from all over the region. Arts, Culture and Experience is a targeted sector in the Town's Economic Development Strategic Plan.

The Town is authorized by Arizona Revised Statutes § 9-500.11 to appropriate and spend public monies for and in connection with economic development activities, where such activities will assist in the creation or retention of jobs or will otherwise improve or enhance the economic welfare of the inhabitants of the Town. The QCPAC presents professional theatre productions and family theatre programs, and conducts educational outreach to students in the QCUSD, none of which would otherwise be available within or in close proximity to the Town, and all of which contribute to the educational, cultural and recreational opportunities available to residents of the Town.

Queen Creek residents take advantage of the programs of the QCPAC in significant numbers, and represent the largest demographic of QCPAC patrons.

QCPAC cannot continue to provide programming at levels which support the needs of the community, and which are supported by the community, without the financial support of the Town.

NOW, THEREFORE, in consideration of the mutual agreements contained herein, and other good and sufficient consideration, the receipt and sufficiency of which is hereby acknowledged, Town and QCCF agree as follows:

AGREEMENTS

Article I: Scope of Services

The goal of this Agreement is to provide the means for QCCF and the Town to assure that national, regional and local cultural arts events will continue to be provided to the

residents of the Town through the QCPAC.

1. QCCF Responsibilities

1.1. QCCF will provide funding for costs associated with school related programs including community theatrical program as indicated.

1.2. QCCF will, in addition, provide funds to cover the costs of the following:

1.2.1. All personnel expenses for staff support

1.2.2. All operational expenses, including but not limited to utility costs

1.2.3. Community events and performances to include, but not be limited to:

1.2.3.1. Community Theatre Series – Two (2) performances

1.2.3.2. Special Event Series – Four (4) performances

1.2.3.3. Experience Queen Creek Series – Four (4) performances

1.2.3.4. Main Theatre Series – Four (4) performances

1.2.3.5. Community Movie Series

1.3. The Town of Queen Creek will be identified as a sponsor on all materials produced for publication or distribution in connection with all events described in Article 1.2 of this Agreement. Identification of Town as a sponsor shall include, but is not limited to, inclusion of the Town logo on all print brochures/programs, news releases, and throughout performances as reasonable.

1.4. The Town will be provided complimentary use of the QCPAC, as space allows, for a total of sixteen (16) hours for four (4) Town-related performances, meeting or events during the Term of this Agreement. Each performance will last no more than four (4) hours (16 hours total). Examples of such performances include, but are not limited to, end of season performances for class programs, youth and teen programs and/or meetings scheduled by the Town.

1.5. QCCF agrees to continue to utilize a fee recovery and user group policy relative to use of the facility by non-QCUSD programs or Town programs that treat all user groups in a fair and non-discriminatory manner.

2. Town Responsibilities

2.1. Town agrees to provide the following in-kind services to support the operations of the QCPAC:

2.1.1. Website link on the Town website.

2.1.2. Free booth space at Town special events, in a location and configuration to be determined by Town in its discretion.

2.1.3. Promotion of QCPAC events on the Town calendar and Parks & Recreation Facebook page.

2.1.4. Link in the "About Town" Monthly E-newsletter.

2.1.5. Quarterly insert in the Town's water bill; limited to 100 words, one logo and one photo.

2.1.6. Space in the Town's Experience QC section, published in the East Valley Tribune, limited to 250 words and three photos.

2.1.7. Display signage on Town-owned locations, available on first-come, first-serve basis, with Town events and activities taking priority.

2.1.8. Use of the underpass location for signage at the intersection of Ellsworth Loop Road and Rittenhouse Road, available on first-come, first-serve basis, with Town events and activities taking priority.

2.1.9. Use of Desert Mountain Park for one (1) Community Event Series, as space allows.

2.1.10. Use of Horseshoe Park and Equestrian Centre for one (1) Community Event Series, as space allows.

2.1.11. Use of Classroom/multipurpose room space at the Library Recreation Annex to offer performing/cultural arts camps and rehearsals, as space allows; usage not to exceed \$10,000 in facility rental fees calculated at the non-profit rate. Space to be allowed for performance related camps only.

Article II: Town Liaison on the QCCF Board

One member of the Town's Economic Development staff shall be a liaison (ex-officio member) of the QCCF Board to enhance communication between the Town and the QCCF.

Article III: Reports to Town Council.

QCCF shall provide quarterly reports to the Town that includes the following information:

1. Attendance at each non-Town event held in QCPAC, with a cumulative total for all non-Town events at the end of the Term of this Agreement.
2. Demographic information (i.e., geographic, location of attendees, age, cohorts, etc.)
3. Satisfaction ratings for all public shows/events.

Article IV: Payment by the Town.

Town shall pay QCCF the sum of \$100,000 annually beginning July 1, 2012 in four (4) equal payments of Twenty Five Thousand (\$25,000). Payments shall be made on or before the 30th day of the month in which they are due. The first payment quarterly payment shall be made on or before July 30, 2012.

Article V: Records and Audit Rights.

QCCF records (hard copy, as well as computer readable data), and any other supporting evidence deemed necessary by the Town to substantiate performance and claims related to this Agreement shall be open to inspection and subject to audit and/or reproduction by Town's authorized representative to the extent necessary to adequately permit evaluation and verification of cost of the work. The Town's authorized representative shall be afforded access, at reasonable times and places, to all of the QCCF's records and personnel pursuant to the provisions of this article throughout the term of this Agreement and for a period of three years after last or final payment.

Article VI: Terms and Termination.

Term of the Agreement is for a term of one year, from July 1, 2012 through June 30, 2013, unless terminated earlier as provided herein.

In the event that there are any differences that arise between the Town and the QCCF in reference to the construction of this agreement, or the performance of either of the parties in reference to this agreement, each of the parties shall appoint a committee of two from the Town's Council and the QCCF's Board of Directors, respectively, to meet and discuss said disagreement. If no settlement can be effected at this meeting, or at such other meetings as said committee may agree to hold, then either of the parties may terminate this agreement upon thirty (30) days written notice to the other.

1. The Town has the right to terminate this Contract for cause or convenience or to abandon any portion of the Services that have not been performed by the QCCF.
2. In the event the Town terminates this Contract or any part of the Services as herein provided, the Town shall notify the QCCF in writing, and immediately upon receipt of such notice, the QCCF shall discontinue all work under this Contract.
3. The QCCF shall receive pro-rata compensation as provided in Article 4 for Services performed and approved by the Contract Administrator to the date of such termination or abandonment.
4. If for any reason the QCCF fails to fulfill in a timely and proper manner its obligations under this Contract, or if the QCCF violates any of the covenants, agreements, or stipulations of this Contract, the Town may withhold from payment due to the QCCF such amounts as are necessary to protect the Town's position for the purpose of set-off until such time as the exact amount of damages due to the Town from QCCF is determined by a court of competent jurisdiction.

Article VII: Insurance.

The QCCF shall secure and maintain during the life of this contract, insurance coverage which shall include statutory workman's compensation, comprehensive general and automobile liability, and owner's and contractor's protective liability insurance. The comprehensive general and automobile liability limits shall be no less than one million dollars (\$1,000,000.00) combined single limit. The owner's and contractor's protective liability limits shall be no less than one million dollars (\$1,000,000.00) for each occurrence and one million dollars (\$1,000,000.00) policy aggregate naming the Town as Insured. In other than owner's and contractor's protective liability, and workman's compensation, the Town of Queen Creek shall be named as an additional insured.

All insurance coverage shall be written through carriers licensed in Arizona, or on an approved non-admitted list of carriers published by the Arizona Department of insurance, and possessing an A.M. Best rating of at least B+7 or through Lloyd's of London. Should coverage be written on a claims-made basis, the QCCF shall provide, prior to commencement of any work, an initial certificate of insurance evidencing required coverage limits from date of contract execution through date of policy expiration. Subsequently, a certificate of insurance or a renewal quotation accompanied by evidence of premium payment shall be presented a minimum of fifteen (15) days prior to date of expiration of current certificate. Such certificate or evidence of continuous coverage shall be provided on a periodic basis for a minimum of two (2) years after completion of contract, and shall contain a certification that the claim's period for such insurance is retroactive to the effective date of this contract.

In the event the QCCF fails to provide such certificate of coverage retroactive to the beginning date of this contract, the Town may, but shall not be required to, purchase insurance, if available to protect itself against any losses which would have been covered by the errors and omissions policy QCCF is required to maintain under this article. If the Town elects to purchase the insurance under this provision, QCCF shall be liable to the Town for all costs incurred by the Town for purchasing such insurance.

Article VIII: General Provisions.

A. Entire Agreement.

This Agreement constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein. The Agreement may not be modified or amended except by a written document, signed by authorized representatives of each party.

B. Governing Law.

This Contract shall be governed by and construed in accordance with the substantive laws of the State of Arizona, without reference to conflict of laws and principles. Exclusive jurisdiction and venue for any action brought to enforce or construe any provision of this Contract shall be proper in the Superior Court of Maricopa County, Arizona and both Parties consent to the sole jurisdiction of, and venue in, such court

for such purposes.

C. Modifications

Any amendment, modification or variation from the terms of this Agreement shall be in writing and shall be effective only after approval of all parties signing the original Agreement.

D. Assignment

Services covered by this Agreement shall not be assigned or sublet in whole or in part without the prior written consent of the Town Manager or the QCCF Director.

E. Successors and Assigns.

This Agreement shall extend to and be binding upon QCCF, its successors and assigns, including any individual, company, partnership or other entity with or into which QCCF shall merge, consolidate or be liquidated, or an person, corporation, partnership or other entity to which QCCF shall sell its assets.

F. Attorney's Fees

In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement, or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

G. Independent Contractor

The services the QCCF provides under the terms of this Contract to the Town are that of an Independent Contractor, not an employee, or agent of the Town. As an independent contractor, QCCF shall: (a) have discretion in deciding upon the method of performing the services provided; (b) not be entitled to worker's compensation benefits from the Town; (c) not be entitled to any Town sponsored benefit plan; (d) shall select the hours of his/her work; (e) shall provide her/her own equipment and tools; and (f) to the extent required by law, be responsible for obtaining and remaining licensed to provide the Services.

H. Conflict of Interest

Pursuant to the provisions of A.R.S. § 38-511, the Town may cancel any contract or agreement, without penalty or obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the Town is, at any time while the contract or any extension thereof is in effect, an employee of any other party to the contract in any capacity or a consultant to any

other party to the contract with respect the subject matter of the contract.

I. Notices

All notices or demands required to be given pursuant to the terms of this Agreement shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of QCCF:

Molly Jacobs
Director, Queen Creek Performing Arts Center
22149 East Ocotillo Road
Queen Creek, Arizona 85242
Phone: (480) 987-5964

In the case of the Town:

Town of Queen Creek
22350 S. Ellsworth Rd.
Queen Creek, Arizona
ATTN: John Kross, Town Manager
Tel: (480) 358-3905
Fax: (480) 358-3909

With a copy to:

Mariscal, Weeks, McIntyre & Friedlander
Town Attorneys
2901 North Central Avenue, Suite 200
Phoenix, AZ 85012
Attn: Fredda J. Bisman, Esq.

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

J. Force Majeure.

Neither party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, power failures, or earthquakes.

K. Taxes.

QCCF shall be solely responsible for any and all tax obligations which may result out of the QCCF's performance of this Agreement. The Town shall have no obligation to pay any amounts for taxes, of any type, incurred by the QCCF.

The Town will report the value paid for these Services each year to the Internal Revenue Service (I.R.S.) using Form 1099. The Town shall not withhold income tax

as a deduction from contractual payments. QCCF acknowledges that QCCF may be subject to I.R.S. provisions for payment of estimated income tax. QCCF is responsible for consulting the local I.R.S. office for current information on estimated tax requirements.

L. Counterparts

This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, binding on all of the Parties. The Parties agree that this Contract may be transmitted between them via facsimile. The Parties intend that the faxed signatures constitute original signatures and that a faxed contract containing the signatures (original or faxed) of all the Parties is binding upon the Parties.

M. Compliance with Immigration Laws and Regulations.

Pursuant to the provisions of A.R.S. §41-4401, the QCCF warrants to the Town that the QCCF and all its subconsultants are in compliance with all Federal Immigration laws and regulations that relate to their employees and with the E-Verify Program under A.R.S. §23-214(A). QCCF acknowledges that a breach of this warranty by the QCCF or any of its subconsultants is a material breach of this Contract subject to penalties up to and including termination of this Contract or any subcontract. The Town retains the legal right to inspect the papers of any employee of the QCCF or any subconsultant who works on this Contract to ensure compliance with this warranty.

The Town may conduct random verification of the employment records of the QCCF and any of its subconsultants to ensure compliance with this warranty.

The Town will not consider the QCCF or any of its subconsultants in material breach of the foregoing warranty if QCCF and its subconsultants establish that they have complied with the employment verification provisions prescribed by 8 USCA § 1324(a) and (b) of the Federal Immigration and Nationality Act and the e-verify requirements prescribed by Arizona Revised Statutes § 23-214(A).

The provisions of this Article must be included in any contract the QCCF enters into with any and all of its subconsultants who provide services under this Contract or any subcontract. As used in this Section M "services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

N. Prohibition Of Doing Business With Sudan and Iran.

Pursuant to A.R.S. §§35-391.06 and 35-393-06, QCCF hereby certifies to the Town that QCCF does not have "scrutinized" business operations, as defined in A.R.S. §§35-391 and 35-393, in either Sudan or Iran. QCCF acknowledges that, in the event

either of the certifications to the Town by QCCF contained in this paragraph is determined by the Town to be false, the Town may terminate this Contract and exercise other remedies as provided by law, in accordance with A.R.S. §§35-391.06 and 35-393-06.

O. Captions

The captions used in this agreement are solely for the convenience of the parties, and do not constitute a part of the agreement and are not to be used to construe or interpret this agreement.

P. Indemnity

To the fullest extent permitted by law, the QCCF shall defend, indemnify, save and hold harmless the Town and its officials, officers, employees and agents (collectively "Indemnitees") from and against any and all damages, claims, losses, liabilities, actions or expenses (including, but not limited to, attorneys' fees, court costs, and the cost of appellate proceedings) (collectively, "Claims") relating to, arising out of or alleged to have resulted from the performance of Services pursuant to this Contract including, but not limited to, any such performance by any subconsultant. The QCCF's duty to defend, hold harmless and indemnify Indemnitees pursuant to this section shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, including death, or to injury to, impairment, or destruction of property including loss of use resulting therefrom, caused in whole or in part by the acts, errors, mistakes, omissions, work or services of the QCCF or anyone for whose acts the Consultant may be legally liable. It is the specific intention of the Parties that the Indemnitee shall be indemnified by the QCCF from and against all Claims other than those arising from the Indemnitees' sole negligence. The QCCF will be responsible for primary loss investigation and defense and judgment costs where this Indemnification applies.

In the event that any action or proceeding shall at any time be brought against any of the Indemnitees by reason of any Claim referred to in this Article, the QCCF at QCCF's sole cost and upon at least 10 day's written notice from Town, shall defend the same with counsel acceptable to Town, in Town's sole discretion.

The QCCF's obligations under this Article shall survive the expiration or earlier termination of this Contract.

Insurance provisions set forth in this Contract are separate and independent from the indemnity provisions of this Article and shall not be construed in any way to limit the scope and magnitude of this Indemnification, nor shall this Indemnification be construed in any way to limit the scope, magnitude or applicability of the insurance provisions.

Q. Severability

If any term or provision of this Agreement shall be found to be illegal or unenforceable, then all other terms and provisions will remain in full force and effect, notwithstanding the illegality or unenforceability of the term or provision in question. This Agreement as a whole shall remain in full force and effect and the illegal or unenforceable term shall be deemed to be deleted.

R. Authority.

Each party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

In WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their properly authorized officers on this 20th day of June 2012.

TOWN: TOWN OF QUEEN CREEK, an Arizona
Municipal Corporation

By: _____
Gail Barney, Mayor

ATTEST:

By: _____
Jennifer Robinson, Town Clerk

APPROVED AS TO FORM:

By: _____
For Mariscal, Weeks, McIntyre & Friedlander
Town Attorneys

QCCF: _____
Molly Jacobs
Director, Queen Creek Performing Arts Center

Requesting Department:

Town Manager



TO: HONORABLE MAYOR AND TOWN COUNCIL

**THROUGH: JOHN KROSS, ICMA-CM
TOWN MANAGER**

**FROM: WENDY KASERMAN
SENIOR MANAGEMENT ASSISTANT**

**RE: CONSIDERATION AND POSSIBLE APPROVAL OF AN
AMENDMENT TO EXTEND THE TERM OF THE
PROFESSIONAL SERVICES CONTRACT WITH TISCHLERBISE
THROUGH FY13 TO UPDATE THE TOWN'S DEVELOPMENT
IMPACT FEES PURSUANT TO SB1525.**

DATE: June 20, 2012

Staff Recommendation:

Staff recommends approval of an amendment to extend the term of the professional services contract with TischlerBise through FY13 to update the Town's development impact fees pursuant to SB1525.

Relevant Council Goal(s):

KRA 1: Capital Improvement Program
KRA 4: Environment
KRA 5: Financial Management/Internal Services and Sustainability
KRA 8: Land Use/Economic Development
KRA 9: Public Safety

Proposed Motion:

Move to approve an amendment to extend the term of the professional services contract with TischlerBise through FY13 to update the Town's development impact fees pursuant to SB1525.

Discussion:

Development fees, sometimes referred to as impact fees, are one-time payments made at the time of building permit issuance that are based upon new growth's proportionate share of infrastructure costs. Development fees have been a tool used by municipalities to insure that new growth pays for its fair share of the infrastructure needed to serve it and the burden of paying for this infrastructure is not shifted to existing residents. Development fees must meet the requirements spelled out in Arizona Revised Statutes

§ 9-463.05.

Arizona's Fiftieth Legislature passed Senate Bill (SB) 1525 which legislates a series of significant changes to the calculation, collection, and use of development fees. This legislation fundamentally moves away from the principle of new growth paying for itself and shifts the burden of paying for this infrastructure on to existing residents and businesses.

In June 2011 the Town Council approved a professional services contract with TischlerBise for \$84,600 to update the Town's development fee study pursuant to SB1525. Certain provisions of the new law took effect in January 2012. The Town Council adopted a revised development fee schedule in December 2011 to bring the Town into compliance with these provisions. The more comprehensive changes to state statute take effect in August 2014.

Staff and TischlerBise completed preliminary work on the new development fee study in FY12. Staff is proceeding slowly with the update because the Town does not have until 2014 to complete the updated study and we want the opportunity to learn from other cities and towns as they begin to update and implement their new studies. Staff also wants as much time as possible to monitor development activity prior to bringing forward the first component of the revised study which is the land use assumptions document. This document includes future development projections and lays the foundation for future infrastructure demands.

The current professional services contract with TischlerBise is set to expire at the end of June 2012. Staff is requesting the Town Council approve an amendment to the contract to extend the term of the contract through FY13. Work on the study will continue in FY13 and FY14.

Fiscal Impact:

The Town Council previously approved a professional services contract with TischlerBise to update the Town's development fee study based on the requirements set forth in SB1525. The full amount of the study will be calculated into the revised development fees and recuperated over time. To date the Town has been invoiced for approximately \$28,000 this includes TischlerBise's work on the revised development fee schedule the Town Council adopted in December.

Should Council approve the contract extension, the balance of the contract will be carried forward into FY13.

Alternatives:

The Town Council could choose not to approve the amendment that extends the term of the professional services contract with TischlerBise through FY13.

Attachments:

First Amendment to TischlerBise Professional Services Contract.

FIRST AMENDMENT TO PROFESSIONAL SERVICES CONTRACT

THIS FIRST AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT for services related to the Town's development fee study (this "FIRST Amendment") is made and entered into effective as of the ___ day of ____, 2012 (the "Effective Date"), by and between the Town of Queen Creek, Arizona, an Arizona municipal corporation ("Town"), and TischlerBise, a Maryland corporation ("Consultant"). Town and Consultant are sometimes referred to in this First Amendment collectively as the "Parties" and each individually as a "Party."

RECITALS:

A. The Parties entered into an Agreement for services to update the Town's development fee study in accordance with the new statutory requirements included in Senate Bill (SB) 1525 dated June 15, 2011, (the "Original Agreement"). All capitalized terms used without definition in this Amendment shall have the definitions ascribed to them in the Original Agreement, as modified by this First Amendment.

B. The Parties now desire to amend the Original Agreement upon the terms and conditions contained in this First Amendment.

AGREEMENTS:

NOW, THEREFORE, for and in consideration of the foregoing Recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby amend the Original Agreement as follows:

1. ARTICLE 3. TERM OF CONTRACT is amended by modifying the following sentence in section no. 2, ARTICLE 3, as indicated below with deletions indicated as ~~strikeout~~ text and new text in ***bold italics***:

"All work shall be completed and approved on or before ~~June 30, 2012~~
June 30, 2013."

2. Reaffirmation of Original Agreement. Except as amended by this ___ Amendment, the Original Agreement shall remain in full force and effect. In the event of any conflict between this First Amendment and the Original Agreement, the terms of this First Amendment shall prevail.

3. Counterparts. This First Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, binding on all of the Parties. The Parties agree that this Amendment may be transmitted between them via facsimile. The Parties intend that the faxed signatures constitute original signatures and that a faxed agreement containing the signatures (original or faxed) of all the Parties is binding upon the Parties.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Amendment effective as of the Effective Date set forth above.

Town of Queen Creek, an Arizona Municipal Corporation

Approval of Town Council,

By: _____
Gail Barney, Mayor

Approval of Contract Administrator,

By: _____
John Kross, Town Manager

ATTEST:

Jennifer Robinson, Town Clerk

REVIEWED AS TO FORM BY:

Attorney for the Town

TischlerBise, a Maryland Corporation.

Date: _____

By: _____
Its: _____



Requesting Department:
Town Manager's Office,
Workforce & Technology
Department

TO: HONORABLE MAYOR AND TOWN COUNCIL

THROUGH: JOHN KROSS, TOWN MANAGER

FROM: BRUCE GARDNER, WORKFORCE & TECHNOLOGY DIRECTOR *Bab*

RE: CONSIDERATION AND POSSIBLE APPROVAL OF LETTERS
OF INTENT TO CONTINUE PARTICIPATION WITH UNITED
HEALTHCARE (UHC) AND METLIFE DENTAL

DATE: June 20, 2012

Staff Recommendation:

Consideration and possible approval of letters of intent to continue participation with United Healthcare (UHC) to provide medical insurance and MetLife Dental to provide dental insurance for the Town employees. After reviewing and analyzing the Town's existing group medical insurance plans, the Town Manager and the Employee Benefits Committee recommends that the Town continues its medical insurance agreement with United Healthcare (UHC) and its dental insurance agreement with MetLife. The process of utilizing a letter of intent for both the medical and dental insurance is consistent with prior year approval.

Relevant Council Goal(s)

KRA-5, Objective 3 - Continue progressive strategies to attract and retain professional staff

- *The Workforce & Technology Development has developed strategies to recruit, develop, reward and retain a quality workforce by providing a safe and healthy work environment and offering competitive compensation, benefits, training and development, and ensuring fair treatment to all its employees. One of the strategies includes the development of benefit programs that maintain market competitiveness, yet meet annual fiscal constraints.*

Proposed Motion:

Move to approve the letters of intent for United Healthcare and MetLife Dental to continue to serve as the Town's medical and dental insurance carriers.

Discussion:

Each year, the Town reviews and finalizes any changes to its health insurance plans, including a review of the current medical, dental, vision, and life insurance carriers. Human Resources forms an Employee Benefits Committee consisting of representatives from each department to review the current plans and to recommend changes to the Town Manager, as necessary. The recommended medical and dental insurance costs with United Healthcare (UHC) and MetLife Dental is budgeted in the proposed FY12/13 Fiscal Year Budget.

United Healthcare (UHC)

Historical Background

For fiscal year 2010/2011, the decision was made to change to United Healthcare. This was largely due to initial reports of the renewal cost with the former health insurance provider, Cigna, at a 28.5% increase. In January of 2010, anticipating another year of large medical insurance increases based on the initial reports, Human Resources started to explore opportunities to help alleviate the costs to the Town and employees. A concurrent concern for Human Resources was the very likely event that the Town would have to implement changes to the benefits plan, perhaps reducing some benefits for employees significantly in order to keep costs at a manageable level.

Through extensive research, Human Resources was able to identify a medical insurance trust pool (Valley Schools Employee Benefits Trust). Valley Schools Employee Benefits Trust (VSEBT) was formed in 1987 for school districts in Arizona. The Trust was formed through an intergovernmental agreement (IGA) in order to assist in saving school districts money through group purchasing of health insurance services. The Trust is neither an insurance carrier nor a vendor; however, it serves similar to an insurance brokerage firm, but is not governed independently. Rather, unlike other brokerage firms, it is governed by the members through a Trust Board. Under the Trust, each employer determines its own benefits, vendors and plans however it chooses. The biggest advantage to a trust is that, due to the purchasing size (over 30,000 covered members), employers are able to purchase insurance services at much lower costs (economies of scale). Other benefits in joining include a comprehensive wellness program, free wellness screenings, additional staff training, COBRA facilitation, and enrollment assistance, for which the Town has greatly benefited.

When HR first approached VSEBT, the Town was unable to join due to not being a qualified member (school district). Due to continued exploration and contact, VSEBT was able to see the value and opportunity of opening the pool to municipal governments and hence, their charter was amended by their Board

allowing municipalities to join. Additionally, due to staff's involvement and through coordinated efforts, representatives from the Trust have contacted the League of Cities and Towns to initiate opportunities for other municipalities to join, further increasing the opportunities of the purchasing pool. As a result of these efforts, the Town was able to join VSEBT as the first municipality and non-school district associated entity. Soon after, the League of Cities and Towns staff joined the pool as well.

The Town has been able to see positive results since joining the Trust. In 2010, the Town was able to reduce costs by over \$30,000 in addition to maintaining the plan designs of the health insurance. Last year, the Town received a rate pass from United Healthcare resulting in a second consecutive year of a 0% increase in premiums.

Review Process and Final Decision

The percentage increase to premiums every year is determined by several factors including the use of the insurance by the employee population and dependents; any increase in administrative costs by the carrier; increase in contractual costs with hospitals and doctors within the network; increase in prescription drug usage and costs; and, other variables, such as federal and state law changes and mandated requirements (i.e. provisions of Obamacare, as example). The average industry cost to premiums lies between 8 – 12% depending upon the year because of these factors. For FY 12/13, UHC presented a 20% increase proposal to maintain our current plan designs – this after the Town and Valley Schools was able to negotiate it down by an initial 40%. Normally, the Town budgets any increase based on the industry average, and this year the Town budgeted for a 10% increase.

Understanding that plan design changes were inevitable to maintain under the 10% budgeted for next fiscal year, the Employee Benefits Committee reviewed and identified several plan designs, including moving to another insurance provider – Blue Cross/Blue Shield. After a thorough review of the comparable plans provide by both UHC and Blue, it was determined to stay with United Healthcare, but with changes to the plan design, including:

- Decrease in coinsurance coverage on the traditional PPO plan from 90% to 80%.
- Decrease in coinsurance coverage on the Health Savings Account 2500 plan from 100% to 80%.
- A new Health Savings Account 1500 plan with 90% coinsurance is being offered at no additional cost to the employees or the Town (note that a third option normally invokes a 2 – 3% increase in overall premium cost).

With the above changes, the Employee Benefits Committee was able to identify plan designs that placed the premium increase below the 10% budgeted by the

Town, but also offer plans that are still competitive with our neighboring communities. Both the Town of Gilbert and the City of Mesa have traditional plans that are offered at 80% coinsurance. The City of Chandler does not offer any high deductible plans, but only offers two traditional plans.

As with prior years, the Town will continue to offer an Opt-Out option, which continues to save the Town significant monies.

MetLife Dental

The renewal to continue with MetLife Dental for the upcoming fiscal year was approximately 5.9%, well below the increase budgeted. With no changes to the dental plan design, the Employee Benefits Committee recommended continuation with the plan.

Update on Health Care Reform

The Town Manager and Human Resources staff have been diligent in reviewing and implementing requirements of the Patient Protection and Affordable Care Act (PPACA) – i.e. Health Care Reform Act. Since September 2010, the following changes have been made to the Town's insurance designs to meet the requirements of the Act:

- No maximum annual and lifetime limits.
- No pre-existing conditions through age 19 can be considered for insurance coverage.
- Over-the-counter medications without a prescription will no longer be eligible for flexible spending account (FSA) and health savings account (HSA) expenses.
- Health insurance coverage must be made available for dependent children through age 26, whether married or not, except if he/she has coverage through their own employer.
- In March 2012, United Healthcare was required to deliver a uniform explanation of coverage to the Town.

Additionally, future changes may include:

- In January 2013, the Town's flexible savings account will be capped at \$2500 (our current FSA limit is \$3200).
- In March 2013, the Town will be required to notify employees of any State or Arizona health insurance exchanges (i.e. universal healthcare) as a choice in addition to any Town plans.
- In January 2014, the Town will be required to offer a voucher to employees who choose to purchase coverage through the State exchange.

- In January 2018, the excise tax begins on any employer health plans costing more than \$27,500 for families and \$10,200 for individuals (our current plans cost \$20,500 and \$7,168 respectively shared by the Town and employees).

In March, the United States Supreme Court heard oral arguments regarding the constitutionality of the PPACA. Most experts agree that, at the very least, the Court will strike down the mandate portion of the law, which includes the requirements for states to create the exchanges. However, what remains to be seen is whether the Court will eliminate the law as a whole. It is understood that the Court will offer its ruling sometime this month (June). Whether the Act remains intact or is modified, the Human Resources Department will provide the Town Manager and Town Council with detailed information as significant new developments unfold and as deadlines approach. Valley Schools Employee Benefits Trust (VSEBT) provides periodic updates to Human Resources regarding the Act. Additionally, Human Resources staff maintains active participation in related associations that provide up-to-date information on any developments that occur federally and within Arizona.

Fiscal Impact:

As already noted, the average administrative inflation rate for medical insurance is 8-12% each year nationally. The average premium increase to the other pool members averaged 12% this year. Additionally, with the recent passage of the Health Care Reform Act, health insurance companies have passed the cost of mandates onto consumers. As a historical perspective, the percentage increase to medical insurance premiums for the last five fiscal years has averaged 5.8%. The Town has been able to control renewal increases on medical plans through changes in insurance carriers, major plan design changes, and shifting costs to employees. As specified, the 5.8% yearly average is well below the national average for administrative inflation. In addition, the opt-out incentive continues to realize significant savings since implementation in July 2008, which has generated a much lower net cost to the Town than the percentage increases to the premiums.

The cost of medical insurance for the Town through United Healthcare is estimated to be less than \$990,000 based on current staffing levels, for FY12/13. The estimated cost will fluctuate depending upon the qualifying events encountered by employees during the year and final open enrollment decisions. The recently approved budget accommodates these costs and adjustments.

The cost of dental insurance for the Town through MetLife Dental is estimated to be less than \$77,000, based on current staffing levels. Similar to the estimated costs of medical insurance, the dental estimate will fluctuate depending upon the qualifying events encountered by employees during the year and final open enrollment decisions.

The recently approved budget accommodates the Town cost estimates in continuing with United Healthcare and MetLife Dental.

Alternatives:

Council could delay approval of the letters of intent to provide medical and dental insurance and request staff to select different plan designs and/or procure another medical insurance or dental insurance company. However, delaying this action may require the Town to continue the current plans of medical and dental insurance at the current negotiated premiums for the Town until replacement insurance carriers are approved. The time involved in this alternative would be approximately 90-days.

Attachment(s)

Letter of Intent between the Town of Queen Creek and United Healthcare Insurance Company for the Provision of Health Care Benefits

This Letter of Intent is approved and entered into on the date contained herein by and between the Town of Queen Creek, a municipal corporation (the "Enrolling Group") and United Healthcare Insurance Company, located at 450 Columbus Boulevard, Hartford, Connecticut 06115-0450, ("UHIC"). The Enrolling Group and UHIC may be referred to in this Letter of Intent collectively as the "Parties" and each individually as a "Party".

1. Purpose and Scope. The purpose of this Letter of Intent is to acknowledge the Town of Queen Creek's intent to continue with UHIC for the provision of health care services to the Town of Queen Creek employees starting on July 1, 2012. The Enrolling Group intends to continue the agreement with UHIC for the provision of Benefits for Covered Health Services as set forth in the **Exhibit A** which is attached hereto and incorporated herein. UHIC intends to provide the Enrolling Group the Benefits for Covered Health Services as set forth in the attached Benefit Summary, and attachments, contained in Exhibit A.

2. Terms. This Letter of Intent shall be in effect until such time as the Parties enter into an agreement which is in substantial conformance with the Plan Design, contained in Exhibit A.

The Parties agree to the terms of this Letter of Intent on this day ____ of _____, 2012.

TOWN OF QUEEN CREEK:

APPROVAL OF TOWN:

John Kross, Town Manager

ATTEST:

Jennifer Robinson, Town Clerk

REVIEWED AS TO FORM:

Mariscal, Weeks, McIntyre & Friedlander, P.A.
Town Attorneys

VALLEY SCHOOLS EMPLOYEE BENEFITS TRUST:

Print Name/Signature

Exhibit A



Benefit Summary

Arizona - Choice Plus
Traditional with Deductible - 20/500/80% Plan Z4P

We know that when people know more about their health and health care, they can make better informed health care decisions. We want to help you understand more about your health care and the resources that are available to you.

- **myuhc.com®** – Take advantage of easy, time-saving online tools. You can check your eligibility, benefits, claims, claim payments, search for a doctor and hospital and much, much more.
- **24-hour nurse support** – A nurse is a phone call away and you have other health resources available 24-hours a day, 7 days a week to provide you with information that can help you make informed decisions. Just call the number on the back of your ID card.
- **Customer Care telephone support** – Need more help? Call a customer care professional using the toll-free number on the back of your ID card. Get answers to your benefit questions or receive help looking for a doctor or hospital.

PLAN HIGHLIGHTS

Types of Coverage	Network Benefits	Non-Network Benefits
Annual Deductible		
Individual Deductible	\$500 per year	\$1,000 per year
Family Deductible	\$1,000 per year	\$2,000 per year

- > Member Copayments do not accumulate towards the Deductible.
- > All individual Deductible amounts will count toward the family Deductible, but an individual will not have to pay more than the individual Deductible amount.

Out-of-Pocket Maximum		
Individual Out-of-Pocket Maximum	\$2,500 per year	\$4,000 per year
Family Out-of-Pocket Maximum	\$5,000 per year	\$8,000 per year

- > Member Copayments do not accumulate towards the Out-of-Pocket Maximum.
- > All individual Out-of-Pocket Maximum amounts will count toward the family Out-of-Pocket Maximum, but an individual will not have to pay more than the individual Out-of-Pocket Maximum amount.
- > The Out-of-Pocket Maximum includes the Annual Deductible.

Benefit Plan Coinsurance - The Amount We Pay		
	80% after Deductible has been met.	50% after Deductible has been met.

Maximum Policy Benefit		
The maximum amount we will pay during the entire period of time you are enrolled under the Policy.	No Maximum Benefit.	

This Benefit Summary is intended only to highlight your Benefits and should not be relied upon to fully determine your coverage. If this Benefit Summary conflicts in any way with the Certificate of Coverage (COC), the COC shall prevail. It is recommended that you review your COC for an exact description of the services and supplies that are covered, those which are excluded or limited, and other terms and conditions of coverage.

AZMGLZ4P07

Item#	Rev. Date	Benefit Accumulator	
390-4747	0909_rev04	Calendar Year	PVY/Sep/Emb/55997

Prescription Drug Benefits

Prescription drug benefits are shown under separate cover.

Information on Benefit Limits

- > The Annual Deductible, Out-of-Pocket Maximum and Benefit limits are calculated on a calendar year basis.
- > All Benefits are reimbursed based on Eligible Expenses. For a definition of Eligible Expenses, please refer to your Certificate of Coverage.
- > When Benefit limits apply, the limit refers to any combination of Network and Non-Network Benefits unless specifically stated in the Benefit category.

MOST COMMONLY USED BENEFITS

Types of Coverage	Network Benefits	Non-Network Benefits
Physician's Office Services - Sickness and Injury		
Primary Physician Office Visit	100% after you pay a \$20 Copayment per visit.	50% after Deductible has been met.
Specialist Physician Office Visit	100% after you pay a \$40 Copayment per visit.	50% after Deductible has been met.

- > In addition to the visit Copayment, the applicable Copayment and any Deductible/Coinsurance applies when these services are done: CT, PET, MRI, Nuclear Medicine; Scopic Procedures; Surgery; Therapeutic Treatments.

Preventive Care Services

Covered Health Services include but are not limited to:

Primary Physician Office Visit	100% Deductible does not apply.	50% after Deductible has been met.
Specialist Physician Office Visit	100% Deductible does not apply.	
Lab, X-Ray or other preventive tests	100% Deductible does not apply.	

Urgent Care Center Services

	100% after you pay a \$75 Copayment per visit.	50% after Deductible has been met.
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- > In addition to the visit Copayment, the applicable Copayment and any Deductible/Coinsurance applies when these services are done: CT, PET, MRI, Nuclear Medicine; Scopic Procedures; Surgery; Therapeutic Treatments.

Emergency Health Services - Outpatient

	100% after you pay a \$200 Copayment per visit.	100% after you pay a \$200 Copayment per visit.
		<i>Pre-service Notification is required if results in an Inpatient Stay.</i>

Hospital - Inpatient Stay

	80% after Deductible has been met.	50% after Deductible has been met.
--	------------------------------------	------------------------------------

Pre-service Notification is required.

ADDITIONAL CORE BENEFITS

YOUR BENEFITS

Types of Coverage	Network Benefits	Non-Network Benefits
Ambulance Service - Emergency and Non-Emergency		
Ground Ambulance	80% after Deductible has been met.	80% after Network Deductible has been met.
Air Ambulance	80% after Deductible has been met. <i>Pre-service Notification is required for Non-Emergency Ambulance.</i>	80% after Network Deductible has been met. <i>Pre-service Notification is required for Non-Emergency Ambulance.</i>
Congenital Heart Disease (CHD) Surgeries		
	80% after Deductible has been met.	50% after Deductible has been met. Benefits are limited to \$30,000 per surgery. <i>Pre-service Notification is required.</i>
Dental Services - Accident Only		
Benefits are limited as follows: \$3,000 maximum per year \$900 maximum per tooth	80% after Deductible has been met. <i>Pre-service Notification is required.</i>	80% after Network Deductible has been met. <i>Pre-service Notification is required.</i>
Diabetes Services		
Diabetes Self Management and Training Diabetic Eye Examinations/Foot Care	Depending upon where the Covered Health Service is provided, Benefits will be the same as those stated under each Covered Health Service category in this Benefit Summary.	
Diabetes Self Management Items	Depending upon where the Covered Health Service is provided, Benefits will be the same as those stated under Durable Medical Equipment and in the Outpatient Prescription Drug Rider. <i>Pre-service Notification is required for Durable Medical Equipment and Diabetes Equipment in excess of \$1,000.</i>	
Durable Medical Equipment		
Benefits are limited as follows: \$2,500 per year and are limited to a single purchase of a type of Durable Medical Equipment (including repair and replacement) every three years.	80% after Deductible has been met.	50% after Deductible has been met. <i>Pre-service Notification is required for Durable Medical Equipment in excess of \$1,000.</i>
This benefit category contains services/devices that may be Essential or non-Essential Health Benefits as defined by the Patient Protection and Affordable Care Act depending upon the service or device delivered. A benefit review will take place once the dollar limit is exceeded. If the service/device is determined to be rehabilitative or habilitative in nature, it is an Essential Health Benefit and will be paid. If the benefit/device is determined to be non-essential, the maximum will have been met and the claim will not be paid.		
Hearing Aids		
Benefits are limited as follows: \$2,500 per year and are limited to a single purchase (including repair/ replacement) every three years.	80% after Deductible has been met.	50% after Deductible has been met.

ADDITIONAL CORE BENEFITS

Types of Coverage	Network Benefits	Non-Network Benefits
Home Health Care		
Benefits are limited as follows: 60 visits per year One visit equals up to four hours of skilled care services. Home Health Agency services that are provided in lieu of an Inpatient Stay are not subject to this limit.	80% after Deductible has been met.	50% after Deductible has been met. <i>Pre-service Notification is required.</i>
Hospice Care		
	80% after Deductible has been met.	50% after Deductible has been met. <i>Pre-service Notification is required for Inpatient stays.</i>
Lab, X-Ray and Diagnostics - Outpatient		
For Preventive Lab, X-Ray and Diagnostics, refer to the Preventive Care Services category.	100% Deductible does not apply.	50% after Deductible has been met.
Lab, X-Ray and Major Diagnostics - CT, PET, MRI, MRA and Nuclear Medicine - Outpatient		
	80% after Deductible has been met.	50% after Deductible has been met.
Ostomy Supplies		
Benefits are limited as follows: \$2,500 per year	80% after Deductible has been met.	50% after Deductible has been met.
Pharmaceutical Products - Outpatient		
This includes medications administered in an outpatient setting, in the Physician's Office and by a Home Health Agency.	80% after Deductible has been met.	50% after Deductible has been met.
Physician Fees for Surgical and Medical Services		
	80% after Deductible has been met.	50% after Deductible has been met.
Pregnancy - Maternity Services		
	Depending upon where the Covered Health Service is provided, Benefits will be the same as those stated under each Covered Health Service category in this Benefit Summary.	
	For services provided in the Physician's Office, a Copayment will only apply to the initial office visit.	<i>Pre-service Notification is required if the Inpatient Stay exceeds 48 hours following a normal vaginal delivery or 96 hours following a cesarean section delivery.</i>
Prosthetic Devices		
Benefits are limited as follows: \$2,500 per year and are limited to a single purchase of each type of prosthetic device every three years.	80% after Deductible has been met.	50% after Deductible has been met.

This benefit category contains services/devices that may be Essential or non-Essential Health Benefits as defined by the Patient Protection and Affordable Care Act depending upon the service or device delivered. A benefit review will take place once the dollar limit is exceeded. If the service/device is determined to be rehabilitative or habilitative in nature, it is an Essential Health Benefit and will be paid. If the benefit/device is determined to be non-essential, the maximum will have been met and the claim will not be paid.

ADDITIONAL CORE BENEFITS

YOUR BENEFITS

Types of Coverage	Network Benefits	Non-Network Benefits
Reconstructive Procedures		
	Depending upon where the Covered Health Service is provided, Benefits will be the same as those stated under each Covered Health Service category in this Benefit Summary.	
		<i>Pre-service Notification is required.</i>
Rehabilitation Services - Outpatient Therapy and Manipulative Treatment		
Benefits are limited as follows:	100% after you pay a \$20 Copayment per visit.	50% after Deductible has been met.
Visit limits not applied for Manipulative Treatment 20 visits of physical therapy 20 visits of occupational therapy 20 visits of speech therapy 20 visits of pulmonary rehabilitation 36 visits of cardiac rehabilitation 30 visits of post-cochlear implant aural therapy		<i>Pre-service Notification is required for certain services.</i>
Scopic Procedures - Outpatient Diagnostic and Therapeutic		
Diagnostic scopic procedures include, but are not limited to:	80% after Deductible has been met.	50% after Deductible has been met.
Colonoscopy Sigmoidoscopy Endoscopy		
For Preventive Scopic Procedures, refer to the Preventive Care Services category.		
Skilled Nursing Facility / Inpatient Rehabilitation Facility Services		
Benefits are limited as follows: 60 days per year	80% after Deductible has been met.	50% after Deductible has been met.
		<i>Pre-service Notification is required.</i>
Surgery - Outpatient		
	80% after Deductible has been met.	50% after Deductible has been met.
Therapeutic Treatments - Outpatient		
Therapeutic treatments include, but are not limited to:	80% after Deductible has been met.	50% after Deductible has been met.
Dialysis Intravenous chemotherapy or other intravenous infusion therapy Radiation oncology		<i>Pre-service Notification is required for certain services.</i>
Transplantation Services		
	80% after Deductible has been met.	50% after Deductible has been met.
	For Network Benefits, services must be received at a Designated Facility.	Benefits are limited to \$30,000 per Transplant.
	<i>Pre-service Notification is required.</i>	<i>Pre-service Notification is required.</i>

ADDITIONAL CORE BENEFITS

Types of Coverage	Network Benefits	Non-Network Benefits
Vision Examinations		
Benefits are limited as follows: 1 exam every 2 years	100% after you pay a \$20 Copayment per visit.	50% after Deductible has been met.

STATE MANDATED BENEFITS

YOUR BENEFITS

Types of Coverage	Network Benefits	Non-Network Benefits
Clinical Trials		
Participation in a qualifying clinical trial for the treatment of: Cancer Cardiovascular (cardiac/stroke) Surgical musculoskeletal disorders of the spine, hip and knees	Depending upon where the Covered Health Service is provided, Benefits will be the same as those stated under each Covered Health Service category in this Benefit Summary. <i>Pre-service Notification is required.</i>	Depending upon where the Covered Health Service is provided, Benefits will be the same as those stated under each Covered Health Service category in this Benefit Summary. <i>Pre-service Notification is required.</i>
Mental Health Services		
	Inpatient: 80% after Deductible has been met. Outpatient: 100% after you pay a \$20 Copayment per visit.	Inpatient: 50% after Deductible has been met. Outpatient: 50% after Deductible has been met. <i>Pre-service Notification is required from the Mental Health/Substance Use Disorder Designee.</i>
Neurobiological Disorders – Autism Spectrum Disorder Services		
	Inpatient: 80% after Deductible has been met. Outpatient: 100% after you pay a \$20 Copayment per visit.	Inpatient: 50% after Deductible has been met. Outpatient: 50% after Deductible has been met. <i>Pre-service Notification is required from the Mental Health/Substance Use Disorder Designee.</i>
Substance Use Disorder Services		
	Inpatient: 80% after Deductible has been met. Outpatient: 100% after you pay a \$20 Copayment per visit.	Inpatient: 50% after Deductible has been met. Outpatient: 50% after Deductible has been met. <i>Pre-service Notification is required from the Mental Health/Substance Use Disorder Designee.</i>

This Benefit Summary is intended only to highlight your Benefits and should not be relied upon to fully determine your coverage. If this Benefit Summary conflicts in any way with the Certificate of Coverage (COC), the COC shall prevail. It is recommended that you review your COC for an exact description of the services and supplies that are covered, those which are excluded or limited, and other terms and conditions of coverage.

MEDICAL EXCLUSIONS

It is recommended that you review your COC for an exact description of the services and supplies that are covered, those which are excluded or limited, and other terms and conditions of coverage.

Alternative Treatments

Acupressure; acupuncture; aromatherapy; hypnotism; massage therapy; rolfing; art therapy, music therapy, dance therapy, horseback therapy; and other forms of alternative treatment as defined by the National Center for Complementary and Alternative Medicine (NCCAM) of the National Institutes of Health. This exclusion does not apply to Manipulative Treatment and non-manipulative osteopathic care for which Benefits are provided as described in Section 1 of the COC.

Dental

Dental care (which includes dental X-rays, supplies and appliances and all associated expenses, including hospitalizations and anesthesia). This exclusion does not apply to accident-related dental services for which Benefits are provided as described under Dental Services – Accident Only in Section 1 of the COC. This exclusion does not apply to dental care (oral examination, X-rays, extractions and non-surgical elimination of oral infection) required for the direct treatment of a medical condition for which Benefits are available under the Policy, limited to: Transplant preparation; prior to initiation of immunosuppressive drugs; the direct treatment of acute traumatic injury, cancer or cleft palate. Dental care that is required to treat the effects of a medical condition, but that is not necessary to directly treat the medical condition, is excluded. Examples include treatment of dental caries resulting from dry mouth after radiation treatment or as a result of medication. Endodontics, periodontal surgery and restorative treatment are excluded. Preventive care, diagnosis, treatment of or related to the teeth, jawbones or gums. Examples include: extraction, restoration, and replacement of teeth; medical or surgical treatment of dental conditions; and services to improve dental clinical outcomes. This exclusion does not apply to accidental-related dental services for which Benefits are provided as described under Dental Services – Accidental Only in Section 1 of the COC. Dental implants, bone grafts and other implant-related procedures. This exclusion does not apply to accident-related dental services for which Benefits are provided as described under Dental Services – Accident Only in Section 1 of the COC. Dental braces (orthodontics). Treatment of congenitally missing, malpositioned, or supernumerary teeth, even if part of a Congenital Anomaly.

Devices, Appliances and Prosthetics

Devices used specifically as safety items or to affect performance in sports-related activities. Orthotic appliances that straighten or re-shape a body part. Examples include foot orthotics, cranial banding and some types of braces, including over-the-counter orthotic braces. The following items are excluded, even if prescribed by a Physician: blood pressure cuff/monitor; enuresis alarm; non-wearable external defibrillator; trusses and ultrasonic nebulizers. Devices and computers to assist in communication and speech except for speech generating devices and tracheo-esophageal voice devices for which Benefits are provided as described under Durable Medical Equipment in Section 1 of the COC. Oral appliances for snoring. Repairs to prosthetic devices due to misuse, malicious damage or gross neglect. Replacement of prosthetic devices due to misuse, malicious damage or gross neglect or to replace lost or stolen items.

Drugs

Prescription drug products for outpatient use that are filled by a prescription order or refill. Self-injectable medications. This exclusion does not apply to medications which, due to their characteristics (as determined by us), must typically be administered or directly supervised by a qualified provider or licensed/certified health professional in an outpatient setting. Non-injectable medications given in a Physician's office. This exclusion does not apply to non-injectable medications that are required in an Emergency and consumed in the Physician's office. Over-the-counter drugs and treatments. Growth hormone therapy.

Experimental, Investigational or Unproven Services

Experimental or Investigational and Unproven Services and all services related to Experimental or Investigational and Unproven services are excluded. The fact that an Experimental or Investigational or Unproven Service, treatment, device or pharmacological regimen is the only available treatment for a particular condition will not result in Benefits if the procedure is considered to be Experimental or Investigational or Unproven in the treatment of that particular condition. This exclusion does not apply to Covered Health Services provided during a clinical trial for which Benefits are provided as described under Clinical Trials in Section 1 of the COC.

Foot Care

Routine foot care. Examples include the cutting or removal of corns and calluses. This exclusion does not apply to preventive foot care for Covered Persons with diabetes for which Benefits are provided as described under Diabetes Services in Section 1 of the COC. Nail trimming, cutting, or debriding. Hygienic and preventive maintenance foot care. Examples include: cleaning and soaking the feet; applying skin creams in order to maintain skin tone. This exclusion does not apply to preventive foot care for Covered Persons who are at risk of neurological or vascular disease arising from diseases such as diabetes. Treatment of flat feet or subluxation of the foot. Shoes; shoe orthotics; shoe inserts and arch supports.

MEDICAL EXCLUSIONS CONTINUED

Medical Supplies

Prescribed or non-prescribed medical supplies and disposable supplies. Examples include: elastic stockings, ace bandages, gauze and dressings, urinary catheters. This exclusion does not apply to:

- Disposable supplies necessary for the effective use of Durable Medical Equipment for which Benefits are provided as described under Durable Medical Equipment in Section 1 of the COC.
- Diabetic supplies for which Benefits are provided as described under Diabetes Services in Section 1 of COC.
- Ostomy supplies for which Benefits are provided as described under Ostomy Supplies in Section 1 of the COC.

Tubing and masks, except when used with Durable Medical Equipment as described under Durable Medical Equipment in Section 1 of the COC.

Mental Health

Services performed in connection with conditions not classified in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association. Mental Health Services as treatments for V-code conditions as listed within the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association. Mental Health Services as treatment for a primary diagnosis of insomnia and other sleep disorders, sexual dysfunction disorders, feeding disorders, neurological disorders and other disorders with a known physical basis. Treatments for the primary diagnoses of learning disabilities, conduct and impulse control disorders, personality disorders, paraphilias. Educational/behavioral services that are focused on primarily building skills and capabilities in communication, social interaction and learning. Tuition for or services that are school-based for children and adolescents under the Individuals with Disabilities Education Act. Learning, motor skills and primary communication disorders as defined in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association. Mental retardation and autism spectrum disorder as a primary diagnosis defined in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association. Benefits for autism spectrum disorder as a primary diagnosis are described under Neurobiological Disorders-Autism Spectrum Disorder Services in Section 1 of the COC. Services or supplies for the diagnosis or treatment of Mental Illness that, in the reasonable judgment of the Mental Health/Substance Use Disorder Designee, are any of the following:

- Not consistent with generally accepted standards of medical practice for the treatment of such conditions.
- Not consistent with services backed by credible research soundly demonstrating that the services or supplies will have a measurable and beneficial health outcome, and therefore considered experimental.
- Not consistent with the Mental Health/Substance Use Disorder Designee's level of care guidelines or best practices as modified from time to time.
- Not clinically appropriate for the patient's Mental Illness or condition based on generally accepted standards of medical practice and benchmarks.

Neurobiological Disorders – Autism Spectrum Disorders

Services as treatments of sexual dysfunction and feeding disorders as listed in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association. Any treatments or other specialized services designed for Autism Spectrum Disorder that are not backed by credible research demonstrating that the services or supplies have a measurable and beneficial health outcome and therefore considered Experimental or Investigational or Unproven Services. Mental retardation as the primary diagnosis defined in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association. Tuition for or services that are school-based for children and adolescents under the Individuals with Disabilities Education Act. Learning, motor skills and primary communication disorders as defined in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association and which are not a part of Autism Spectrum Disorder. Treatments for the primary diagnoses of learning disabilities, conduct and impulse control disorders, personality disorders and paraphilias. Services or supplies for the diagnosis or treatment of Mental Illness that, in the reasonable judgment of the Mental Health/Substance Use Disorder Designee, are any of the following:

- Not consistent with generally accepted standards of medical practice for the treatment of such conditions.
- Not consistent with services backed by credible research soundly demonstrating that the services or supplies will have a measurable and beneficial health outcome, and therefore considered experimental.
- Not consistent with the Mental Health/Substance Use Disorder Designee's level of care guidelines or best practices as modified from time to time.
- Not clinically appropriate for the patient's Mental Illness or condition based on generally accepted standards of medical practice and benchmarks.

MEDICAL EXCLUSIONS CONTINUED

Nutrition

Individual and group nutritional counseling. This exclusion does not apply to medical nutritional education services that are provided by appropriately licensed or registered health care professionals when both of the following are true:

- Nutritional education is required for a disease in which patient self-management is an important component of treatment.
- There exists a knowledge deficit regarding the disease which requires the intervention of a trained health professional.

Enteral feedings, even if the sole source of nutrition. See the Benefits for medical foods described under the outpatient prescription drug rider. Infant formula and donor breast milk. Nutritional or cosmetic therapy using high dose or mega quantities of vitamins, minerals or elements and other nutrition-based therapy. Examples include supplements, electrolytes, and foods of any kind (including high protein foods and low carbohydrate foods). See the Benefits for eosinophilic gastrointestinal disorder formula described under the outpatient prescription drug rider.

Personal Care, Comfort or Convenience

Television; telephone; beauty/barber service; guest service. Supplies, equipment and similar incidental services and supplies for personal comfort. Examples include: air conditioners, air purifiers and filters, dehumidifiers; batteries and battery chargers; breast pumps; car seats; chairs, bath chairs, feeding chairs, toddler chairs, chair lifts, recliners; electric scooters; exercise equipment; home modifications such as elevators, handrails and ramps; hot tubs; humidifiers; Jacuzzis; mattresses; medical alert systems; motorized beds; music devices; personal computers, pillows; power-operated vehicles; radios; saunas; stair lifts and stair glides; strollers; safety equipment; treadmills; vehicle modifications such as van lifts; video players, whirlpools.

Physical Appearance

Cosmetic Procedures. See the definition in Section 9 of the COC. Examples include: pharmacological regimens, nutritional procedures or treatments. Scar or tattoo removal or revision procedures (such as salabrasion, chemosurgery and other such skin abrasion procedures). Skin abrasion procedures performed as a treatment for acne. Liposuction or removal of fat deposits considered undesirable, including fat accumulation under the male breast and nipple. Treatment for skin wrinkles or any treatment to improve the appearance of the skin. Treatment for spider veins. Hair removal or replacement by any means. Replacement of an existing breast implant if the earlier breast implant was performed as a Cosmetic Procedure. Note: Replacement of an existing breast implant is considered reconstructive if the initial breast implant followed mastectomy. See Reconstructive Procedures in Section 1 of the COC. Treatment of benign gynecomastia (abnormal breast enlargement in males). Physical conditioning programs such as athletic training, body-building, exercise, fitness, flexibility, and diversion or general motivation. Weight loss programs whether or not they are under medical supervision. Weight loss programs for medical reasons are also excluded. Wigs regardless of the reason for the hair loss.

Procedures and Treatments

Excision or elimination of hanging skin on any part of the body. Examples include plastic surgery procedures called abdominoplasty or abdominal panniculectomy, and brachioplasty. Medical and surgical treatment of excessive sweating (hyperhidrosis). Medical and surgical treatment for snoring, except when provided as a part of treatment for documented obstructive sleep apnea. Rehabilitation services and Manipulative Treatment to improve general physical condition that are provided to reduce potential risk factors, where significant therapeutic improvement is not expected, including but not limited to routine, long-term or maintenance/preventive treatment. Speech therapy except as required for treatment of a speech impediment or speech dysfunction that results from Injury, stroke, cancer, Congenital Anomaly, or Autism Spectrum Disorders. Psychosurgery. Sex transformation operations. Physiological modalities and procedures that result in similar or redundant therapeutic effects when performed on the same body region during the same visit or office encounter. Biofeedback. Services for the evaluation and treatment of temporomandibular joint syndrome (TMJ), whether the services are considered to be medical or dental in nature. Upper and lower jawbone surgery except as required for direct treatment of acute traumatic Injury, dislocation, tumors or cancer. Orthognathic surgery, jaw alignment and treatment for the temporomandibular joint, except as a treatment of obstructive sleep apnea. Surgical and non-surgical treatment of obesity. Stand-alone multi-disciplinary smoking cessation programs. Breast reduction except as coverage is required by the Women's Health and Cancer Right's Act of 1998 for which Benefits are described under Reconstructive Procedures in Section 1 of the COC.

Providers

Services performed by a provider who is a family member by birth or marriage. Examples include a spouse, brother, sister, parent or child. This includes any service the provider may perform on himself or herself. Services performed by a provider with your same legal residence. Services provided at a free-standing or Hospital-based diagnostic facility without an order written by a Physician or other provider. Services which are self-directed to a free-standing or Hospital-based diagnostic facility. Services ordered by a Physician or other provider who is an employee or representative of a free-standing or Hospital-based diagnostic facility, when that Physician or other provider has not been actively involved in your medical care prior to ordering the service, or is not actively involved in your medical care after the service is received. This exclusion does not apply to mammography.

MEDICAL EXCLUSIONS CONTINUED

Reproduction

Health services and associated expenses for infertility treatments, including assisted reproductive technology, regardless of the reason for the treatment. This exclusion does not apply to services required to treat or correct underlying causes of infertility. Surrogate parenting, donor eggs, donor sperm and host uterus. Storage and retrieval of all reproductive materials. Examples include eggs, sperm, testicular tissue and ovarian tissue. The reversal of voluntary sterilization.

Services Provided under Another Plan

Health services for which other coverage is required by federal, state or local law to be purchased or provided through other arrangements. Examples include coverage required by workers' compensation, no-fault auto insurance, or similar legislation. If coverage under workers' compensation or similar legislation is optional for you because you could elect it, or could have it elected for you, Benefits will not be paid for any Injury, Sickness, or Mental Illness that would have been covered under workers' compensation or similar legislation had that coverage been elected. Health services for treatment of military service-related disabilities, when you are legally entitled to other coverage and facilities are reasonably available to you. Health services while on active military duty.

Substance Use Disorders

Services performed in connection with conditions not classified in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association. Methadone treatment as maintenance, L.A.A.M. (1-Alpha-Acetyl-Methadol), Cyclazocine, or their equivalents. Educational/behavioral services that are focused on primarily building skills and capabilities in communication, social interaction and learning. Services or supplies for the diagnosis or treatment of alcoholism or substance use disorders that, in the reasonable judgment of the Mental Health/Substance Use Disorder Designee, are any of the following:

- Not consistent with generally accepted standards of medical practice for the treatment of such conditions.
- Not consistent with services backed by credible research soundly demonstrating that the services or supplies will have a measurable and beneficial health outcome, and therefore considered experimental.
- Not consistent with the Mental Health/Substance Use Disorder Designee's level of care guidelines or best practices as modified from time to time.
- Not clinically appropriate for the patient's substance use disorder or condition based on generally accepted standards of medical practice and benchmarks.

Transplants

Health services for organ and tissue transplants, except those described under Transplantation Services in Section 1 of the COC. Health services connected with the removal of an organ or tissue from you for purposes of a transplant to another person. (Donor costs that are directly related to organ removal are payable for a transplant through the organ recipient's Benefits under the Policy.) Health services for transplants involving permanent mechanical or animal organs.

Travel

Health services provided in a foreign country, unless required as Emergency Health Services. Travel or transportation expenses, even though prescribed by a Physician. Some travel expenses related to Covered Health Services received from a Designated Facility or Designated Physician may be reimbursed at our discretion.

Types of Care

Multi-disciplinary pain management programs provided on an inpatient basis. Custodial care or maintenance care; domiciliary care. Private Duty Nursing. Respite care. This exclusion does not apply to respite care that is part of an integrated hospice care program of services provided to a terminally ill person by a licensed hospice care agency for which Benefits are described under Hospice Care in Section 1 of the COC. Rest cures; services of personal care attendants. Work hardening (individualized treatment programs designed to return a person to work or to prepare a person for specific work).

Vision and Hearing

Purchase cost and fitting charge for eye glasses and contact lenses. Implantable lenses used only to correct a refractive error (such as Intacs corneal implants). Eye exercise or vision therapy. Surgery that is intended to allow you to see better without glasses or other vision correction. Examples include radial keratotomy, laser, and other refractive eye surgery.

Bone anchored hearing aids except when either of the following applies; For Covered Persons with craniofacial anomalies whose abnormal or absent ear canals preclude the use of a wearable hearing aid. For Covered Persons with hearing loss of sufficient severity that it would not be adequately remedied by a wearable hearing aid. More than one bone anchored hearing aid per Covered Person who meets the above coverage criteria during the entire period of time the Covered Person is enrolled under the

MEDICAL EXCLUSIONS CONTINUED

Policy. Repairs and/or replacement for a bone anchored hearing aid for Covered Persons who meet the above coverage criteria, other than for malfunctions.

All Other Exclusions

Health services and supplies that do not meet the definition of a Covered Health Service – see the definition in Section 9 of the COC. Physical, psychiatric or psychological exams, testing, vaccinations, immunizations or treatments that are otherwise covered under the Policy when: required solely for purposes of school, sports or camp, travel, career or employment, insurance, marriage or adoption; related to judicial or administrative proceedings or orders; conducted for purposes of medical research; required to obtain or maintain a license of any type. Health services received as a result of war or any act of war, whether declared or undeclared or caused during service in the armed forces of any country. This exclusion does not apply to Covered Persons who are civilians Injured or otherwise affected by war, any act of war, or terrorism in non-war zones. Health services received after the date your coverage under the Policy ends. This applies to all health services, even if the health service is required to treat a medical condition that arose before the date your coverage under the Policy ended. Health services for which you have no legal responsibility to pay, or for which a charge would not ordinarily be made in the absence of coverage under the Policy. In the event a non-Network provider waives Copayments, Coinsurance and/or any deductible for a particular health service, no Benefits are provided for the health service for which the Copayments, Coinsurance and/or deductible are waived. Charges in excess of Eligible Expenses or in excess of any specified limitation. Long term (more than 30 days) storage. Examples include cryopreservation of tissue, blood and blood products. Autopsy. Foreign language and sign language services.



Benefit Summary

Arizona - Choice Plus
HSA - 2500/80% Plan C9X Modified

We know that when people know more about their health and health care, they can make better informed health care decisions. We want to help you understand more about your health care and the resources that are available to you.

- **myuhc.com®** – Take advantage of easy, time-saving online tools. You can check your eligibility, benefits, claims, claim payments, search for a doctor and hospital and much, much more.
- **24-hour nurse support** – A nurse is a phone call away and you have other health resources available 24-hours a day, 7 days a week to provide you with information that can help you make informed decisions. Just call the number on the back of your ID card.
- **Customer Care telephone support** – Need more help? Call a customer care professional using the toll-free number on the back of your ID card. Get answers to your benefit questions or receive help looking for a doctor or hospital.

PLAN HIGHLIGHTS

Types of Coverage	Network Benefits	Non-Network Benefits
Annual Deductible - Combined Medical and Pharmacy		
Individual Deductible	\$2,500 per year	\$5,000 per year
Family Deductible	\$5,000 per year	\$10,000 per year

Out-of-Pocket Maximum - Combined Medical and Pharmacy		
Individual Out-of-Pocket Maximum	\$5,000 per year	\$10,000 per year
Family Out-of-Pocket Maximum	\$10,000 per year	\$20,000 per year

> The Out-of-Pocket Maximum includes the Annual Deductible.

Benefit Plan Coinsurance - The Amount We Pay		
	80% after Deductible has been met.	60% after Deductible has been met.

Maximum Policy Benefit		
The maximum amount we will pay during the entire period of time you are enrolled under the Policy.	No Maximum Benefit.	

This Benefit Summary is intended only to highlight your Benefits and should not be relied upon to fully determine your coverage. If this Benefit Summary conflicts in any way with the Certificate of Coverage (COC), the COC shall prevail. It is recommended that you review your COC for an exact description of the services and supplies that are covered, those which are excluded or limited, and other terms and conditions of coverage.

AZXGFC9X07 Modified

Item#	Rev. Date	Benefit Accumulator	
XXX-XXXX	0909_rev04	Calendar Year	PVY/Comb/Emb/55997

UnitedHealthcare Insurance Company

Prescription Drug Benefits

Prescription drug benefits are shown under separate cover.

Information on Benefit Limits

- > The Annual Deductible, Out-of-Pocket Maximum and Benefit limits are calculated on a calendar year basis.
- > All Benefits are reimbursed based on Eligible Expenses. For a definition of Eligible Expenses, please refer to your Certificate of Coverage.
- > When Benefit limits apply, the limit refers to any combination of Network and Non-Network Benefits unless specifically stated in the Benefit category.

MOST COMMONLY USED BENEFITS

Types of Coverage	Network Benefits	Non-Network Benefits
Physician's Office Services - Sickness and Injury		
Primary Physician Office Visit	80% after Deductible has been met.	60% after Deductible has been met.
Specialist Physician Office Visit	80% after Deductible has been met.	60% after Deductible has been met.
Preventive Care Services		
Covered Health Services include but are not limited to:		
Primary Physician Office Visit	100% Deductible does not apply.	60% after Deductible has been met.
Specialist Physician Office Visit	100% Deductible does not apply.	
Lab, X-Ray or other preventive tests	100% Deductible does not apply.	
Urgent Care Center Services		
	80% after Deductible has been met.	60% after Deductible has been met.
Emergency Health Services - Outpatient		
	80% after Deductible has been met.	80% after Network Deductible has been met. <i>Pre-service Notification is required if results in an Inpatient Stay.</i>
Hospital - Inpatient Stay		
	80% after Deductible has been met.	60% after Deductible has been met. <i>Pre-service Notification is required.</i>

ADDITIONAL CORE BENEFITS

YOUR BENEFITS

Ambulance Service - Emergency and Non-Emergency

Ground Ambulance	80% after Deductible has been met.	80% after Network Deductible has been met.
Air Ambulance	80% after Deductible has been met.	80% after Network Deductible has been met.
	<i>Pre-service Notification is required for Non-Emergency Ambulance.</i>	<i>Pre-service Notification is required for Non-Emergency Ambulance.</i>

Congenital Heart Disease (CHD) Surgeries

	80% after Deductible has been met.	60% after Deductible has been met.
		Benefits are limited to \$30,000 per surgery.
		<i>Pre-service Notification is required.</i>

Dental Services - Accident Only

Benefits are limited as follows: \$3,000 maximum per year \$900 maximum per tooth	80% after Deductible has been met.	80% after Network Deductible has been met.
	<i>Pre-service Notification is required.</i>	<i>Pre-service Notification is required.</i>

Diabetes Services

Diabetes Self Management and Training Diabetic Eye Examinations/Foot Care	Depending upon where the Covered Health Service is provided, Benefits will be the same as those stated under each Covered Health Service category in this Benefit Summary.	
Diabetes Self Management Items	Depending upon where the Covered Health Service is provided, Benefits will be the same as those stated under Durable Medical Equipment and in the Outpatient Prescription Drug Rider.	
		<i>Pre-service Notification is required for Durable Medical Equipment and Diabetes Equipment in excess of \$1,000.</i>

Durable Medical Equipment

Benefits are limited as follows: \$2,500 per year and are limited to a single purchase of a type of Durable Medical Equipment (including repair and replacement) every three years.	80% after Deductible has been met.	60% after Deductible has been met.
		<i>Pre-service Notification is required for Durable Medical Equipment in excess of \$1,000.</i>

This benefit category contains services/devices that may be Essential or non-Essential Health Benefits as defined by the Patient Protection and Affordable Care Act depending upon the service or device delivered. A benefit review will take place once the dollar limit is exceeded. If the service/device is determined to be rehabilitative or habilitative in nature, it is an Essential Health Benefit and will be paid. If the benefit/device is determined to be non-essential, the maximum will have been met and the claim will not be paid.

Hearing Aids

Benefits are limited as follows: \$2,500 per year and are limited to a single purchase (including repair/ replacement) every three years.	80% after Deductible has been met.	60% after Deductible has been met.
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ADDITIONAL CORE BENEFITS

Types of Coverage	Network Benefits	Non-Network Benefits
Home Health Care		
Benefits are limited as follows: 60 visits per year One visit equals up to four hours of skilled care services. Home Health Agency services that are provided in lieu of an Inpatient Stay are not subject to this limit.	80% after Deductible has been met.	60% after Deductible has been met. <i>Pre-service Notification is required.</i>
Hospice Care		
	80% after Deductible has been met.	60% after Deductible has been met. <i>Pre-service Notification is required for Inpatient stays.</i>
Lab, X-Ray and Diagnostics - Outpatient		
For Preventive Lab, X-Ray and Diagnostics, refer to the Preventive Care Services category.	80% after Deductible has been met.	60% after Deductible has been met.
Lab, X-Ray and Major Diagnostics - CT, PET, MRI, MRA and Nuclear Medicine - Outpatient		
	80% after Deductible has been met.	60% after Deductible has been met.
Ostomy Supplies		
Benefits are limited as follows: \$2,500 per year	80% after Deductible has been met.	60% after Deductible has been met.
Pharmaceutical Products - Outpatient		
This includes medications administered in an outpatient setting, in the Physician's Office and by a Home Health Agency.	80% after Deductible has been met.	60% after Deductible has been met.
Physician Fees for Surgical and Medical Services		
	80% after Deductible has been met.	60% after Deductible has been met.
Pregnancy - Maternity Services		
	Depending upon where the Covered Health Service is provided, Benefits will be the same as those stated under each Covered Health Service category in this Benefit Summary.	<i>Pre-service Notification is required if the Inpatient Stay exceeds 48 hours following a normal vaginal delivery or 96 hours following a cesarean section delivery.</i>
Prosthetic Devices		
Benefits are limited as follows: \$2,500 per year and are limited to a single purchase of each type of prosthetic device every three years.	80% after Deductible has been met.	60% after Deductible has been met.

This benefit category contains services/devices that may be Essential or non-Essential Health Benefits as defined by the Patient Protection and Affordable Care Act depending upon the service or device delivered. A benefit review will take place once the dollar limit is exceeded. If the service/device is determined to be rehabilitative or habilitative in nature, it is an Essential Health Benefit and will be paid. If the benefit/device is determined to be non-essential, the maximum will have been met and the claim will not be paid.

Reconstructive Procedures

Depending upon where the Covered Health Service is provided, Benefits will be the same as those stated under each Covered Health Service category in this Benefit Summary.

Pre-service Notification is required.

Rehabilitation Services - Outpatient Therapy and Manipulative Treatment

Benefits are limited as follows: 80% after Deductible has been met. 60% after Deductible has been met.

- Visit limits not applied for Manipulative Treatment
- 20 visits of physical therapy
- 20 visits of occupational therapy
- 20 visits of speech therapy
- 20 visits of pulmonary rehabilitation
- 36 visits of cardiac rehabilitation
- 30 visits of post-cochlear implant aural therapy

Pre-service Notification is required for certain services.

Scopic Procedures - Outpatient Diagnostic and Therapeutic

Diagnostic scopic procedures include, but are not limited to: 80% after Deductible has been met. 60% after Deductible has been met.

- Colonoscopy
- Sigmoidoscopy
- Endoscopy

For Preventive Scopic Procedures, refer to the Preventive Care Services category.

Skilled Nursing Facility / Inpatient Rehabilitation Facility Services

Benefits are limited as follows: 80% after Deductible has been met. 60% after Deductible has been met.

60 days per year

Pre-service Notification is required.

Surgery - Outpatient

80% after Deductible has been met. 60% after Deductible has been met.

Therapeutic Treatments - Outpatient

Therapeutic treatments include, but are not limited to: 80% after Deductible has been met. 60% after Deductible has been met.

- Dialysis
- Intravenous chemotherapy or other intravenous infusion therapy
- Radiation oncology

Pre-service Notification is required for certain services.

Transplantation Services

80% after Deductible has been met. 60% after Deductible has been met.

For Network Benefits, services must be received at a Designated Facility.

Pre-service Notification is required.

Benefits are limited to \$30,000 per Transplant.

Pre-service Notification is required.

ADDITIONAL CORE BENEFITS

Types of Coverage	Network Benefits	Non-Network Benefits
Vision Examinations		
Benefits are limited as follows: 1 exam every 2 years	80% after Deductible has been met.	60% after Deductible has been met.

Types of Coverage	Network Benefits	Non-Network Benefits
Clinical Trials		
Participation in a qualifying clinical trial for the treatment of: Cancer Cardiovascular (cardiac/stroke) Surgical musculoskeletal disorders of the spine, hip and knees	Depending upon where the Covered Health Service is provided, Benefits will be the same as those stated under each Covered Health Service category in this Benefit Summary. <i>Pre-service Notification is required.</i>	<i>Pre-service Notification is required.</i>
Mental Health Services		
	Inpatient: 80% after Deductible has been met. Outpatient: 80% after Deductible has been met.	Inpatient: 60% after Deductible has been met. Outpatient: 60% after Deductible has been met. <i>Pre-service Notification is required from the Mental Health/Substance Use Disorder Designee.</i>
Neurobiological Disorders – Autism Spectrum Disorder Services		
	Inpatient: 80% after Deductible has been met. Outpatient: 80% after Deductible has been met.	Inpatient: 60% after Deductible has been met. Outpatient: 60% after Deductible has been met. <i>Pre-service Notification is required from the Mental Health/Substance Use Disorder Designee.</i>
Substance Use Disorder Services		
	Inpatient: 80% after Deductible has been met. Outpatient: 80% after Deductible has been met.	Inpatient: 60% after Deductible has been met. Outpatient: 60% after Deductible has been met. <i>Pre-service Notification is required from the Mental Health/Substance Use Disorder Designee.</i>

This Benefit Summary is intended only to highlight your Benefits and should not be relied upon to fully determine your coverage. If this Benefit Summary conflicts in any way with the Certificate of Coverage (COC), the COC shall prevail. It is recommended that you review your COC for an exact description of the services and supplies that are covered, those which are excluded or limited, and other terms and conditions of coverage.

MEDICAL EXCLUSIONS

It is recommended that you review your COC for an exact description of the services and supplies that are covered, those which are excluded or limited, and other terms and conditions of coverage.

Alternative Treatments

Acupressure; acupuncture; aromatherapy; hypnotism; massage therapy; rolfing; art therapy, music therapy, dance therapy, horseback therapy; and other forms of alternative treatment as defined by the National Center for Complementary and Alternative Medicine (NCCAM) of the National Institutes of Health. This exclusion does not apply to Manipulative Treatment and non-manipulative osteopathic care for which Benefits are provided as described in Section 1 of the COC.

Dental

Dental care (which includes dental X-rays, supplies and appliances and all associated expenses, including hospitalizations and anesthesia). This exclusion does not apply to accident-related dental services for which Benefits are provided as described under Dental Services – Accident Only in Section 1 of the COC. This exclusion does not apply to dental care (oral examination, X-rays, extractions and non-surgical elimination of oral infection) required for the direct treatment of a medical condition for which Benefits are available under the Policy, limited to: Transplant preparation; prior to initiation of immunosuppressive drugs; the direct treatment of acute traumatic injury, cancer or cleft palate. Dental care that is required to treat the effects of a medical condition, but that is not necessary to directly treat the medical condition, is excluded. Examples include treatment of dental caries resulting from dry mouth after radiation treatment or as a result of medication. Endodontics, periodontal surgery and restorative treatment are excluded. Preventive care, diagnosis, treatment of or related to the teeth, jawbones or gums. Examples include: extraction, restoration, and replacement of teeth; medical or surgical treatment of dental conditions; and services to improve dental clinical outcomes. This exclusion does not apply to accidental-related dental services for which Benefits are provided as described under Dental Services – Accidental Only in Section 1 of the COC. Dental implants, bone grafts and other implant-related procedures. This exclusion does not apply to accident-related dental services for which Benefits are provided as described under Dental Services – Accident Only in Section 1 of the COC. Dental braces (orthodontics). Treatment of congenitally missing, malpositioned, or supernumerary teeth, even if part of a Congenital Anomaly.

Devices, Appliances and Prosthetics

Devices used specifically as safety items or to affect performance in sports-related activities. Orthotic appliances that straighten or re-shape a body part. Examples include foot orthotics, cranial banding and some types of braces, including over-the-counter orthotic braces. The following items are excluded, even if prescribed by a Physician: blood pressure cuff/monitor; enuresis alarm; non-wearable external defibrillator; trusses and ultrasonic nebulizers. Devices and computers to assist in communication and speech except for speech generating devices and tracheo-esophageal voice devices for which Benefits are provided as described under Durable Medical Equipment in Section 1 of the COC. Oral appliances for snoring. Repairs to prosthetic devices due to misuse, malicious damage or gross neglect. Replacement of prosthetic devices due to misuse, malicious damage or gross neglect or to replace lost or stolen items.

Drugs

Prescription drug products for outpatient use that are filled by a prescription order or refill. Self-injectable medications. This exclusion does not apply to medications which, due to their characteristics (as determined by us), must typically be administered or directly supervised by a qualified provider or licensed/certified health professional in an outpatient setting. Non-injectable medications given in a Physician's office. This exclusion does not apply to non-injectable medications that are required in an Emergency and consumed in the Physician's office. Over-the-counter drugs and treatments. Growth hormone therapy.

Experimental, Investigational or Unproven Services

Experimental or Investigational and Unproven Services and all services related to Experimental or Investigational and Unproven services are excluded. The fact that an Experimental or Investigational or Unproven Service, treatment, device or pharmacological regimen is the only available treatment for a particular condition will not result in Benefits if the procedure is considered to be Experimental or Investigational or Unproven in the treatment of that particular condition. This exclusion does not apply to Covered Health Services provided during a clinical trial for which Benefits are provided as described under Clinical Trials in Section 1 of the COC.

Foot Care

Routine foot care. Examples include the cutting or removal of corns and calluses. This exclusion does not apply to preventive foot care for Covered Persons with diabetes for which Benefits are provided as described under Diabetes Services in Section 1 of the COC. Nail trimming, cutting, or debriding. Hygienic and preventive maintenance foot care. Examples include: cleaning and soaking the feet; applying skin creams in order to maintain skin tone. This exclusion does not apply to preventive foot care for Covered Persons who are at risk of neurological or vascular disease arising from diseases such as diabetes. Treatment of flat feet or subluxation of the foot. Shoes; shoe orthotics; shoe inserts and arch supports.

MEDICAL EXCLUSIONS CONTINUED

Medical Supplies

Prescribed or non-prescribed medical supplies and disposable supplies. Examples include: elastic stockings, ace bandages, gauze and dressings, urinary catheters. This exclusion does not apply to:

- Disposable supplies necessary for the effective use of Durable Medical Equipment for which Benefits are provided as described under Durable Medical Equipment in Section 1 of the COC.
- Diabetic supplies for which Benefits are provided as described under Diabetes Services in Section 1 of COC.
- Ostomy supplies for which Benefits are provided as described under Ostomy Supplies in Section 1 of the COC.

Tubing and masks, except when used with Durable Medical Equipment as described under Durable Medical Equipment in Section 1 of the COC.

Mental Health

Services performed in connection with conditions not classified in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association. Mental Health Services as treatments for V-code conditions as listed within the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association. Mental Health Services as treatment for a primary diagnosis of insomnia and other sleep disorders, sexual dysfunction disorders, feeding disorders, neurological disorders and other disorders with a known physical basis. Treatments for the primary diagnoses of learning disabilities, conduct and impulse control disorders, personality disorders, paraphilias. Educational/behavioral services that are focused on primarily building skills and capabilities in communication, social interaction and learning. Tuition for or services that are school-based for children and adolescents under the Individuals with Disabilities Education Act. Learning, motor skills and primary communication disorders as defined in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association. Mental retardation and autism spectrum disorder as a primary diagnosis defined in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association. Benefits for autism spectrum disorder as a primary diagnosis are described under Neurobiological Disorders-Autism Spectrum Disorder Services in Section 1 of the COC. Services or supplies for the diagnosis or treatment of Mental Illness that, in the reasonable judgment of the Mental Health/Substance Use Disorder Designee, are any of the following:

- Not consistent with generally accepted standards of medical practice for the treatment of such conditions.
- Not consistent with services backed by credible research soundly demonstrating that the services or supplies will have a measurable and beneficial health outcome, and therefore considered experimental.
- Not consistent with the Mental Health/Substance Use Disorder Designee's level of care guidelines or best practices as modified from time to time.
- Not clinically appropriate for the patient's Mental Illness or condition based on generally accepted standards of medical practice and benchmarks.

Neurobiological Disorders – Autism Spectrum Disorders

Services as treatments of sexual dysfunction and feeding disorders as listed in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association. Any treatments or other specialized services designed for Autism Spectrum Disorder that are not backed by credible research demonstrating that the services or supplies have a measurable and beneficial health outcome and therefore considered Experimental or Investigational or Unproven Services. Mental retardation as the primary diagnosis defined in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association. Tuition for or services that are school-based for children and adolescents under the Individuals with Disabilities Education Act. Learning, motor skills and primary communication disorders as defined in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association and which are not a part of Autism Spectrum Disorder. Treatments for the primary diagnoses of learning disabilities, conduct and impulse control disorders, personality disorders and paraphilias. Services or supplies for the diagnosis or treatment of Mental Illness that, in the reasonable judgment of the Mental Health/Substance Use Disorder Designee, are any of the following:

- Not consistent with generally accepted standards of medical practice for the treatment of such conditions.
- Not consistent with services backed by credible research soundly demonstrating that the services or supplies will have a measurable and beneficial health outcome, and therefore considered experimental.
- Not consistent with the Mental Health/Substance Use Disorder Designee's level of care guidelines or best practices as modified from time to time.
- Not clinically appropriate for the patient's Mental Illness or condition based on generally accepted standards of medical practice and benchmarks.

MEDICAL EXCLUSIONS CONTINUED

Nutrition

Individual and group nutritional counseling. This exclusion does not apply to medical nutritional education services that are provided by appropriately licensed or registered health care professionals when both of the following are true:

- Nutritional education is required for a disease in which patient self-management is an important component of treatment.
- There exists a knowledge deficit regarding the disease which requires the intervention of a trained health professional.

Enteral feedings, even if the sole source of nutrition. See the Benefits for medical foods described under the outpatient prescription drug rider. Infant formula and donor breast milk. Nutritional or cosmetic therapy using high dose or mega quantities of vitamins, minerals or elements and other nutrition-based therapy. Examples include supplements, electrolytes, and foods of any kind (including high protein foods and low carbohydrate foods). See the Benefits for eosinophilic gastrointestinal disorder formula described under the outpatient prescription drug rider.

Personal Care, Comfort or Convenience

Television; telephone; beauty/barber service; guest service. Supplies, equipment and similar incidental services and supplies for personal comfort. Examples include: air conditioners, air purifiers and filters, dehumidifiers; batteries and battery chargers; breast pumps; car seats; chairs, bath chairs, feeding chairs, toddler chairs, chair lifts, recliners; electric scooters; exercise equipment; home modifications such as elevators, handrails and ramps; hot tubs; humidifiers; Jacuzzis; mattresses; medical alert systems; motorized beds; music devices; personal computers, pillows; power-operated vehicles; radios; saunas; stair lifts and stair glides; strollers; safety equipment; treadmills; vehicle modifications such as van lifts; video players, whirlpools.

Physical Appearance

Cosmetic Procedures. See the definition in Section 9 of the COC. Examples include: pharmacological regimens, nutritional procedures or treatments. Scar or tattoo removal or revision procedures (such as salabrasion, chemosurgery and other such skin abrasion procedures). Skin abrasion procedures performed as a treatment for acne. Liposuction or removal of fat deposits considered undesirable, including fat accumulation under the male breast and nipple. Treatment for skin wrinkles or any treatment to improve the appearance of the skin. Treatment for spider veins. Hair removal or replacement by any means. Replacement of an existing breast implant if the earlier breast implant was performed as a Cosmetic Procedure. Note: Replacement of an existing breast implant is considered reconstructive if the initial breast implant followed mastectomy. See Reconstructive Procedures in Section 1 of the COC. Treatment of benign gynecomastia (abnormal breast enlargement in males). Physical conditioning programs such as athletic training, body-building, exercise, fitness, flexibility, and diversion or general motivation. Weight loss programs whether or not they are under medical supervision. Weight loss programs for medical reasons are also excluded. Wigs regardless of the reason for the hair loss.

Procedures and Treatments

Excision or elimination of hanging skin on any part of the body. Examples include plastic surgery procedures called abdominoplasty or abdominal panniculectomy, and brachioplasty. Medical and surgical treatment of excessive sweating (hyperhidrosis). Medical and surgical treatment for snoring, except when provided as a part of treatment for documented obstructive sleep apnea. Rehabilitation services and Manipulative Treatment to improve general physical condition that are provided to reduce potential risk factors, where significant therapeutic improvement is not expected, including but not limited to routine, long-term or maintenance/preventive treatment. Speech therapy except as required for treatment of a speech impediment or speech dysfunction that results from Injury, stroke, cancer, Congenital Anomaly, or Autism Spectrum Disorders. Psychosurgery. Sex transformation operations. Physiological modalities and procedures that result in similar or redundant therapeutic effects when performed on the same body region during the same visit or office encounter. Biofeedback. Services for the evaluation and treatment of temporomandibular joint syndrome (TMJ), whether the services are considered to be medical or dental in nature. Upper and lower jawbone surgery except as required for direct treatment of acute traumatic Injury, dislocation, tumors or cancer. Orthognathic surgery, jaw alignment and treatment for the temporomandibular joint, except as a treatment of obstructive sleep apnea. Surgical and non-surgical treatment of obesity. Stand-alone multi-disciplinary smoking cessation programs. Breast reduction except as coverage is required by the Women's Health and Cancer Right's Act of 1998 for which Benefits are described under Reconstructive Procedures in Section 1 of the COC.

Providers

Services performed by a provider who is a family member by birth or marriage. Examples include a spouse, brother, sister, parent or child. This includes any service the provider may perform on himself or herself. Services performed by a provider with your same legal residence. Services provided at a free-standing or Hospital-based diagnostic facility without an order written by a Physician or other provider. Services which are self-directed to a free-standing or Hospital-based diagnostic facility. Services ordered by a Physician or other provider who is an employee or representative of a free-standing or Hospital-based diagnostic facility, when that Physician or other provider has not been actively involved in your medical care prior to ordering the service, or is not actively involved in your medical care after the service is received. This exclusion does not apply to mammography.

MEDICAL EXCLUSIONS CONTINUED

Reproduction

Health services and associated expenses for infertility treatments, including assisted reproductive technology, regardless of the reason for the treatment. This exclusion does not apply to services required to treat or correct underlying causes of infertility. Surrogate parenting, donor eggs, donor sperm and host uterus. Storage and retrieval of all reproductive materials. Examples include eggs, sperm, testicular tissue and ovarian tissue. The reversal of voluntary sterilization.

Services Provided under Another Plan

Health services for which other coverage is required by federal, state or local law to be purchased or provided through other arrangements. Examples include coverage required by workers' compensation, no-fault auto insurance, or similar legislation. If coverage under workers' compensation or similar legislation is optional for you because you could elect it, or could have it elected for you, Benefits will not be paid for any Injury, Sickness, or Mental Illness that would have been covered under workers' compensation or similar legislation had that coverage been elected. Health services for treatment of military service-related disabilities, when you are legally entitled to other coverage and facilities are reasonably available to you. Health services while on active military duty.

Substance Use Disorders

Services performed in connection with conditions not classified in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association. Methadone treatment as maintenance, L.A.A.M. (1-Alpha-Acetyl-Methadol), Cyclazocine, or their equivalents. Educational/behavioral services that are focused on primarily building skills and capabilities in communication, social interaction and learning. Services or supplies for the diagnosis or treatment of alcoholism or substance use disorders that, in the reasonable judgment of the Mental Health/Substance Use Disorder Designee, are any of the following:

- Not consistent with generally accepted standards of medical practice for the treatment of such conditions.
- Not consistent with services backed by credible research soundly demonstrating that the services or supplies will have a measurable and beneficial health outcome, and therefore considered experimental.
- Not consistent with the Mental Health/Substance Use Disorder Designee's level of care guidelines or best practices as modified from time to time.
- Not clinically appropriate for the patient's substance use disorder or condition based on generally accepted standards of medical practice and benchmarks.

Transplants

Health services for organ and tissue transplants, except those described under Transplantation Services in Section 1 of the COC. Health services connected with the removal of an organ or tissue from you for purposes of a transplant to another person. (Donor costs that are directly related to organ removal are payable for a transplant through the organ recipient's Benefits under the Policy.) Health services for transplants involving permanent mechanical or animal organs.

Travel

Health services provided in a foreign country, unless required as Emergency Health Services. Travel or transportation expenses, even though prescribed by a Physician. Some travel expenses related to Covered Health Services received from a Designated Facility or Designated Physician may be reimbursed at our discretion.

Types of Care

Multi-disciplinary pain management programs provided on an inpatient basis. Custodial care or maintenance care; domiciliary care. Private Duty Nursing. Respite care. This exclusion does not apply to respite care that is part of an integrated hospice care program of services provided to a terminally ill person by a licensed hospice care agency for which Benefits are described under Hospice Care in Section 1 of the COC. Rest cures; services of personal care attendants. Work hardening (individualized treatment programs designed to return a person to work or to prepare a person for specific work).

Vision and Hearing

Purchase cost and fitting charge for eye glasses and contact lenses. Implantable lenses used only to correct a refractive error (such as Intacs corneal implants). Eye exercise or vision therapy. Surgery that is intended to allow you to see better without glasses or other vision correction. Examples include radial keratotomy, laser, and other refractive eye surgery.

Bone anchored hearing aids except when either of the following applies; For Covered Persons with craniofacial anomalies whose abnormal or absent ear canals preclude the use of a wearable hearing aid. For Covered Persons with hearing loss of sufficient severity that it would not be adequately remedied by a wearable hearing aid: More than one bone anchored hearing aid per Covered Person who meets the above coverage criteria during the entire period of time the Covered Person is enrolled under the

MEDICAL EXCLUSIONS CONTINUED

Policy. Repairs and/or replacement for a bone anchored hearing aid for Covered Persons who meet the above coverage criteria, other than for malfunctions.

All Other Exclusions

Health services and supplies that do not meet the definition of a Covered Health Service – see the definition in Section 9 of the COC. Physical, psychiatric or psychological exams, testing, vaccinations, immunizations or treatments that are otherwise covered under the Policy when: required solely for purposes of school, sports or camp, travel, career or employment, insurance, marriage or adoption; related to judicial or administrative proceedings or orders; conducted for purposes of medical research; required to obtain or maintain a license of any type. Health services received as a result of war or any act of war, whether declared or undeclared or caused during service in the armed forces of any country. This exclusion does not apply to Covered Persons who are civilians Injured or otherwise affected by war, any act of war, or terrorism in non-war zones. Health services received after the date your coverage under the Policy ends. This applies to all health services, even if the health service is required to treat a medical condition that arose before the date your coverage under the Policy ended. Health services for which you have no legal responsibility to pay, or for which a charge would not ordinarily be made in the absence of coverage under the Policy. In the event a non-Network provider waives Copayments, Coinsurance and/or any deductible for a particular health service, no Benefits are provided for the health service for which the Copayments, Coinsurance and/or deductible are waived. Charges in excess of Eligible Expenses or in excess of any specified limitation. Long term (more than 30 days) storage. Examples include cryopreservation of tissue, blood and blood products. Autopsy. Foreign language and sign language services.



YOUR BENEFITS

Benefit Summary

Arizona - Choice Plus
Definity HSA - 1500/90% Plan Z43

We know that when people know more about their health and health care, they can make better informed health care decisions. We want to help you understand more about your health care and the resources that are available to you.

- **myuhc.com®** – Take advantage of easy, time-saving online tools. You can check your eligibility, benefits, claims, claim payments, search for a doctor and hospital and much, much more.
- **24-hour nurse support** – A nurse is a phone call away and you have other health resources available 24-hours a day, 7 days a week to provide you with information that can help you make informed decisions. Just call the number on the back of your ID card.
- **Customer Care telephone support** – Need more help? Call a customer care professional using the toll-free number on the back of your ID card. Get answers to your benefit questions or receive help looking for a doctor or hospital.

PLAN HIGHLIGHTS

Types of Coverage	Network Benefits	Non-Network Benefits
Annual Deductible - Combined Medical and Pharmacy		
Single Coverage Deductible	\$1,500 per year	\$3,000 per year
Family Coverage Deductible	\$4,500 per year	\$9,000 per year

> No one in the family is eligible for benefits until the family coverage deductible is met.

Out-of-Pocket Maximum - Combined Medical and Pharmacy		
Single Coverage Out-of-Pocket Maximum	\$4,500 per year	\$9,000 per year
Family Coverage Out-of-Pocket Maximum	\$9,000 per year	\$18,000 per year

> The Out-of-Pocket Maximum includes the Annual Deductible.

> If more than one person in a family is covered under the Policy, the single coverage Out-of-Pocket Maximum stated above does not apply.

Benefit Plan Coinsurance - The Amount We Pay		
	90% after Deductible has been met.	50% after Deductible has been met.

Maximum Policy Benefit		
The maximum amount we will pay during the entire period of time you are enrolled under the Policy.	No Maximum Benefit.	

This Benefit Summary is intended only to highlight your Benefits and should not be relied upon to fully determine your coverage. If this Benefit Summary conflicts in any way with the Certificate of Coverage (COC), the COC shall prevail. It is recommended that you review your COC for an exact description of the services and supplies that are covered, those which are excluded or limited, and other terms and conditions of coverage.

AZMGFZ4307

Item#	Rev. Date	Benefit Accumulator	
390-5031	0411	Calendar Year	PVY/Comb/NonEmb/57297

UnitedHealthcare Insurance Company

Prescription Drug Benefits

Prescription drug benefits are shown under separate cover.

Information on Benefit Limits

- > The Annual Deductible, Out-of-Pocket Maximum and Benefit limits are calculated on a calendar year basis.
- > All Benefits are reimbursed based on Eligible Expenses. For a definition of Eligible Expenses, please refer to your Certificate of Coverage.
- > When Benefit limits apply, the limit refers to any combination of Network and Non-Network Benefits unless specifically stated in the Benefit category.

MOST COMMONLY USED BENEFITS

Types of Coverage	Network Benefits	Non-Network Benefits
Physician's Office Services - Sickness and Injury		
Primary Physician Office Visit	90% after Deductible has been met.	50% after Deductible has been met.
Specialist Physician Office Visit	90% after Deductible has been met.	50% after Deductible has been met.
Preventive Care Services		
Covered Health Services include but are not limited to:		
Primary Physician Office Visit	100% Deductible does not apply.	50% after Deductible has been met.
Specialist Physician Office Visit	100% Deductible does not apply.	
Lab, X-Ray or other preventive tests	100% Deductible does not apply.	
Urgent Care Center Services		
	90% after Deductible has been met.	50% after Deductible has been met.
Emergency Health Services - Outpatient		
	90% after Deductible has been met.	90% after Network Deductible has been met. <i>Pre-service Notification is required if results in an Inpatient Stay.</i>
Hospital - Inpatient Stay		
	90% after Deductible has been met.	50% after Deductible has been met. <i>Pre-service Notification is required.</i>

ADDITIONAL CORE BENEFITS

YOUR BENEFITS

Types of Coverage	Network Benefits	Non-Network Benefits
Ambulance Service - Emergency and Non-Emergency		
Ground Ambulance	90% after Deductible has been met.	90% after Network Deductible has been met.
Air Ambulance	90% after Deductible has been met.	90% after Network Deductible has been met.
	<i>Pre-service Notification is required for Non-Emergency Ambulance.</i>	<i>Pre-service Notification is required for Non-Emergency Ambulance.</i>
Congenital Heart Disease (CHD) Surgeries		
	90% after Deductible has been met.	50% after Deductible has been met.
		Benefits are limited to \$30,000 per surgery.
		<i>Pre-service Notification is required.</i>
Dental Services - Accident Only		
Benefits are limited as follows: \$3,000 maximum per year \$900 maximum per tooth	90% after Deductible has been met.	90% after Network Deductible has been met.
	<i>Pre-service Notification is required.</i>	<i>Pre-service Notification is required.</i>
Diabetes Services		
Diabetes Self Management and Training Diabetic Eye Examinations/Foot Care	Depending upon where the Covered Health Service is provided, Benefits will be the same as those stated under each Covered Health Service category in this Benefit Summary.	
Diabetes Self Management Items	Depending upon where the Covered Health Service is provided, Benefits will be the same as those stated under Durable Medical Equipment and in the Outpatient Prescription Drug Rider.	
		<i>Pre-service Notification is required for Durable Medical Equipment and Diabetes Equipment in excess of \$1,000.</i>
Durable Medical Equipment		
Benefits are limited as follows: \$2,500 per year and are limited to a single purchase of a type of Durable Medical Equipment (including repair and replacement) every three years.	90% after Deductible has been met.	50% after Deductible has been met. <i>Pre-service Notification is required for Durable Medical Equipment in excess of \$1,000.</i>
This benefit category contains services/devices that may be Essential or non-Essential Health Benefits as defined by the Patient Protection and Affordable Care Act depending upon the service or device delivered. A benefit review will take place once the dollar limit is exceeded. If the service/device is determined to be rehabilitative or habilitative in nature, it is an Essential Health Benefit and will be paid. If the benefit/device is determined to be non-essential, the maximum will have been met and the claim will not be paid.		
Hearing Aids		
Benefits are limited as follows: \$2,500 per year and are limited to a single purchase (including repair/ replacement) every three years.	90% after Deductible has been met.	50% after Deductible has been met.

ADDITIONAL CORE BENEFITS

Types of Coverage	Network Benefits	Non-Network Benefits
Home Health Care		
Benefits are limited as follows: 60 visits per year One visit equals up to four hours of skilled care services. Home Health Agency services that are provided in lieu of an Inpatient Stay are not subject to this limit.	90% after Deductible has been met.	50% after Deductible has been met. <i>Pre-service Notification is required.</i>
Hospice Care		
	90% after Deductible has been met.	50% after Deductible has been met. <i>Pre-service Notification is required for Inpatient stays.</i>
Lab, X-Ray and Diagnostics - Outpatient		
For Preventive Lab, X-Ray and Diagnostics, refer to the Preventive Care Services category.	90% after Deductible has been met.	50% after Deductible has been met.
Lab, X-Ray and Major Diagnostics - CT, PET, MRI, MRA and Nuclear Medicine - Outpatient		
	90% after Deductible has been met.	50% after Deductible has been met.
Ostomy Supplies		
Benefits are limited as follows: \$2,500 per year	90% after Deductible has been met.	50% after Deductible has been met.
Pharmaceutical Products - Outpatient		
This includes medications administered in an outpatient setting, in the Physician's Office and by a Home Health Agency.	90% after Deductible has been met.	50% after Deductible has been met.
Physician Fees for Surgical and Medical Services		
	90% after Deductible has been met.	50% after Deductible has been met.
Pregnancy - Maternity Services		
	Depending upon where the Covered Health Service is provided, Benefits will be the same as those stated under each Covered Health Service category in this Benefit Summary.	
		<i>Pre-service Notification is required if the Inpatient Stay exceeds 48 hours following a normal vaginal delivery or 96 hours following a cesarean section delivery.</i>
Prosthetic Devices		
Benefits are limited as follows: \$2,500 per year and are limited to a single purchase of each type of prosthetic device every three years.	90% after Deductible has been met.	50% after Deductible has been met.

This benefit category contains services/devices that may be Essential or non-Essential Health Benefits as defined by the Patient Protection and Affordable Care Act depending upon the service or device delivered. A benefit review will take place once the dollar limit is exceeded. If the service/device is determined to be rehabilitative or habilitative in nature, it is an Essential Health Benefit and will be paid. If the benefit/device is determined to be non-essential, the maximum will have been met and the claim will not be paid.

ADDITIONAL CORE BENEFITS

YOUR BENEFITS

Types of Coverage	Network Benefits	Non-Network Benefits
Reconstructive Procedures		
	Depending upon where the Covered Health Service is provided, Benefits will be the same as those stated under each Covered Health Service category in this Benefit Summary.	<i>Pre-service Notification is required.</i>
Rehabilitation Services - Outpatient Therapy and Manipulative Treatment		
Benefits are limited as follows:	90% after Deductible has been met.	50% after Deductible has been met.
Visit limits not applied for Manipulative Treatment 20 visits of physical therapy 20 visits of occupational therapy 20 visits of speech therapy 20 visits of pulmonary rehabilitation 36 visits of cardiac rehabilitation 30 visits of post-cochlear implant aural therapy		<i>Pre-service Notification is required for certain services.</i>
Scopic Procedures - Outpatient Diagnostic and Therapeutic		
Diagnostic scopic procedures include, but are not limited to:	90% after Deductible has been met.	50% after Deductible has been met.
Colonoscopy Sigmoidoscopy Endoscopy		
For Preventive Scopic Procedures, refer to the Preventive Care Services category.		
Skilled Nursing Facility / Inpatient Rehabilitation Facility Services		
Benefits are limited as follows: 60 days per year	90% after Deductible has been met.	50% after Deductible has been met.
		<i>Pre-service Notification is required.</i>
Surgery - Outpatient		
	90% after Deductible has been met.	50% after Deductible has been met.
Therapeutic Treatments - Outpatient		
Therapeutic treatments include, but are not limited to:	90% after Deductible has been met.	50% after Deductible has been met.
Dialysis Intravenous chemotherapy or other intravenous infusion therapy Radiation oncology		<i>Pre-service Notification is required for certain services.</i>
Transplantation Services		
	90% after Deductible has been met.	50% after Deductible has been met.
	For Network Benefits, services must be received at a Designated Facility.	Benefits are limited to \$30,000 per Transplant.
	<i>Pre-service Notification is required.</i>	<i>Pre-service Notification is required.</i>

ADDITIONAL CORE BENEFITS

Types of Coverage	Network Benefits	Non-Network Benefits
Vision Examinations		
Benefits are limited as follows: 1 exam every 2 years	90% after Deductible has been met.	50% after Deductible has been met.

STATE MANDATED BENEFITS

YOUR BENEFITS

Types of Coverage	Network Benefits	Non-Network Benefits
Clinical Trials		
Participation in a qualifying clinical trial for the treatment of: Cancer Cardiovascular (cardiac/stroke) Surgical musculoskeletal disorders of the spine, hip and knees	Depending upon where the Covered Health Service is provided, Benefits will be the same as those stated under each Covered Health Service category in this Benefit Summary.	Pre-service Notification is required.
Mental Health Services		
	Inpatient: 90% after Deductible has been met. Outpatient: 90% after Deductible has been met.	Inpatient: 50% after Deductible has been met. Outpatient: 50% after Deductible has been met. Pre-service Notification is required from the Mental Health/Substance Use Disorder Designee.
Neurobiological Disorders – Autism Spectrum Disorder Services		
	Inpatient: 90% after Deductible has been met. Outpatient: 90% after Deductible has been met.	Inpatient: 50% after Deductible has been met. Outpatient: 50% after Deductible has been met. Pre-service Notification is required from the Mental Health/Substance Use Disorder Designee.
Substance Use Disorder Services		
	Inpatient: 90% after Deductible has been met. Outpatient: 90% after Deductible has been met.	Inpatient: 50% after Deductible has been met. Outpatient: 50% after Deductible has been met. Pre-service Notification is required from the Mental Health/Substance Use Disorder Designee.

This Benefit Summary is intended only to highlight your Benefits and should not be relied upon to fully determine your coverage. If this Benefit Summary conflicts in any way with the Certificate of Coverage (COC), the COC shall prevail. It is recommended that you review your COC for an exact description of the services and supplies that are covered, those which are excluded or limited, and other terms and conditions of coverage.

MEDICAL EXCLUSIONS

It is recommended that you review your COC for an exact description of the services and supplies that are covered, those which are excluded or limited, and other terms and conditions of coverage.

Alternative Treatments

Acupressure; acupuncture; aromatherapy; hypnotism; massage therapy; rolfing; art therapy, music therapy, dance therapy, horseback therapy; and other forms of alternative treatment as defined by the National Center for Complementary and Alternative Medicine (NCCAM) of the National Institutes of Health. This exclusion does not apply to Manipulative Treatment and non-manipulative osteopathic care for which Benefits are provided as described in Section 1 of the COC.

Dental

Dental care (which includes dental X-rays, supplies and appliances and all associated expenses, including hospitalizations and anesthesia). This exclusion does not apply to accident-related dental services for which Benefits are provided as described under Dental Services – Accident Only in Section 1 of the COC. This exclusion does not apply to dental care (oral examination, X-rays, extractions and non-surgical elimination of oral infection) required for the direct treatment of a medical condition for which Benefits are available under the Policy, limited to: Transplant preparation; prior to initiation of immunosuppressive drugs; the direct treatment of acute traumatic injury, cancer or cleft palate. Dental care that is required to treat the effects of a medical condition, but that is not necessary to directly treat the medical condition, is excluded. Examples include treatment of dental caries resulting from dry mouth after radiation treatment or as a result of medication. Endodontics, periodontal surgery and restorative treatment are excluded. Preventive care, diagnosis, treatment of or related to the teeth, jawbones or gums. Examples include: extraction, restoration, and replacement of teeth; medical or surgical treatment of dental conditions; and services to improve dental clinical outcomes. This exclusion does not apply to accidental-related dental services for which Benefits are provided as described under Dental Services – Accidental Only in Section 1 of the COC. Dental implants, bone grafts and other implant-related procedures. This exclusion does not apply to accident-related dental services for which Benefits are provided as described under Dental Services – Accident Only in Section 1 of the COC. Dental braces (orthodontics). Treatment of congenitally missing, malpositioned, or supernumerary teeth, even if part of a Congenital Anomaly.

Devices, Appliances and Prosthetics

Devices used specifically as safety items or to affect performance in sports-related activities. Orthotic appliances that straighten or re-shape a body part. Examples include foot orthotics, cranial banding and some types of braces, including over-the-counter orthotic braces. The following items are excluded, even if prescribed by a Physician: blood pressure cuff/monitor; enuresis alarm; non-wearable external defibrillator; trusses and ultrasonic nebulizers. Devices and computers to assist in communication and speech except for speech generating devices and tracheo-esophageal voice devices for which Benefits are provided as described under Durable Medical Equipment in Section 1 of the COC. Oral appliances for snoring. Repairs to prosthetic devices due to misuse, malicious damage or gross neglect. Replacement of prosthetic devices due to misuse, malicious damage or gross neglect or to replace lost or stolen items.

Drugs

Prescription drug products for outpatient use that are filled by a prescription order or refill. Self-injectable medications. This exclusion does not apply to medications which, due to their characteristics (as determined by us), must typically be administered or directly supervised by a qualified provider or licensed/certified health professional in an outpatient setting. Non-injectable medications given in a Physician's office. This exclusion does not apply to non-injectable medications that are required in an Emergency and consumed in the Physician's office. Over-the-counter drugs and treatments. Growth hormone therapy.

Experimental, Investigational or Unproven Services

Experimental or Investigational and Unproven Services and all services related to Experimental or Investigational and Unproven services are excluded. The fact that an Experimental or Investigational or Unproven Service, treatment, device or pharmacological regimen is the only available treatment for a particular condition will not result in Benefits if the procedure is considered to be Experimental or Investigational or Unproven in the treatment of that particular condition. This exclusion does not apply to Covered Health Services provided during a clinical trial for which Benefits are provided as described under Clinical Trials in Section 1 of the COC.

Foot Care

Routine foot care. Examples include the cutting or removal of corns and calluses. This exclusion does not apply to preventive foot care for Covered Persons with diabetes for which Benefits are provided as described under Diabetes Services in Section 1 of the COC. Nail trimming, cutting, or debriding. Hygienic and preventive maintenance foot care. Examples include: cleaning and soaking the feet; applying skin creams in order to maintain skin tone. This exclusion does not apply to preventive foot care for Covered Persons who are at risk of neurological or vascular disease arising from diseases such as diabetes. Treatment of flat feet or subluxation of the foot. Shoes; shoe orthotics; shoe inserts and arch supports.

MEDICAL EXCLUSIONS CONTINUED

Medical Supplies

Prescribed or non-prescribed medical supplies and disposable supplies. Examples include: elastic stockings, ace bandages, gauze and dressings, urinary catheters. This exclusion does not apply to:

- Disposable supplies necessary for the effective use of Durable Medical Equipment for which Benefits are provided as described under Durable Medical Equipment in Section 1 of the COC.
- Diabetic supplies for which Benefits are provided as described under Diabetes Services in Section 1 of COC.
- Ostomy supplies for which Benefits are provided as described under Ostomy Supplies in Section 1 of the COC.

Tubing and masks, except when used with Durable Medical Equipment as described under Durable Medical Equipment in Section 1 of the COC.

Mental Health

Services performed in connection with conditions not classified in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association. Mental Health Services as treatments for V-code conditions as listed within the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association. Mental Health Services as treatment for a primary diagnosis of insomnia and other sleep disorders, sexual dysfunction disorders, feeding disorders, neurological disorders and other disorders with a known physical basis. Treatments for the primary diagnoses of learning disabilities, conduct and impulse control disorders, personality disorders, paraphilias. Educational/behavioral services that are focused on primarily building skills and capabilities in communication, social interaction and learning. Tuition for or services that are school-based for children and adolescents under the Individuals with Disabilities Education Act. Learning, motor skills and primary communication disorders as defined in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association. Mental retardation and autism spectrum disorder as a primary diagnosis defined in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association. Benefits for autism spectrum disorder as a primary diagnosis are described under Neurobiological Disorders-Autism Spectrum Disorder Services in Section 1 of the COC. Services or supplies for the diagnosis or treatment of Mental Illness that, in the reasonable judgment of the Mental Health/Substance Use Disorder Designee, are any of the following:

- Not consistent with generally accepted standards of medical practice for the treatment of such conditions.
- Not consistent with services backed by credible research soundly demonstrating that the services or supplies will have a measurable and beneficial health outcome, and therefore considered experimental.
- Not consistent with the Mental Health/Substance Use Disorder Designee's level of care guidelines or best practices as modified from time to time.
- Not clinically appropriate for the patient's Mental Illness or condition based on generally accepted standards of medical practice and benchmarks.

Neurobiological Disorders – Autism Spectrum Disorders

Services as treatments of sexual dysfunction and feeding disorders as listed in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association. Any treatments or other specialized services designed for Autism Spectrum Disorder that are not backed by credible research demonstrating that the services or supplies have a measurable and beneficial health outcome and therefore considered Experimental or Investigational or Unproven Services. Mental retardation as the primary diagnosis defined in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association. Tuition for or services that are school-based for children and adolescents under the Individuals with Disabilities Education Act. Learning, motor skills and primary communication disorders as defined in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association and which are not a part of Autism Spectrum Disorder. Treatments for the primary diagnoses of learning disabilities, conduct and impulse control disorders, personality disorders and paraphilias. Services or supplies for the diagnosis or treatment of Mental Illness that, in the reasonable judgment of the Mental Health/Substance Use Disorder Designee, are any of the following:

- Not consistent with generally accepted standards of medical practice for the treatment of such conditions.
- Not consistent with services backed by credible research soundly demonstrating that the services or supplies will have a measurable and beneficial health outcome, and therefore considered experimental.
- Not consistent with the Mental Health/Substance Use Disorder Designee's level of care guidelines or best practices as modified from time to time.
- Not clinically appropriate for the patient's Mental Illness or condition based on generally accepted standards of medical practice and benchmarks.

MEDICAL EXCLUSIONS CONTINUED

Nutrition

Individual and group nutritional counseling. This exclusion does not apply to medical nutritional education services that are provided by appropriately licensed or registered health care professionals when both of the following are true:

- Nutritional education is required for a disease in which patient self-management is an important component of treatment.
- There exists a knowledge deficit regarding the disease which requires the intervention of a trained health professional.

Enteral feedings, even if the sole source of nutrition. See the Benefits for medical foods described under the outpatient prescription drug rider. Infant formula and donor breast milk. Nutritional or cosmetic therapy using high dose or mega quantities of vitamins, minerals or elements and other nutrition-based therapy. Examples include supplements, electrolytes, and foods of any kind (including high protein foods and low carbohydrate foods). See the Benefits for eosinophilic gastrointestinal disorder formula described under the outpatient prescription drug rider.

Personal Care, Comfort or Convenience

Television; telephone; beauty/barber service; guest service. Supplies, equipment and similar incidental services and supplies for personal comfort. Examples include: air conditioners, air purifiers and filters, dehumidifiers; batteries and battery chargers; breast pumps; car seats; chairs, bath chairs, feeding chairs, toddler chairs, chair lifts, recliners; electric scooters; exercise equipment; home modifications such as elevators, handrails and ramps; hot tubs; humidifiers; Jacuzzis; mattresses; medical alert systems; motorized beds; music devices; personal computers, pillows; power-operated vehicles; radios; saunas; stair lifts and stair glides; strollers; safety equipment; treadmills; vehicle modifications such as van lifts; video players, whirlpools.

Physical Appearance

Cosmetic Procedures. See the definition in Section 9 of the COC. Examples include: pharmacological regimens, nutritional procedures or treatments. Scar or tattoo removal or revision procedures (such as salabrasion, chemosurgery and other such skin abrasion procedures). Skin abrasion procedures performed as a treatment for acne. Liposuction or removal of fat deposits considered undesirable, including fat accumulation under the male breast and nipple. Treatment for skin wrinkles or any treatment to improve the appearance of the skin. Treatment for spider veins. Hair removal or replacement by any means. Replacement of an existing breast implant if the earlier breast implant was performed as a Cosmetic Procedure. Note: Replacement of an existing breast implant is considered reconstructive if the initial breast implant followed mastectomy. See Reconstructive Procedures in Section 1 of the COC. Treatment of benign gynecomastia (abnormal breast enlargement in males). Physical conditioning programs such as athletic training, body-building, exercise, fitness, flexibility, and diversion or general motivation. Weight loss programs whether or not they are under medical supervision. Weight loss programs for medical reasons are also excluded. Wigs regardless of the reason for the hair loss.

Procedures and Treatments

Excision or elimination of hanging skin on any part of the body. Examples include plastic surgery procedures called abdominoplasty or abdominal panniculectomy, and brachioplasty. Medical and surgical treatment of excessive sweating (hyperhidrosis). Medical and surgical treatment for snoring, except when provided as a part of treatment for documented obstructive sleep apnea. Rehabilitation services and Manipulative Treatment to improve general physical condition that are provided to reduce potential risk factors, where significant therapeutic improvement is not expected, including but not limited to routine, long-term or maintenance/preventive treatment. Speech therapy except as required for treatment of a speech impediment or speech dysfunction that results from Injury, stroke, cancer, Congenital Anomaly, or Autism Spectrum Disorders. Psychosurgery. Sex transformation operations. Physiological modalities and procedures that result in similar or redundant therapeutic effects when performed on the same body region during the same visit or office encounter. Biofeedback. Services for the evaluation and treatment of temporomandibular joint syndrome (TMJ), whether the services are considered to be medical or dental in nature. Upper and lower jawbone surgery except as required for direct treatment of acute traumatic Injury, dislocation, tumors or cancer. Orthognathic surgery, jaw alignment and treatment for the temporomandibular joint, except as a treatment of obstructive sleep apnea. Surgical and non-surgical treatment of obesity. Stand-alone multi-disciplinary smoking cessation programs. Breast reduction except as coverage is required by the Women's Health and Cancer Right's Act of 1998 for which Benefits are described under Reconstructive Procedures in Section 1 of the COC.

Providers

Services performed by a provider who is a family member by birth or marriage. Examples include a spouse, brother, sister, parent or child. This includes any service the provider may perform on himself or herself. Services performed by a provider with your same legal residence. Services provided at a free-standing or Hospital-based diagnostic facility without an order written by a Physician or other provider. Services which are self-directed to a free-standing or Hospital-based diagnostic facility. Services ordered by a Physician or other provider who is an employee or representative of a free-standing or Hospital-based diagnostic facility, when that Physician or other provider has not been actively involved in your medical care prior to ordering the service, or is not actively involved in your medical care after the service is received. This exclusion does not apply to mammography.

MEDICAL EXCLUSIONS CONTINUED

Reproduction

Health services and associated expenses for infertility treatments, including assisted reproductive technology, regardless of the reason for the treatment. This exclusion does not apply to services required to treat or correct underlying causes of infertility. Surrogate parenting, donor eggs, donor sperm and host uterus. Storage and retrieval of all reproductive materials. Examples include eggs, sperm, testicular tissue and ovarian tissue. The reversal of voluntary sterilization.

Services Provided under Another Plan

Health services for which other coverage is required by federal, state or local law to be purchased or provided through other arrangements. Examples include coverage required by workers' compensation, no-fault auto insurance, or similar legislation. If coverage under workers' compensation or similar legislation is optional for you because you could elect it, or could have it elected for you, Benefits will not be paid for any Injury, Sickness, or Mental Illness that would have been covered under workers' compensation or similar legislation had that coverage been elected. Health services for treatment of military service-related disabilities, when you are legally entitled to other coverage and facilities are reasonably available to you. Health services while on active military duty.

Substance Use Disorders

Services performed in connection with conditions not classified in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association. Methadone treatment as maintenance, L.A.A.M. (1-Alpha-Acetyl-Methadol), Cyclazocine, or their equivalents. Educational/behavioral services that are focused on primarily building skills and capabilities in communication, social interaction and learning. Services or supplies for the diagnosis or treatment of alcoholism or substance use disorders that, in the reasonable judgment of the Mental Health/Substance Use Disorder Designee, are any of the following:

- Not consistent with generally accepted standards of medical practice for the treatment of such conditions.
- Not consistent with services backed by credible research soundly demonstrating that the services or supplies will have a measurable and beneficial health outcome, and therefore considered experimental.
- Not consistent with the Mental Health/Substance Use Disorder Designee's level of care guidelines or best practices as modified from time to time.
- Not clinically appropriate for the patient's substance use disorder or condition based on generally accepted standards of medical practice and benchmarks.

Transplants

Health services for organ and tissue transplants, except those described under Transplantation Services in Section 1 of the COC. Health services connected with the removal of an organ or tissue from you for purposes of a transplant to another person. (Donor costs that are directly related to organ removal are payable for a transplant through the organ recipient's Benefits under the Policy.) Health services for transplants involving permanent mechanical or animal organs.

Travel

Health services provided in a foreign country, unless required as Emergency Health Services. Travel or transportation expenses, even though prescribed by a Physician. Some travel expenses related to Covered Health Services received from a Designated Facility or Designated Physician may be reimbursed at our discretion.

Types of Care

Multi-disciplinary pain management programs provided on an inpatient basis. Custodial care or maintenance care; domiciliary care. Private Duty Nursing. Respite care. This exclusion does not apply to respite care that is part of an integrated hospice care program of services provided to a terminally ill person by a licensed hospice care agency for which Benefits are described under Hospice Care in Section 1 of the COC. Rest cures; services of personal care attendants. Work hardening (individualized treatment programs designed to return a person to work or to prepare a person for specific work).

Vision and Hearing

Purchase cost and fitting charge for eye glasses and contact lenses. Implantable lenses used only to correct a refractive error (such as Intacs corneal implants). Eye exercise or vision therapy. Surgery that is intended to allow you to see better without glasses or other vision correction. Examples include radial keratotomy, laser, and other refractive eye surgery.

Bone anchored hearing aids except when either of the following applies; For Covered Persons with craniofacial anomalies whose abnormal or absent ear canals preclude the use of a wearable hearing aid. For Covered Persons with hearing loss of sufficient severity that it would not be adequately remedied by a wearable hearing aid. More than one bone anchored hearing aid per Covered Person who meets the above coverage criteria during the entire period of time the Covered Person is enrolled under the

MEDICAL EXCLUSIONS CONTINUED

Policy. Repairs and/or replacement for a bone anchored hearing aid for Covered Persons who meet the above coverage criteria, other than for malfunctions.

All Other Exclusions

Health services and supplies that do not meet the definition of a Covered Health Service – see the definition in Section 9 of the COC. Physical, psychiatric or psychological exams, testing, vaccinations, immunizations or treatments that are otherwise covered under the Policy when: required solely for purposes of school, sports or camp, travel, career or employment, insurance, marriage or adoption; related to judicial or administrative proceedings or orders; conducted for purposes of medical research; required to obtain or maintain a license of any type. Health services received as a result of war or any act of war, whether declared or undeclared or caused during service in the armed forces of any country. This exclusion does not apply to Covered Persons who are civilians injured or otherwise affected by war, any act of war, or terrorism in non-war zones. Health services received after the date your coverage under the Policy ends. This applies to all health services, even if the health service is required to treat a medical condition that arose before the date your coverage under the Policy ended. Health services for which you have no legal responsibility to pay, or for which a charge would not ordinarily be made in the absence of coverage under the Policy. In the event a non-Network provider waives Copayments, Coinsurance and/or any deductible for a particular health service, no Benefits are provided for the health service for which the Copayments, Coinsurance and/or deductible are waived. Charges in excess of Eligible Expenses or in excess of any specified limitation. Long term (more than 30 days) storage. Examples include cryopreservation of tissue, blood and blood products. Autopsy. Foreign language and sign language services.