



**Agenda**  
**Work Study and Possible Executive Session**  
**Queen Creek Town Council**  
Queen Creek Town Hall, 22350 S. Ellsworth Road  
Council Chambers  
June 19, 2013  
5:30pm

**1. Call to Order**

**2. Roll Call** (one or more members of the Council may participate by telephone)

**3. Motion to adjourn to Executive Session (to be held in the Saguaro Conference Room of the Municipal Services Building) for the following purposes:**

A. Discussion and consultation with the Town's attorney for legal advice and with the Town's attorneys and representatives to consider the Town's position and instruct its representatives regarding agreements that are the subject of negotiations related to the possible sale or lease of property in the Town Center. A.R.S. § 38-431.03(A)(3),(4) and (7).

B. Discussion and consultation with the Town's attorney for legal advice and with the Town's representatives to consider the Town's position and instruct its representatives regarding pre-annexation agreements that are the subject of negotiations related to Banner Ironwood Hospital. A.R.S. § 38-431.03(A)(3) and (4).

C. Discussion and consultation with Town attorneys for legal advice and to consider the Town's position and instruct its attorneys regarding pending litigation against National Reined Cow Horse Association. A.R.S. § 38-431.03(A)(3) and (4).

D. Discussion and consultation with the Town Attorney for legal advice and to consider the Town's position and instruct its attorney and staff regarding the acquisition of real property (H2O Water Company). A.R.S. 38-431.03(A)(3) & (7).

E. Discussion and consideration of Town Clerk's performance evaluation (A.R.S. §38-431.03(A)(1)).

**ITEMS FOR DISCUSSION** These items are for Council discussion only and no action will be taken. In general, no public comment will be taken.

*None.*

**4. Adjournment**



**Agenda**  
**Regular and Possible Executive Session**  
**Queen Creek Town Council**  
Queen Creek Town Hall, 22350 S. Ellsworth Road  
Council Chambers  
June 19, 2013  
7:00 p.m.

**1. Call to Order**

**2. Roll Call** (one or more members of the Council may participate by telephone)

**3. Pledge of Allegiance:**

**4. Invocation:**

**5. Ceremonial Matters:** Presentations, Proclamations, Awards, Guest Introductions and Announcements.

A. Proclamation – Park and Recreation Month - July

**6. Committee Reports**

A. Council summary reports on meetings and/or conferences attended. This may include but is not limited to Phoenix-Mesa Gateway Airport; MAG; East Valley Partnership; CAG. The Council will not propose, discuss, deliberate or take legal action on any matter in the summary unless the specific matter is properly noticed for legal action.

B. Partner agencies quarterly or periodic updates to Council. This may include but is not limited to Queen Creek Chamber of Commerce; Queen Creek Performing Arts Center; Boys & Girls Club of East Valley; and Maricopa or Pinal County Board of Supervisors or other governmental agencies. The Council will not propose, discuss, deliberate or take legal action on any matter in the summary unless the specific matter is properly noticed for legal action.

C. Park and Recreation Advisory Board – June 11, 2013

D. Transportation Advisory Committee – June 13, 2013

**7. Public Comment:** Members of the public may address the Town Council on items not on the printed agenda and during Public Hearings. Please complete a “Request to Speak Card”, located on the table at the rear of the Council Chambers and turn it in to the Town Clerk prior to the beginning of the meeting. There is a time limit of three minutes for comments.

## Agenda for the Regular and Possible Executive Session

### Queen Creek Town Council

June 19, 2013

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**8. Consent Calendar:** Matters listed under the Consent Calendar are considered to be routine and will be enacted by one motion and one vote. Public Hearing items are designated with an asterisk (\*). Prior to consideration of the Consent Agenda, the Mayor will ask whether any member of the public wishes to remove a Public Hearing item for separate consideration. Members of the Council and or staff may remove any item for separate consideration.

A. Consideration and possible approval of the May 15, 2013 Work Study and Regular Session Minutes. **TAB A**

B. Consideration and possible approval of Expenditures over \$25,000: **TAB B**  
1. Weber Water Resources – well repair: \$51,575 (*Budgeted item FY12/13*)  
2. Arnold Machinery Company – asphalt compactor: \$39,800 (*Budgeted item FY12/13*)

C. Consideration and possible approval of **Resolution 948-13** designating the Town Center Redevelopment Area as the Town's single Central Business District. **TAB C**

D. Consideration and possible approval of **Resolution 950-13** approving the Phoenix-Mesa Gateway Airport Authority Amended and Re-stated Joint Powers Authority Agreement. **TAB D**

E. Consideration and possible approval of **Resolution 951-13** approving Amendment #1 of the Intergovernmental Agreement between and among the Phoenix - Mesa Gateway Authority and its members. **TAB D**

F. Consideration and possible approval of the Emergency Base Station Agreement with Dignity Health (Mercy Gilbert Medical Center). **TAB E**

\*G. Public Hearing on the following Liquor License applications submitted by John Mike McLoughlin, True Arizona Wine Experience LLC for Queen Creek Winery, 24810 S. Rittenhouse Road, Queen Creek, AZ 85142: Series 13 Domestic Farm Winery and Series 07 Beer & Wine Bar. ***The applicant has requested withdrawal of both applications.*** **TAB F**

**PUBLIC HEARINGS:** If you wish to speak to the Council on an item listed as a Public Hearing, please complete a Request to Speak Card and turn it in to the Town Clerk. Speakers will be called upon in the order in which their cards are received. Speakers are limited to three (3) minutes each.

9. Public Hearing on the proposed Town Budget and property tax levy for FY13/14. **TAB G**

**Agenda for the Regular Session**  
**Queen Creek Town Council**  
**June 19, 2013**  
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**FINAL ACTION:** If you wish to speak to the Council on an item listed under Final Action, please complete a Request to Speak Card and turn it in to the Town Clerk. Speakers will be called upon in the order in which their cards are received. Speakers are limited to three (3) minutes each.

10. Discussion and possible approval of **Resolution 945-13** adopting the FY13/14 Town Budget. **TAB G**

11. Consideration and possible approval of **Resolution 949-13** approving the asset purchase agreement for acquiring the H2O, Inc. Water Utility. **TAB H**

**ITEMS FOR DISCUSSION:** These items are for Council discussion only and no action will be taken. In general, no public comment will be taken.

12. Presentation and discussion on the Town's temporary sign program. **TAB I**

13. **Motion to adjourn to Executive Session:** The Council may reconvene the Executive Session for any of the items listed on the Work Study Executive Session Agenda.

14. **Adjournment**





**Minutes**  
**Work Study Session**  
**Queen Creek Town Council**  
Queen Creek Town Hall, 22350 S. Ellsworth Road  
Council Chambers  
May 15, 2013  
5:30pm

**1. Call to Order**

The meeting was called to order at 5:30pm.

**2. Roll Call** (one or more members of the Council may participate by telephone)

Council Members present: Barnes; Brown; Gad; Oliphant; Wheatley and Mayor Barney.

Vice Mayor Benning was absent.

**3. Motion to adjourn to Executive Session (to be held in the Saguaro Conference Room of the Municipal Services Building)for the following purposes:**

A. Discussion and consultation with Town attorneys for legal advice and to consider the Town's position and instruct its attorneys regarding contemplated litigation against Accelerated Construction Technologies f/k/a Modular Technology, Inc. and Merchants Bonding Co. A.R.S. § 38-431.03(A)(3) and (4).

B. Discussion and consultation with the Town Attorneys to consider the Town's position and instruct its attorneys regarding pending claims against the Town. A.R.S. 38-431.03(A)(4).

C. Discussion and consultation with the Town's attorneys for legal advice and to consider the Town's position and instruct its attorneys and staff regarding negotiations with the Arizona Cutting Horse Association. A.R.S. 38-431.03(A)(3) and (4).

**Motion to adjourn to Executive Session at 5:31pm.**

**1<sup>st</sup>: Brown**

**2<sup>nd</sup>: Barnes**

**VOTE: Unanimous**

The Work Study Session reconvened at 6:25pm.

**ITEMS FOR DISCUSSION** These items are for Council discussion only and no action will be taken. In general, no public comment will be taken.

**4. Discussion on an Organizational Compensation and Classification Study.**

**Minutes for the Work Study Session**  
**Queen Creek Town Council**  
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Town Manager Kross gave a brief introduction on the proposal and said the costs were included in the proposed FY13-14 Budget.

HR Director Gardner reviewed the current compensation and classification study that was completed in 2006 by Fox Lawson. Mr. Gardner explained that the study assumed certain growth expectations and how the economic recession has influenced the organization by collapsing department, eliminating many supervisory positions and pay reductions organization wide. In addition, the Utilities Department and Fire Department were added. Mr. Gardner also discussed the difference between the compensation and classification study and a market review. Mr. Gardner said that a study is recommended every 7-10 years. He said the costs for a full study would be approximately \$40,000 and if approved, would like to have it completed by January 2014 so that it could be used for FY14-15 budget preparation.

Council asked how the study, evaluation and performance evaluation and any merit increase would be tied together. Mr. Kross responded that although Fox Lawson created the performance evaluation tool, it is still valid and has been modified over the years to be more aligned with the Council Strategic Plan and is now electronic, cutting down on staff time to complete.

Additional discussion was in regard to cost of living allowance (COLA) recommendations and results of the market study. Mr. Gardner stated that 108 positions were reviewed and approximately 20 positions fell below the median.

Mr. Kross clarified that only the costs for the study were being requested and that the results and any recommendations would go to Council for acceptance and options to fund any pay changes, and it is common to phase in recommendations.

**5. Presentation and discussion on Calendar Year 2012 policing statistics and 1<sup>st</sup> Quarter 2013 policing activities.**

*No discussion.*

**6. Adjournment**

The Work Study Session adjourned at 6:50pm.



**Minutes**  
**Regular Session**  
**Queen Creek Town Council**  
Queen Creek Town Hall, 22350 S. Ellsworth Road  
Council Chambers  
May 15, 2013  
7:00 p.m.

**1. Call to Order**

The meeting was called to order at 7:00pm.

**2. Roll Call** (one or more members of the Council may participate by telephone)

Council Members present: Barnes; Brown; Gad; Oliphant; Wheatley and Mayor Barney.

Vice Mayor Benning was absent.

**3. Pledge of Allegiance:** Led by Austin Zane, Scout Troop 125.

**4. Invocation:** A moment of silence was held in honor of all first responders.

**5. Ceremonial Matters:** Presentations, Proclamations, Awards, Guest Introductions and Announcements.

A. Proclamation – National Public Works Week – May 19-25

Mayor Barney read highlights of the proclamation and the importance of Public Works programs.

Council Member Oliphant announced that on May 5, 2013 Mayor Barney was awarded the Teal & Silver Leader Award from Chandler Gilbert Community College.

**6. Committee Reports**

A. Council summary reports on meetings and/or conferences attended. This may include but is not limited to Phoenix-Mesa Gateway Airport; MAG; East Valley Partnership; CAG. The Council will not propose, discuss, deliberate or take legal action on any matter in the summary unless the specific matter is properly noticed for legal action.

Mayor Barney reported on the following meetings:

MAG Executive Committee: The membership dues/assessments were discussed as well as the expanded boundaries of MAG.

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MAG Economic Development Committee: Discussion items included tourism & the impact on Arizona from Mexican tourists and the possibility of expanding the free travel zones to include Phoenix area and perhaps the entire state.

National Day of Prayer held on May 2, 2013, approximately 50 attendees met in front of the Town Hall.

Meeting with Mark Bonsell, CEO of Salt River Project (SRP): The Transaction Privilege Tax issue was discussed among Mr. Bonsell and other Valley Mayors.

B. Partner agencies quarterly or periodic updates to Council. This may include but is not limited to Queen Creek Chamber of Commerce; Queen Creek Performing Arts Center; Boys & Girls Club of East Valley; and Maricopa or Pinal County Board of Supervisors or other governmental agencies. The Council will not propose, discuss, deliberate or take legal action on any matter in the summary unless the specific matter is properly noticed for legal action.

*None.*

C. Town Center Committee – May 8, 2013: Council Member Oliphant reported the Committee heard a presentation on metal architectural art; discussed and recommended continuing the Façade Improvement Program with a funding level of \$100,000 and discussed and approved the FY13-14 Work Plan. The next meeting is June 12, 2013.

D. Transportation Advisory Committee – May 9, 2013: Committee Chairman Ryan Nichols reported on several presentations and updates. Those included the Arizona Department of Transportation (ADOT) tentative five-year program; regional transportation studies that include the Meridian Design Concept Report and Germann Road Corridor Study; and the Town's CIP and Pavement Maintenance Program. The next meeting is scheduled for June 13, 2013.

E. Budget Committee – May 6, 7 & 13, 2013: Committee Chair Council Member Oliphant reported on three Budget Committee meetings that focused on the Town Manager Recommended Budget for FY13-14 and non-profit organizations requests for funding and in-kind service support. The budget schedule was also discussed.

**7. Public Comment:** Members of the public may address the Town Council on items not on the printed agenda and during Public Hearings. Please complete a "Request to Speak Card", located on the table at the rear of the Council Chambers and turn it in to the Town Clerk prior to the beginning of the meeting. There is a time limit of three minutes for comments.

*None.*

**8. Consent Calendar:** Matters listed under the Consent Calendar are considered to be routine and will be enacted by one motion and one vote. Public Hearing items are

**Minutes for the Regular Session**  
**Queen Creek Town Council**  
**May 15, 2013**  
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designated with an asterisk (\*). Prior to consideration of the Consent Agenda, the Mayor will ask whether any member of the public wishes to remove a Public Hearing item for separate consideration. Members of the Council and or staff may remove any item for separate consideration.

A. Consideration and possible approval of the April 17, 2013 Work Study and Regular Session Minutes.

B. Consideration and possible approval of the May 1, 2013 Work Study and Regular Session Minutes.

C. Consideration and possible approval of Expenditures over \$25,000:

- 1) Weber Water Resources – well repairs - \$41,039 (*budgeted item*)
- 2) InfoSend, Inc. – bill printing and mailing - \$45,000 (*budgeted item*)

D. Consideration and possible approval of an Intergovernmental Agreement between the Town and Pinal County for roadway maintenance in San Tan Ranches area in an amount not to exceed \$142,500. (*budgeted item*)

E. Consideration and possible approval of the Final Plat for Preserve at Hastings Farms Parcel D – Phase 1, a request by Maracay 91, LLC.

F. Consideration and possible approval of the Final Plat for Preserve at Hastings Farms Parcel D – Phase 2, a request by Maracay 91, LLC.

G. Consideration and possible approval of a Services Contract, with up to four (4) additional one-year periods, with San Tan Youth Football League to produce a Flag and Tackle Football League in the Town of Queen Creek, making San Tan Youth Football League an official Youth Sports Partnership of the Town.

H. Consideration and possible approval of a lease agreement with Sprint Spectrum, LP for a renewable five-year lease of premises located Founders Park for a cellular tower and equipment compound.

I. Consideration and possible approval of the Employment Agreement with Town Manager and adding a telecommunications stipend of \$75/month.

J. Consideration and possible approval of a Cooperative Purchase Agreement with the City of Scottsdale and with Clifton Larson Allen, Auditing Firm in the amount not to exceed \$48,675 for the year ending June 30, 2013 audit of the financial statements of the Town of Queen Creek. (*budgeted item*)

**Motion to approve the Consent Calendar as presented:**

- 1<sup>st</sup>: Gad**
- 2<sup>nd</sup>: Oliphant**

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**VOTE: Unanimous**

**PUBLIC HEARINGS:** If you wish to speak to the Council on an item listed as a Public Hearing, please complete a Request to Speak Card and turn it in to the Town Clerk. Speakers will be called upon in the order in which their cards are received. Speakers are limited to three (3) minutes each.

***None.***

**FINAL ACTION:** If you wish to speak to the Council on an item listed under Final Action, please complete a Request to Speak Card and turn it in to the Town Clerk. Speakers will be called upon in the order in which their cards are received. Speakers are limited to three (3) minutes each.

Mayor Barney suspended the rules and moved the discussion of Agenda Item #11 up prior to Agenda Item #9.

**9.** Discussion and possible action on the continuation of the Town Center Façade Improvement Program.

Economic Development Specialist Kim Moyers gave a status update on the Town Center Façade Program that was implemented April 2012 as a pilot program that utilized \$100,000 from the Town Center Municipal fund. She reviewed the project guidelines and the four projects that were completed. She said an additional project was not yet completed. Total funds expended for the initial year was \$27,688.

Ms. Moyers discussed the Town Center Committee's recommendation to continue the program. Council asked if there was consideration to increase the reimbursement percentage, which could possibly increase participation. Council also asked if there were any applicant's waiting for approval. Ms. Moyers responded that there were no pending applications, but that the program had continued interest.

Council discussed further the purpose of the Town Center Municipal fund; attracting and encouraging new businesses to locate in the Town Center and using a proactive approach towards businesses while not giving preferential treatment.

**Motion to continue the Façade Improvement Program utilizing Town Center Municipal Funds**

**1<sup>st</sup>: Brown**

**2<sup>nd</sup>: Oliphant**

**VOTE: Unanimous**

**ITEMS FOR DISCUSSION:** These items are for Council discussion only and no action will be taken. In general, no public comment will be taken.

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**10.** Discussion on an Organizational Compensation and Classification Study. *(If necessary)*

*No further discussion.*

**11.** Presentation and discussion on Calendar Year 2012 policing statistics and 1<sup>st</sup> Quarter 2013 policing activities. *(If necessary)*

Town Manager Kross said that the public safety program is moving towards a pro-active program and includes timely, detailed reporting.

MCSO Capt. Randy Brice reviewed the 2012 statistics: total incidents, calls for service and on-view reporting. He also reviewed the trending 2013 statistics. Capt. Brice said the average response remained under five (5) minutes. He also reviewed the federally required Uniformed Crime Report (UCR) statistics: Part 1 – crimes against persons and Part 2 – crimes against property. He said that compared to other cities and towns of similar size and location, Queen Creek remains in the middle or below in crime rates.

Capt. Brice provided a summary of statistics for the 1<sup>st</sup> Quarter of 2013, showing an increase in calls and on-view reporting but remaining under a five-(5) minute response time.

Capt. Brice also discussed areas that are being improved in crime prevention programs by enhancing community partnerships and using the Posses. Mr. Kross added that the current MCSO contract hours include directed patrol and that false alarm calls are becoming an issue and takes away time from other policing activities. He said that the issue is being evaluated and options for a false alarm ordinance would be presented to Council for consideration in the future.

Council discussed with Capt. Brice when additional beats would be required and whether the School Resource Officer program was effective. Capt. Brice said that additional beats would depend on resources and working smarter with existing coverage, but the safety of officers with increased calls for service also needs to be considered.

**12. Motion to adjourn to Executive Session:** The Council may reconvene the Executive Session for any of the items listed on the Work Study Executive Session Agenda.

*None.*

**13. Adjournment**

**The meeting was adjourned at 8:25pm.**



Requesting  
Department:  
Management Services

TAB B

**TO: HONORABLE MAYOR AND TOWN COUNCIL**

**THROUGH: JOHN KROSS, TOWN MANAGER**

**FROM: KIM CLARK, SR. FINANCIAL SERVICES ANALYST**

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

**DATE: June 19, 2013**

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**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. Well repair services
- 2. Volvo Asphalt Compactor

See attachment for additional explanation on the above expenditures.

**Fiscal Impact:**

The fiscal impact of the requested spending authority for the above expenditures is \$91,375. Funds have been identified within their line items budget as approved in the 2012-13 fiscal year budgets.

**Alternatives:**

- 1. There is no alternative to this item due to the necessity of this well to serve our Town of Queen Creek water customers in a time of increased summer usages. These services have already been provided.
- 2. Council could choose not to approve this expenditure. However staff is limited by availability of getting a suitable unit when needed and arranging the timing of delivery to work with staff's schedule.

**Attachments:**

A detailed list of the requested expenditures.



**Attachment: Expenditure \$25,000 and over**

**For Fiscal Year 2013**

**June 19, 2013**

<b>Item #</b>	<b>Vendor</b>	<b>Description</b>	<b>Purpose</b>	<b>Requesting Dept</b>	<b>Fiscal Impact \$</b>	<b>Procurement Method</b>
1	Weber Water Resources	Well repairs	For the emergency repair of Victoria well due to column pipe seam failure that delivers water to the surface. Fiscal impact includes a 10% contingency for unexpected items, as hours can only be estimated when dealing with well repairs.	Utility Services Department	51,575	City of Scottsdale Contract #08PB038
2	Arnold Machinery Company	Volvo DD25W Asphalt Compactor	Purchase of a roller/compactor to be used for preparing road/parking lot base, asphalt patching, pavement edge repair, and shoulder compaction/stabilization. Funds for this will come out of HURF, and purchase was identified in FY2013 approved budget.	Development Services (Public Works)	39,800	Cooperative contract through Houston-Galveston Area Council

Requesting Department:  
Economic Development



TAB C

**TO: HONORABLE MAYOR AND TOWN COUNCIL**

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

**FROM: DOREEN COTT, ECONOMIC DEVELOPMENT DIRECTOR**

**RE: CONSIDERATION AND POSSIBLE APPROVAL OF RESOLUTION  
948-13 DESIGNATING THE TOWN CENTER REDEVELOPMENT AREA  
AS THE TOWN'S SINGLE CENTRAL BUSINESS DISTRICT.**

**DATE: JUNE 19, 2013**

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**Staff Recommendation:**

Staff recommends approval of Resolution 948-13 designating the Town Center Redevelopment Area as the Town's single Central Business District.

**Proposed Motion:**

Move to approve Resolution 948-13 designating the Town Center Redevelopment Area as the Town's single Central Business District.

**Discussion:**

On September 7, 2005 the Town Council designated a portion of the Town Center as a Redevelopment Area by Resolution 518-05. The Town Center Redevelopment Plan was created to enhance the overall appearance of the Town Center Redevelopment Area, promote reinvestment and attract new development, strengthen pedestrian, equestrian, bicycle, transit, and vehicular linkages between Town Center activity areas, and create a sense of Town Center neighborhood.

Due to changes in the statute, and pursuant to Arizona Revised Statutes §42-6209, in order for the Town to authorize certain tax abatements, including the use of the Government Lease Excise Tax (GPLET) for improvements to private property within the Redevelopment Area, the area also needs to be formally designated as the Town's single Central Business District. Once a single business district is designated, the Town will not be able to designate another area as such within its corporate boundaries.

The statute also requires that the Town wait one year after the designation of the single Central Business District to enter into a development agreement or lease that includes a government property lease excise tax.

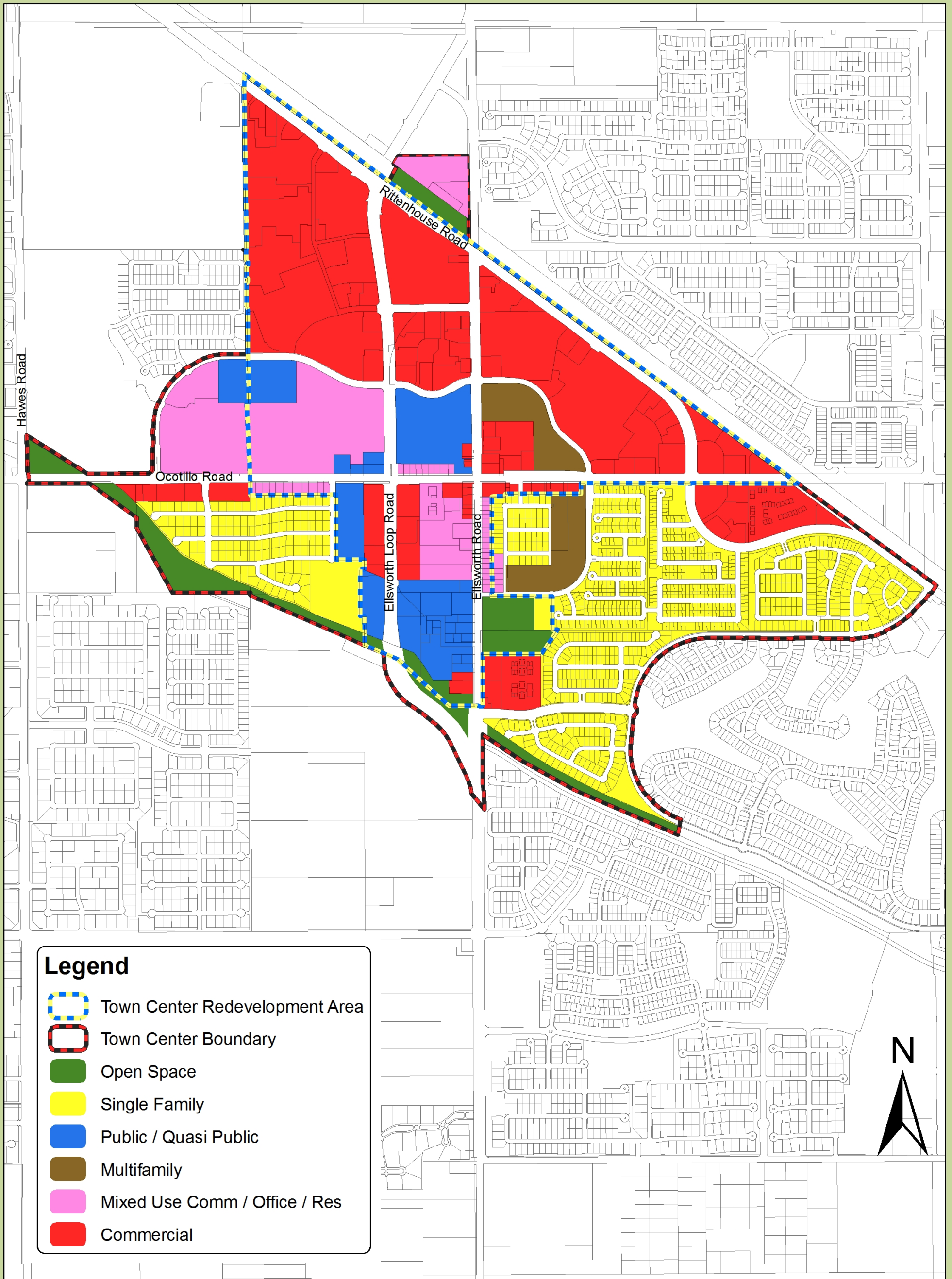
**Fiscal Impact:** No impact.

**Alternatives:**









1. The Mayor and Council may decide not to approve the attached Resolution 948-13 and continue with current practices.

**Attachments:**

- Exhibit A – Boundary of Town Center Redevelopment Area – Single Central Business District
- Resolution 948-13



**Legend**

-  Town Center Redevelopment Area
-  Town Center Boundary
-  Open Space
-  Single Family
-  Public / Quasi Public
-  Multifamily
-  Mixed Use Comm / Office / Res
-  Commercial

All information is believed to be accurate on the date of publication, but is not guaranteed.

Published: 6/21/10

# Town Center Land Use Plan With Redevelopment Area

Approved by Town Council on 4/7/2010  
Resolution 834-10

Created by Dave Williams, Senior Planner 480-358-3089



## RESOLUTION 948-13

### **A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF QUEEN CREEK, MARICOPA COUNTY, ARIZONA, DESIGNATING THE TOWN CENTER REDEVELOPMENT AREA AS THE SINGLE CENTRAL BUSINESS DISTRICT OF THE TOWN.**

**WHEREAS**, in June 1995 the Town Council adopted the Town Center Plan (the “**Plan**”) which established the boundaries of the Town Center Area as defined in the Plan, on April 7, 2010 the Town Council adopted certain revisions to the Plan; and

**WHEREAS**, pursuant to Town Council Resolution 518-05 dated September 7, 2005, the Town designated the Town Center Area a redevelopment area pursuant to Arizona Revised Statutes Title 36, Chapter 12, Article 3, (the “**Town Center Redevelopment Area**”) and adopted the prepared redevelopment plan (the “**Redevelopment Plan**”) for the Town Center Redevelopment Area, which Town Center Redevelopment Area is recognized by the Town as its single central business district pursuant to Arizona Revised Statutes §42-6209; and

**WHEREAS**, the Town Council finds that the Town Center Redevelopment Area is a single and contiguous geographical area, is geographically compact, and is located entirely within the Town Center Redevelopment Area established pursuant to Arizona Revised Statutes Title 36, Chapter 12, Article 3; and

**WHEREAS**, the Town Council further finds that the Town Center Redevelopment Area is geographically compact and no larger than the greater of five percent of the total land area within the exterior boundaries of the Town or six hundred forty acres; and

**WHEREAS**, the Town Council finds that designation of the single central business district will promote the economic and fiscal well being of the Town by allowing the Town to abate certain property taxes for government property improvements, provided such government property improvements satisfy the requirements of state law and provided further that the Town Council specifically finds the government property improvement resulted in, or will result in, an increase in property value of at least one hundred percent.

**NOW, THEREFORE**, be it resolved by the Mayor and Town Council of the Town of Queen Creek, Maricopa County, Arizona, as follows:

Section 1. Pursuant to Arizona Revised Statutes §42-6209, the Town Center Redevelopment Area of the Town of Queen Creek, depicted in Exhibit “A” attached to this Resolution and incorporated herein by reference, is hereby formally designated as the single Central Business District of the Town of Queen Creek, Arizona.

Section 2. The Town shall not approve or enter into a development agreement or a lease for a government property improvement in the single Central Business District within one year from the date of this resolution.

**PASSED AND ADOPTED** by the Mayor Town Council of the Town of Queen Creek, Arizona this 19<sup>th</sup> day of June 2013.

FOR THE TOWN OF QUEEN CREEK:

ATTESTED TO:

\_\_\_\_\_  
Gail Barney, Mayor

\_\_\_\_\_  
Jennifer F. Robinson, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:

\_\_\_\_\_  
John Kross, Town Manager

\_\_\_\_\_  
Dickinson, Wright, Mariscal, Weeks  
Town Attorneys



Requesting Department:

Town Manager's Office

TAB D

**TO: HONORABLE MAYOR AND TOWN COUNCIL**

**FROM: JOHN KROSS, TOWN MANAGER**

**RE: DISCUSSION/ACTION ON APPROVAL OF RESOLUTIONS 950-13 AMENDED AND RESTATED JOINT POWERS AUTHORITY AGREEMENT; AND 951-13 AMENDMENT NO. 1 OF THE INTERGOVERNMENTAL AGREEMENT (IGA) OF THE PHOENIX-MESA GATEWAY AIRPORT AUTHORITY**

**DATE: JUNE 19, 2013**

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**Staff Recommendation:**

Staff recommends approval of the Resolutions approving adding the City of Apache Junction to the Phoenix-Mesa Gateway Airport Authority.

**Relevant Council Goal(s):**

Council Goal #2: Continue to provide for a safe community in the Town of Queen Creek.

**Proposed Motion:**

Motion to approve Resolutions 950-13 and 951-03, approving the amended and restated Joint Powers Authority Agreement and Amendment Number One of the IGA of the Phoenix-Mesa Gateway Airport Authority, adding the City of Apache Junction to the Phoenix-Mesa Gateway Airport Authority.

**Discussion:**

The City of Apache Junction desires membership in the Phoenix-Mesa Gateway Airport's Joint Powers Authority (JPA). Apache Junction requests membership due to anticipated regional economic and market impacts that may be of interest to their community.

Approval to add Apache Junction to the Gateway Airport Authority requires approval/amendment of two documents by all member governments: 1) amended and restated Joint Powers Authority Agreement from the original formation agreement (Resolution 950-13) and, 2) approval of amendment number one to the member government's Intergovernmental Agreement (IGA) to accommodate the initial financial investment and ongoing financial commitment (Resolution 951-13).

The Phoenix-Mesa Gateway Airport Authority was established in May 1994 and included Gilbert, Mesa and Queen Creek as original forming government members. The existing membership consists of an additional two members, Phoenix and the Gila River Indian Community and with the addition of Apache Junction, will make the membership a total of six. Local financial contributions have totaled over \$80 million in order to bring the former Williams Air Force Base up to a fully operational commercial service airport. Apache Junction will contribute \$400,000 and an additional \$130,000 annually beginning in July or August, pending all member government's approval. Queen Creek's annual contribution for next fiscal year is budgeted at \$130,000. To date, the Town has contributed over \$2.5 million in the airport authority. With the exception of downtown Phoenix, the Phoenix-Mesa Gateway Airport is the largest workforce development center in the entire Phoenix region and is included in the Town's economic development strategic plan.

**Fiscal Impact:**

There is not a direct financial impact to approval of these amendments and resolutions.

**Alternatives:**

Council could delay the consideration of the resolutions until the July meeting. It is important to note that all member governments must approve the documents in order to approve Apache Junction into membership at the Authority.

**Attachments:**

Resolutions 950-13 Amended and Restated JPA; and 951-13 Amendment No. 1 to IGA.



## **RESOLUTION 950-13**

### **A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF QUEEN CREEK, ARIZONA, ADOPTING THE AMENDED AND RESTATED JOINT POWERS AUTHORITY AGREEMENT OF THE PHOENIX-MESA GATEWAY AIRPORT AUTHORITY BY ADDING THE CITY OF APACHE JUNCTION AS A MEMBER GOVERNMENT.**

WHEREAS, the original joint powers airport authority agreement was made and entered into as of 19th day of May, 1994, by and among the Gilbert, Mesa, and Queen Creek and recorded on May 19, 1994, as Instrument No. 94-0400695, official records of Maricopa County, Arizona;

WHEREAS, through the original joint powers airport authority agreement, it was the desire of the Town that the joint powers airport authority agreement take the place of and cancel the Intergovernmental Agreement (Williams Air Force Base- Management and Operation) that was recorded on December 14, 1992 at Recorder's No. 92-0712408 in the records of Maricopa County, Arizona, the substance of which was incorporated in the original joint powers airport authority agreement;

WHEREAS, by entering into the original joint powers airport authority agreement, the parties to that agreement desired to establish a joint powers airport authority to develop, reuse, operate, and maintain the existing Williams aviation facilities. Upon establishment of the joint powers airport authority, the new facilities were known as the Williams Gateway Airport Authority;

WHEREAS, Via 1995 and 2006 Amendments to the original joint powers airport authority agreement, the Gila River Indian Community and Phoenix were added as Members of the Airport Authority, respectively;

WHEREAS, via 2009 Amendment, the legal name of the entity was changed to the Phoenix-Mesa Gateway Airport Authority.

WHEREAS, Apache Junction desires to become a Member of the Airport Authority;

WHEREAS, the Town of Queen Creek agrees, pursuant to the adoption of this Agreement, that Apache Junction shall be a Member of the Airport Authority, effective as of July 1, 2013.

WHEREAS, the Town is authorized by the provisions of Arizona Revised Statutes to enter into joint powers agreements; and,

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the Town of Queen Creek, Arizona, as follows:

**Section 1.** The Town of Queen Creek approves with this Resolution the Amended and Restated Joint Powers Agreement of the Phoenix-Mesa Gateway Airport Authority.

PASSED AND APPROVED by the Mayor and Common Council of the Town of Queen Creek, this 19<sup>th</sup> day of June 2013.

FOR THE TOWN OF QUEEN CREEK

ATTESTED TO:

\_\_\_\_\_  
Gail Barney, Mayor

\_\_\_\_\_  
Jennifer Robinson, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:

\_\_\_\_\_  
John Kross, Town Manager

\_\_\_\_\_  
Fredda Bisman,  
Dickinson Wright Mariscal  
Weeks, Town Attorneys

# PHOENIX-MESA GATEWAY AIRPORT AUTHORITY

## AMENDED AND RESTATED JOINT POWERS AIRPORT AUTHORITY AGREEMENT

This Amended and Restated Joint Powers Airport Authority Agreement (the "Agreement") establishing and continuing the Phoenix-Mesa Gateway Airport Authority (the "Airport Authority"), is made and entered into as of \_\_\_\_ day of \_\_\_\_\_, 2013, pursuant to Arizona Revised Statutes Section 28-8521, et seq., by and among the Town of Gilbert, an Arizona municipal corporation ("Gilbert"), the City of Mesa, an Arizona municipal corporation ("Mesa"), the Town of Queen Creek, an Arizona municipal corporation ("Queen Creek"), the Gila River Indian Community ("Community"), a \_\_\_\_\_, the City of Phoenix, an Arizona municipal corporation ("Phoenix"), and the City of Apache Junction, an Arizona municipal corporation ("Apache Junction") (collectively and individually, "Members" or "Member").

The parties to this Agreement agree as follows:

### **Section 1**    **Recitals.**

1.1.    The United States closed Williams Air Force Base ("Williams") as an operating location of the United States Air Force ("USAF").

1.2    Williams had existing aviation facilities that are suited to be operated and developed as an airport facility pursuant to the joint powers airport authority powers found in Arizona Revised Statutes ("A.R.S.") Section 28-8521, *et seq.*

1.3    The original joint powers airport authority agreement was made and entered into as of 19th day of May, 1994, by and among the Gilbert, Mesa, and Queen Creek and recorded on May 19, 1994, as Instrument No. 94-0400695, official records of Maricopa County, Arizona.

1.4    Through the original joint powers airport authority agreement, it was the desire of Gilbert, Mesa, and Queen Creek that the joint powers airport authority agreement take the place of and cancel the Intergovernmental Agreement (Williams Air Force Base- Management and Operation) that was recorded on December 14, 1992 at Recorder's No. 92-0712408 in the records of Maricopa County, Arizona, the substance of which was incorporated in the original joint powers airport authority agreement.

1.5    By entering into the original joint powers airport authority agreement, the parties to that agreement desired to establish a joint powers airport authority to develop, reuse, operate, and maintain the existing Williams aviation facilities. Upon establishment of the joint powers airport authority, the new facilities were known as the Williams Gateway Airport Authority.

1.5.1    Via 1995 and 2006 Amendments to the original joint powers airport authority agreement, the Community and Phoenix were added as Members of the Airport Authority, respectively.

1.5.2 Via 2009 Amendment, the legal name of the entity was changed to the Phoenix-Mesa Gateway Airport Authority.

1.6 Apache Junction desires to become a Member of the Airport Authority.

1.7 The parties agree, pursuant to the adoption of this Agreement, that Apache Junction shall be a Member of the Airport Authority, effective as of July 1, 2013.

**Section 2 Formation of Authority.**

2.1. Upon approval and execution of this Agreement by all the parties, a joint powers airport authority called the Phoenix-Mesa Gateway Airport Authority is formed with all parties as Members pursuant to A.R.S. Section 28-8521, with all powers granted to it under Arizona law.

**Section 3 Board of Directors and Officers.**

3.1. Upon execution of this Agreement, each Member shall appoint one representative to act with the authority of the appointing Member for the purpose of implementing this Agreement. Each Member shall also designate at least one alternate representative to act with the authority of the appointing Member in the absence of the representative. The appointed representative and all alternates shall be duly elected or appointed members of the governing body of the appointing Member. Notice of such appointment and of any subsequent replacement appointment shall be delivered in writing to the other Members of the Airport Authority.

3.2 The appointing authority as to each Member shall be each Member's respective governing body.

3.3 Each representative so appointed shall be a Director on the Board of Directors of the Airport Authority. The Board of Directors shall consist of only the representatives appointed by the Members of the Airport Authority. In the absence of the representative or alternate representatives, any representative of the Member governing body attending Board meetings or otherwise implementing this Agreement is presumed to act with the authority of the Member governing body.

3.4 The Board of Directors may establish a fixed time, date and place for regularly scheduled meetings. Special meetings of the Board may be called by the Chairman on no less than 24-hours' notice to the public, and each Director, either personally or by mail or by facsimile or by telephone. Notice of meetings of the Board shall be provided and meetings shall be conducted in accordance with the Arizona open meeting law, A.R.S. Section 38-431, *et seq.* Nothing herein shall prohibit the holding of an emergency session on less than 24-hours' notice in accordance with the provisions of the Arizona open meeting law. A Board Member may attend a Board meeting via electronic means, including telephonic conference. The Board may conduct a telephonic Board meeting so long as such telephonic meeting is conducted in accordance with the provisions of the Arizona open meeting law.

3.5 A majority of the membership of the Board of Directors shall constitute a quorum. A quorum shall be necessary to conduct the business of the Board. If a quorum is lost at

any meeting of the Board of Directors, the remaining Directors present at the meeting may recess the meeting from time to time, without notice other than an announcement at the meeting, until a quorum shall be present.

3.6 The Board of Directors shall annually choose from its Directors a Chairman, a Vice Chairman and a Secretary, each of whom shall serve at the pleasure of the Board of Directors. The Board of Directors at any time may appoint such other officers and agents as it shall deem necessary who shall hold their offices at the pleasure of the Board of Directors and who shall exercise such powers and perform such duties as shall be determined from time to time by the Board.

3.7 The Chairman, or in the Chairman's absence, the Vice Chairman, shall preside at all meetings of the Board of Directors. In the absence of the Chairman and Vice Chairman, the Secretary shall preside at the meeting of the Board of Directors.

3.8 The Secretary shall see that the minutes of all meetings of the Board of Directors are kept.

**Section 4 Airport Authority Staff.**

4.1 The Board of Directors shall employ an Executive Director and approve an annual budget for such other managers and staff as the Executive Director shall deem necessary to manage and conduct the operations, maintenance and development of the airport facilities in accordance with the provisions of this Agreement and policies and procedures approved by the Board of Directors. The Executive Director shall report directly to the Board of Directors and shall supervise the Airport Authority Staff.

**Section 5 Ownership of Airport Facilities.**

5.1 Upon conveyance by the USAF to the Airport Authority, title to all or a portion of the certain aviation facilities, both real and personal property, formerly owned and operated by the USAF at Williams situated in the County of Maricopa, State of Arizona ("Airport Facilities"), shall be held by the Airport Authority.

5.2 The Airport Authority may acquire or convey real and personal property from time to time.

5.3 Development, reuse, operation, and maintenance of the Airport Facilities shall be overseen by the Board of Directors and shall be conducted in accordance with the provisions of this Agreement and policies and procedures developed hereunder.

5.4 Each Member agrees that should said Member withdraw from the Airport Authority pursuant to Section 10, effective upon such withdrawal, any ownership rights of said Member in the Airport Facilities shall also terminate. A Member shall not be deemed to have withdrawn from the Airport Authority simply by virtue of the termination of this Agreement pursuant to Section 13. Each Member hereto also agrees to execute upon withdrawal any and all documents necessary to evidence and effectuate such withdrawal.

**Section 6      Repayment of Funds Advanced by Members of the Airport Authority.**

6.1.      The Airport Authority recognizes that payments previously made by Members of the Airport Authority shall be considered loans and shall be reimbursed to such Members by the Airport Authority at such time as the Airport Authority's Board of Directors deems appropriate. In addition, the Airport Authority recognizes that any future payments made to the Airport Authority by the Members shall be considered loans and shall be reimbursed to the Members by the Airport Authority at such time as the Airport Authority's Board of Directors deems appropriate.

**Section 7      Powers of the Phoenix-Mesa Gateway Airport Authority.**

The Phoenix-Mesa Gateway Airport Authority, acting through the Board of Directors, may:

7.1      Own, operate, and maintain property and facilities related to aviation, air navigation, and aerospace.

7.2      Own and lease property and facilities that are not related to aviation, air navigation, and aerospace.

7.3      Prescribe user fees and charges.

7.4      Operate facilities and construct improvements.

7.5      If authorized by the Members, exercise the right of eminent domain in the names of the Members.

7.6      Engage employees and consultants.

7.7      Enter into contracts, leases, and development agreements.

7.8      Enter into agreements with the State of Arizona, any political subdivision of the State, or the federal government.

7.9      Prepare and receive annual operating budgets.

7.10     Borrow money and issue revenue bonds, and issue other financial obligations incurred for the purposes of this Section and authorized under A.R.S. Section 28-8521, *et seq.*

7.11     Sue and be sued.

7.12     Exercise incidental powers as may be necessary to the exercise of the powers prescribed in this Section and under A.R.S. Sections 28-8527 and 28-8529, and to implement the responsibilities, goals, and purpose of the Airport Authority.

**Section 8      Voting Rights.**

8.1      Each Member of the Board of Directors is entitled to one vote, and a motion will carry if supported by a majority of the quorum unless a Member requests that a weighted vote be taken. If a weighted vote is requested, then the following shall apply:

8.1.1    Each Member of the Board of Directors is entitled to a weighted vote equal to that Member's cumulative investment as a percentage of the total investment made by all current Members beginning in 1993 when the initial Intergovernmental Agreement Group was formed.

8.1.2    If any Member's weighted vote calculated under this Section 8 exceeds 50%, then the weighted vote for that Member shall be deemed equal to the sum of the weighted vote of all the other Members combined. In the event of such a weighted vote calculation, each Member's weighted vote shall be proportionately adjusted in order to provide that the weighted vote of all Members equals 100% combined.

8.1.2.1 By way of example and not limitation, if a Member's weighted vote is calculated at 68% under Section 8.1.1, that Member's weighted vote would then be deemed to be 50%, with the remaining Members holding a proportionate share of the remaining 50% of the total weighted vote.

8.1.3    A two-thirds majority is required for a motion to carry.

8.2.      Weighted voting may not be invoked for votes being taken regarding modifications to the approved airport layout plan and airport master plan, or for adjustments to the percentage contributions or the amounts of each Member contribution to the annual budget.

**Section 9      Operating Budget.**

9.1      The fiscal year of the Airport Authority shall run from July 1 to June 30.

9.2      The Board of Directors shall, by April 1 of each fiscal year, recommend to the Members of the Airport Authority an annual operating budget for the Airport Authority for the next fiscal year and shall state the amounts of each Member contribution or proportion of the Airport Authority's annual operating budget to be provided by each Member. At least thirty (30) days before the annual budget is recommended to the Members of the Airport Authority by the Board of Directors, the Board may consider adjustments to the amounts of each Member contribution or percentage contributions of each Member. Adjustments to the amounts of each Member contribution or percentage contributions of any Member must be approved by a unanimous vote.

9.3      By June 15 of each year, the Board of Directors shall, if necessary due to the addition or withdrawal of Members, have decided by a unanimous vote on the amounts of each Member contribution or a reallocation of the percentage contributions among the Members or have assigned each Member its pro rata increase or decrease in contribution.

9.4 The governing bodies of the Airport Authority's Members, including any new Members admitted pursuant to Section 11 shall approve and adopt the operating budget recommended by the Board, as may be revised pursuant to Section 9.3, by June 30 of each year or withdraw from the Airport Authority pursuant to Section 10.

9.5 The Board of Directors may from time to time recommend to the Members of the Airport Authority amendments to the approved and adopted operating budget. The governing bodies of the Members shall approve amendments to the operating budget or withdraw from the Airport Authority pursuant to Section 10.

9.6 The Airport Authority shall adopt and periodically amend a reuse and development plan and a capital improvements plan. Expenditures for or by the Airport Authority shall be consistent with these plans. In addition, expenditures by the Airport Authority shall be limited to those items that directly relate to or benefit the operation and development of the Airport Facilities and the Airport Authority.

**Section 10 Withdrawal From Airport Authority.**

10.1. No Member shall have the right to withdraw from the Airport Authority during the term of this Agreement except as provided in this Section.

10.2 At least one hundred twenty (120) days prior to the withdrawal deadline, a Member that intends to withdraw from the Airport Authority must provide a written notice of intent to withdraw to the Members of the Airport Authority, but if a Member provides a notice of intent to withdraw between one hundred twenty (120) and one hundred fifty (150) days prior to the withdrawal deadline, then other Members may submit notices of intent to withdraw up to thirty (30) days prior to the withdrawal deadline. The withdrawal deadline shall be February 28 of each fiscal year.

10.3 The withdrawing Member shall pay its pro rata annual budget allocation for the current fiscal year and its pro rata share of any outstanding obligations to which the withdrawing Member has obligated itself. Any obligations of the withdrawing Member shall remain outstanding until fully paid and satisfied.

**Section 11 Admission To Airport Authority.**

11.1. A city, town, county or American Indian Community may be admitted to the Airport Authority upon: (1) written request to the existing Members of the Airport Authority prior to February 1 of each fiscal year; (2) the unanimous approval of the existing Members of the Airport Authority no later than June 30 of each fiscal year but after recommendation of the annual budget to the Members of the Airport Authority; and (3) execution, acknowledgement, and deliverance to the Airport Authority of such instruments as the Members may deem necessary or advisable to effect the admission of such city, town, or county as an additional Member, including (without limitation) the written acceptance and adoption by such city, town, county or American Indian Community of the provisions of this Agreement.

11.2 The fiscal obligations of a new Member are not effective until the beginning of the new fiscal year.



11.3 The parties acknowledge that Gilbert, Mesa, and Queen Creek waived all notice and procedural requirements for admission of the Community when it became a Member of the Airport Authority, effective July 1, 1995.

11.4 The parties hereby waive all notice and procedural requirements in this Agreement for admission that may apply to the admission of Apache Junction when it becomes a Member effective July 1, 2013.

**Section 12 Effective Date.**

12.1. This Agreement shall become effective (the "Effective Date") on the later of its filing with the Arizona Secretary of State and the Maricopa County Recorder in accordance with Section 19 hereof.

**Section 13 Termination of Airport Authority.**

13.1. This Agreement shall remain in full force and effect unless modified or terminated by written agreement of a majority of the Members of the Airport Authority. This Agreement shall also be deemed terminated should all parties hereto have exercised their right to withdraw from the Airport Authority in accordance with Section 10 of this Agreement.

13.2 Notwithstanding the right to withdraw set forth in Section 10, each party hereto agrees to remain a Member of the Airport Authority and to be bound by this Agreement for at least one year after the Effective Date.

13.3 Unless otherwise agreed to by a majority of the Members of the Airport Authority, upon termination of this Agreement:

13.3.1 If one Member agrees to assume ownership of the Airport Facilities and agrees to assume the financial obligations of all Members, then the Airport Authority shall transfer title of the Airport Facilities to such Member.

13.3.2 If no Member agrees to assume ownership of the Airport Facilities and the financial obligations of all Members, and if the State of Arizona agrees to assume such ownership and financial obligations, then the Airport Facilities shall be transferred to the State of Arizona.

13.3.3 If the State of Arizona refuses to assume ownership of the Airport Facilities, then the Airport Facilities shall revert to the United States of America.

**Section 14 Annual Report to Legislature.**

The Chairperson of the Board of Directors of the Airport Authority shall annually present a report of the activities of the Airport Authority to the State House of Representatives, Ways and Means Committee, and the State Senate Finance Committee.

**Section 15      Governing Law.**

This Agreement and the obligations of the Members hereunder shall be interpreted, construed and enforced in accordance with the laws of the State of Arizona. The court with the original jurisdiction for causes of action arising under this Agreement is the United States District Court for the State of Arizona. The Community agrees to, and does hereby waive its sovereign immunity from the jurisdiction of the United States District Court for the State of Arizona in any action arising under this Agreement brought by or against the Community. The Community further agrees to accept and be bound by, thereby waiving its sovereign immunity from, a judgment or order which is final (because either the time for appeal thereof has expired or the judgment or order is issued by a court or other entity having final appellate jurisdiction over the matter is not subject to collateral attack) by any such court or any court or entity having appellate jurisdiction over any such court in any such action. The Community waives its sovereign immunity to the enforcement of any such final judgment against it without limitation. The Community hereby designates the Community's Governor as the appropriate party for the purposes of service of process. If the United States District Court for the State of Arizona finds that it does not have jurisdiction in any action arising under this Agreement brought by or against the Community, then the Parties agree that the action shall be adjudicated through arbitration in the State of Arizona as follows:

i.)      the parties shall attempt to agree upon one arbitrator with expertise on the subject matter of the dispute;

ii.)     if the parties are unable to agree on an arbitrator, each party shall select an arbitrator within ten (10) days of the commencement of the arbitration and the two (2) arbitrators shall mutually appoint a third arbitrator within twenty (20) days of their appointment. If the two arbitrators are unable to agree on the appointment of a third arbitrator within twenty (20) days, the third arbitrator shall be appointed by the American Arbitration Association; and

iii.)    the arbitrator(s) shall confer with the parties immediately after appointment to determine an arbitration schedule including whether and to what extent discovery is required. The arbitrator(s) may set the matter for an evidentiary hearing or oral argument, or may dispose of the dispute based upon written submissions only. The decision of the majority of the arbitrator(s) shall be final, binding, and unappealable. Such decision shall be enforceable in United States District Court for the State of Arizona. The cost of arbitration shall be borne equally by the parties. The parties shall bear their own costs and attorney's fees associated with their participation in the arbitration unless the decision of the arbitrator shall specify otherwise.

**Section 16      Amendments.**

This Agreement may be amended only by an instrument in writing approved and signed by all of the Members.

**Section 17      Legal Counsel Review.**

This Agreement shall be submitted to the legal counsel for each party hereto prior to its execution by said party, in order to determine whether this Agreement is in proper form and is

within the powers and authority granted under the laws applicable to said party. Attached hereto and incorporated herein by reference is a copy of said written determination of each party's legal counsel.

**Section 18     Notices.**

All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail as follows:

Town of Gilbert  
50 East Civic Center Drive  
Gilbert, Arizona 85296  
Attention: Town Manager

City of Mesa  
20 E. Main Street  
Mesa, Arizona 85201  
Attention: City Manager

Town of Queen Creek  
22358 South Ellsworth Road  
Queen Creek, Arizona 85142  
Attention: Town Manager

Gila River Indian Community  
Administrative Offices  
P.O. Box 97  
Sacaton, Arizona 85147  
Attention: Lieutenant Governor

City of Phoenix  
3400 E. Sky Harbor Blvd., Suite 3300  
Phoenix, Arizona 85034  
Attention: Aviation Director

City of Apache Junction  
300 E. Superstition Blvd.  
Apache Junction, AZ 85119  
Attention: City Manager

**Section 19     Filing.**

A completely executed copy of this Agreement shall be filed with the Arizona Secretary of State, the Maricopa County Recorder, and the City Clerk, or the Town Clerk, as appropriate, of each other party hereto.

**Section 20     Remedies.**

In the event of any violation or threatened violation by any party to this Agreement, of any of the terms, restrictions, acknowledgements, covenants or conditions of this Agreement, the other parties hereto shall be entitled to full and adequate relief by injunction and all other legal and equitable remedies.

**Section 21     Cancellation.**

This Agreement may be canceled pursuant to Arizona Revised Statutes, Section 38-511.

**Section 22     Approving Action.**

Copies of appropriate action by ordinance, resolution or otherwise authorizing the respective parties to enter into this Agreement are attached hereto as Exhibit A. The Agreement may be signed in any number of counterparts, each of which, when executed and delivered, shall be deemed to be an original, but all of which taken together shall constitute one of the same instrument.

**Section 23     Federal Aviation Administration.**

The parties recognize that contributions by Phoenix will be obtained from its Aviation Department. Those contributions are subject to review by the Federal Aviation Administration. Nothing herein requires any Member to contribute funding contrary to the Federal Aviation Administration's policies and procedures.

**Section 24     Bond Ordinances.**

Notwithstanding any of the provisions in this Agreement, no Member assumes any obligation in connection with this Agreement that will have priority over or parity with any bond issued by each Member in its individual capacity.

**Section 25     Audit Records.**

The parties, the Federal Aviation Administration, the Comptroller of the United States, or any duly authorized representative reserves the right, at reasonable times, to audit and/or copy the Airport Authority's books and records directly pertinent to this Agreement. Nothing herein requires the Airport Authority to create or maintain any records that the Airport Authority does not maintain in the ordinary course of business or pursuant to a provision of law.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as provided in Section 12.

Attest:

TOWN OF GILBERT

By \_\_\_\_\_  
Town Clerk

By \_\_\_\_\_  
John Lewis, Mayor

Attest:

CITY OF MESA

By \_\_\_\_\_  
City Clerk

By \_\_\_\_\_  
Scott Smith, Mayor

Attest:

TOWN OF QUEEN CREEK

By \_\_\_\_\_  
Town Clerk

By \_\_\_\_\_  
Gail Barney, Mayor

Attest:

GILA RIVER INDIAN COMMUNITY

By \_\_\_\_\_

By \_\_\_\_\_  
Gregory Mendoza, Governor

Attest:

CITY OF PHOENIX

By \_\_\_\_\_  
City Clerk

By \_\_\_\_\_  
David Cavazos, City Manager

Attest:

CITY OF APACHE JUNCTION

By \_\_\_\_\_  
City Clerk

By \_\_\_\_\_  
John Insalaco, Mayor

DETERMINATION OF LEGAL COUNSEL

The amended and restated Joint Powers Airport Authority Agreement has been reviewed by the undersigned attorneys who have determined that it is in proper form and within the power and authority granted under the applicable laws of each party.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Gila River Indian Community  
Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Gilbert Town Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mesa City Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Phoenix City Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Queen Creek Town Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Apache Junction City Attorney

**EXHIBIT A**

**[Ordinance, Resolution or Minutes Approving JPAA Agreement]**

(Attached)

## RESOLUTION 951-13

### **A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF QUEEN CREEK, ARIZONA, ADOPTING AMENDMENT NUMBER ONE OF THE INTERGOVERNMENTAL AGREEMENT OF THE PHOENIX-MESA GATEWAY AIRPORT AUTHORITY.**

WHEREAS, the original joint powers airport authority agreement was made and entered into as of 19th day of May, 1994, by and among the Gilbert, Mesa, and Queen Creek and recorded on May 19, 1994, as Instrument No. 94-0400695, official records of Maricopa County, Arizona;

WHEREAS, the Town of Queen Creek, along with the Town of Gilbert, City of Mesa, Phoenix and the Gila River Indian Community are Members of the Phoenix-Mesa Gateway Airport Authority pursuant to the Amended and Restated JPAAA dated May 22, 2006, filed with the Arizona Secretary of State on July 20, 2006 (the "2006 PMGAA Agreement");

WHEREAS, the Authority was established pursuant to Arizona Revised Statutes ("A.R.S."), Section 28-8521, *et seq.* for the purposes of acquiring, developing and operating an airport and related facilities (the "Airport Facilities") located on a portion of the property formerly known as Williams Air Force Base (the "Base Property"), now known as the Phoenix-Mesa Gateway Airport (the "Airport");

WHEREAS, Apache Junction has requested and the Authority and its Members have approved Apache Junction as a Member of the Authority, by adopting, along with Apache Junction, the Amended and Restated Joint Powers Airport Authority Agreement;

WHEREAS, the Town of Queen Creek, along with the Phoenix-Mesa Gateway Airport Authority, including member governments of Gilbert, Mesa, Phoenix and the Gila River Indian Community entered into the 2006 IGA to add Phoenix as a Member of the Authority and to establish Phoenix's financial contribution to the Phoenix-Mesa Gateway Airport Authority;

WHEREAS, to date, the Town of Queen Creek, Mesa, Gilbert, the Gila River Indian Community and Phoenix have contributed more than \$80 million to the operation, maintenance and development of the Airport;

WHEREAS, Apache Junction intends to become a meaningful proprietor, along with the Town of Queen Creek and the other Members of the Authority, which are also meaningful proprietors of the Authority, by participating as a Member of the Authority;

WHEREAS, the Town of Queen Creek is interested in adding another financial partner to help develop the Airport and the Airport Facilities;



WHEREAS, the Town of Queen Creek, the Phoenix-Mesa Gateway Airport Authority, Gilbert, Mesa, the Gila River Indian Community, Phoenix, and Apache Junction desire to amend the 2006 IGA to recognize Apache Junction as a Member of the Authority and to establish Apache Junction's financial contribution to the Authority.

WHEREAS, the Town is authorized by the provisions of Arizona Revised Statutes to enter into Intergovernmental Agreements; and,

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the Town of Queen Creek, Arizona, as follows:

**Section 1.** The Town of Queen Creek approves with this Resolution, Amendment No. 1 of the Phoenix-Mesa Gateway Airport Authority Intergovernmental Agreement.

PASSED AND APPROVED by the Mayor and Common Council of the Town of Queen Creek, this 19<sup>th</sup> day of June 2013.

FOR THE TOWN OF QUEEN CREEK

ATTESTED TO:

\_\_\_\_\_  
Gail Barney, Mayor

\_\_\_\_\_  
Jennifer Robinson, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:

\_\_\_\_\_  
John Kross, Town Manager

\_\_\_\_\_  
Fredda Bisman,  
Dickinson Wright Mariscal  
Weeks, Town Attorneys

**AMENDMENT NO. 1**

**to the**

**AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT**

**(PHOENIX-MESA GATEWAY AIRPORT AUTHORITY)**

THIS AMENDMENT NO. 1 TO THE AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT (this "Amendment No. 1"), amending that certain Amended and Restated Intergovernmental Agreement, dated May 22, 2006, and filed with the Arizona Secretary of State on July 20, 2006 (the "2006 IGA") is entered into as of the 1st day of July, 2013 (the "Effective Date"), by and among the PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, an Arizona joint powers airport authority (the "Authority" or "PMGAA"), the TOWN OF GILBERT, an Arizona municipal corporation, as a Member of the Authority ("Gilbert"), the CITY OF MESA, an Arizona municipal corporation, as a Member of the Authority ("Mesa"), the TOWN OF QUEEN CREEK, an Arizona municipal corporation, as a Member of the Authority ("Queen Creek"), the GILA RIVER INDIAN COMMUNITY as a Member of the Authority (the "Community"), the CITY OF PHOENIX, an Arizona municipal corporation, as a Member of the Authority ("Phoenix") and the CITY OF APACHE JUNCTION, an Arizona municipal corporation ("Apache Junction"), collectively the "Parties" or "Members."

**RECITALS**

A. Gilbert, Mesa, Queen Creek, the Community and Phoenix are Members of the Authority pursuant to the Amended and Restated JPAAA dated May 22, 2006, filed with the Arizona Secretary of State on July 20, 2006 (the "2006 PMGAA Agreement").

B. The Authority was established pursuant to Arizona Revised Statutes ("A.R.S."), Section 28-8521, *et seq.* for the purposes of acquiring, developing and operating an airport and related facilities (the "Airport Facilities") located on a portion of the property formerly known as Williams Air Force Base (the "Base Property"), now known as the Phoenix-Mesa Gateway Airport (the "Airport").

C. Apache Junction has requested and the Authority and its Members have approved Apache Junction as a Member of the Authority, by adopting, along with Apache Junction, the Amended and Restated Joint Powers Airport Authority Agreement dated \_\_\_\_\_, and filed with the Arizona Secretary of State on \_\_\_\_\_ ("2013 PMGAA Agreement").

D. The Authority, Gilbert, Mesa, Queen Creek, the Community and Phoenix entered into the 2006 IGA to add Phoenix as a Member of the Authority and to establish Phoenix's financial contribution to the Phoenix-Mesa Gateway Airport Authority.

E. To date, Mesa, Gilbert, Queen Creek, the Community and Phoenix have contributed more than \$80 million to the operation, maintenance and development of the Airport.

F. Apache Junction intends to become a meaningful proprietor, along with the other Members of the Authority, which are also meaningful proprietors of the Authority, by participating as a Member of the Authority.

G. The Authority is interested in adding another financial partner to help develop the Airport and the Airport Facilities.

H. The Authority, Gilbert, Mesa, Queen Creek, the Community, Phoenix, and Apache Junction desire to amend the 2006 IGA to recognize Apache Junction as a Member of the Authority and to establish Apache Junction's financial contribution to the Authority.

### **AMENDMENT**

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree to the terms of Amendment No. 1 as follows, all other terms and conditions of the 2006 IGA to remain in full force and effect:

#### **Section 1. Apache Junction Agreement**

Apache Junction hereby agrees to all the terms and conditions set forth in the 2006 IGA. Upon the approval of all Parties to this Amendment No. 1, all references to "parties" or "party" or "members" or "member" in the 2006 IGA shall include Apache Junction.

#### **Section 2. Development of Authority's Budget.**

2.1 Each Member shall contribute funds for the PMGAA annual (operating and capital) budget as approved by the Authority's Board of Directors pursuant to Sections 8 and 9 of the 2013 PMGAA Agreement.

2.2 For fiscal year 2014, in addition to its annual Member contribution for fiscal year 2014, Apache Junction will contribute a one-time payment of \$400,000 to the Authority. This investment will evidence Apache Junction's meaningful participation in the Authority, the proprietor of the Airport.

2.3 Apache Junction will commit a minimum of \$130,000 as its annual Member contribution for fiscal years 2014-2018.

**Section 3. Notices.**

Section 15 of the 2006 IGA is amended to include the following information:

City of Mesa  
20 E. Main Street  
Mesa, Arizona 85201  
Attention: City Manager

City of Apache Junction  
300 East Superstition Boulevard  
Apache Junction, Arizona 85119  
Attention: City Manager

**Section 4. Approving Action of Amendment.**

4.1 Copies of appropriate action by ordinance, resolution or otherwise authorizing the respective Parties approving this Amendment No. 1 are attached hereto as Exhibit A and incorporated herein by reference.

**Section 5. Counterparts.**

5.1 This Amendment No. 1 may be executed in any number of counterparts, all such counterparts shall be deemed to constitute one and the same instrument, and each of said counterparts shall be deemed original hereof.

**Section 6. Affirmation of 2006 IGA.**

6.1 Except as specifically amended by this Amendment No. 1, the provisions of the 2006 IGA are hereby affirmed and remain in full force and effect.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have approved and executed this Amendment No. 1 to be effective as of the date set forth above.

Attest:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY

By \_\_\_\_\_  
Board Secretary

By \_\_\_\_\_  
Scott Smith, Chairperson

Attest:

TOWN OF GILBERT

By \_\_\_\_\_  
Town Clerk

By \_\_\_\_\_  
John Lewis, Mayor

Attest:

CITY OF MESA

By \_\_\_\_\_  
City Clerk

By \_\_\_\_\_  
Scott Smith, Mayor

Attest:

TOWN OF QUEEN CREEK

By \_\_\_\_\_  
Town Clerk

By \_\_\_\_\_  
Gail Barney, Mayor

Attest:

GILA RIVER INDIAN COMMUNITY

By \_\_\_\_\_

By \_\_\_\_\_  
Gregory Mendoza, Governor

Attest:

CITY OF PHOENIX

By \_\_\_\_\_  
City Clerk

By \_\_\_\_\_  
David Cavazos, City Manager

Attest:

CITY OF APACHE JUNCTION

By \_\_\_\_\_  
City Clerk

By \_\_\_\_\_  
John Insalaco, Mayor

DETERMINATION OF LEGAL COUNSEL

The foregoing Amendment No. 1 has been reviewed by the undersigned attorneys who have determined that, with respect to their respective clients only, it is in proper form and within the power and authority granted under the applicable laws of each party.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Phoenix-Mesa Gateway Airport Authority Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Gilbert Town Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mesa City Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Queen Creek Town Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Gila River Indian Community Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Phoenix City Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Apache Junction City Attorney

**EXHIBIT A  
TO  
AMENDMENT NO. 1 to the  
2006 IGA**

**[Approving Action]**

See following pages.



Requesting Department:

**Fire Department**

**TAB E**

**TO: HONORABLE MAYOR AND TOWN COUNCIL**

**THROUGH: JOHN KROSS, TOWN MANAGER**

**FROM: RON KNIGHT, INTERIM FIRE CHIEF**

**RE: CONSIDERATION AND POSSIBLE APPROVAL OF BASE STATION AGREEMENT WITH MERCY GILBERT HOSPITAL**

**DATE: June 19, 2013**

---

**Staff Recommendation:**

Staff recommends that the Town Council approve the Emergency Base Station Agreement with Dignity Health (Mercy Gilbert Medical Center).

**Relevant Council Goal(s):**

KRA 5: Public Safety (Fire, Emergency Services, and Police/Sheriff)

**Proposed Motion:**

Approve the Emergency Base Station Agreement with Dignity Health (Mercy Gilbert Medical Center).

**Discussion:**

This is a renewal of the existing Emergency Base Station Agreement. This agreement will allow the Fire Department to utilize Mercy Gilbert Medical Center as a base hospital medical facility and to receive administrative medical control and on-line supervision of the department's paramedics. The medical center will identify an emergency physician who shall be present 24 hours a day in the Emergency Department. The physician will be knowledgeable of the capabilities and limitations of emergency paramedics. The physician will also be familiar with established standing orders and treatment, triage and communication protocols. The medical center will also assist with quality improvement. The will assist with the development of continuing education courses, provide updates on pre-hospital issues that impact the department and the medical center, and evaluate complaints.

The Fire Department will be responsible for the procedures used in responding to and giving assistance at the scene of an emergency. The medical center



medical control authorities shall assist department personnel by radio or phone communication when requested. This agreement also does not require that patients be transport to the medical center. Patients will be transported to the nearest facility for the appropriate treatment.

The Town will have the ability to terminate this agreement with a 30-day written notice to the medical center.

Dignity Health is a member of the Queen Creek community through their urgent care facility located on Power Road.

**Fiscal Impact:**

There is a minor cost to this contract involving the replenishment of medical and pharmaceutical supplies expended during the treatment of patients transported to the medical center. The Town will be required to reimburse the medical center at their cost provided the resupply comes from the medical center's pharmacy. The Fire Department Operating Budget contains a line item to cover this cost.

**Alternatives:**

The Town Council could direct staff to meet with Gilbert Emergency Hospital or Banner Ironwood to discuss Emergency Base Station Agreement opportunities.

**Attachments:**

1. Emergency Base Station Agreement

## EMERGENCY BASE STATION AGREEMENT

THIS EMERGENCY BASE STATION AGREEMENT (the "Agreement") is entered into effective as of the 16<sup>th</sup> day of June, 2013 between DIGNITY HEALTH, a California nonprofit public benefit corporation d/b/a Mercy Gilbert Medical Center ("MEDICAL CENTER") and the Town of Queen Creek, for and on behalf of the Town of Queen Creek Fire Department ("EMS AGENCY").

### RECITALS:

- A. MEDICAL CENTER is a full service medical and surgical facility licensed by the Arizona Department of Health Services ("ADHS") by the State of Arizona that desires to serve as an advanced life support base hospital for the EMS AGENCY.
- B. EMS AGENCY desires to utilize the MEDICAL CENTER as a base hospital medical facility and to receive MEDICAL CENTER administrative medical control and on-line supervision of EMS AGENCY's emergency medical technicians, emergency paramedics and professional nurses who qualify as Ambulance Attendants under A.R.S § 32-2201 and render care on-site or during ambulance transport to persons needing emergency medical services due to an accident or an emergency medical situation ("Pre-Hospital Providers").
- C. EMS AGENCY selects MEDICAL CENTER as the source for the provision of administrative medical direction and on-line medical direction to preserve the health, welfare and safety of the citizens of the Town of Queen Creek. MEDICAL CENTER is the one source of such professional services and selection of a provider other than MEDICAL CENTER, under the circumstances, would be impractical and unavailing.

THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, the parties covenant and agree as follows:

- 1. MEDICAL CENTER Responsibilities.
  - 1.1 MEDICAL CENTER shall identify an emergency physician (the "Emergency Physician") as the Medical Director who shall be responsible for administrative medical direction of EMS AGENCY's Pre-Hospital Providers assigned to the MEDICAL CENTER.
  - 1.2 MEDICAL CENTER shall provide at least one (1) Emergency Physician who shall function as the medical control authority and shall be physically present twenty-four (24) hours a day in the MEDICAL CENTER's Emergency Department. Such physician shall be knowledgeable of the capabilities and limitations of Pre-

Hospital Providers including those who are qualified to provide Advanced Procedures under Ariz. Admin Code R9-25-101(4) (“ALS Personnel”) as well as established standing orders and treatment, triage and communication protocols. The Emergency Physician shall have either advanced emergency cardiac life support, advanced trauma life support, pediatric emergency care or American Board of Emergency Medicine (“ABEM”) certification, Arizona Board of Osteopathic Examiners in Medicine or Surgery or have completed an emergency medicine residency. The Emergency Physician may designate a nurse who may function as intermediary for on-line medical supervision of Pre-Hospital Providers under the direction of the Emergency Physician (the “Nurse Intermediary”).

- 1.3 MEDICAL CENTER shall appoint a qualified individual to monitor the pre-hospital care activities of Pre-Hospital Providers (the “Pre-Hospital Manager”). . The Pre-Hospital Manager shall be an emergency physician, physician’s assistant, registered nurse practitioner, emergency department nurse, licensed practical nurse or an Arizona certified emergency medical technician (EMT-I or EMT-P only) and shall be available to address pre-hospital issues during reasonable business hours.
- 1.4 MEDICAL CENTER shall provide administrative medical direction, on-line medical direction, and on-line medical supervision to EMS AGENCY’s Pre-Hospital Providers who are assigned to the MEDICAL CENTER.
- 1.5 MEDICAL CENTER shall appoint a Continuous Quality Improvement Committee, which shall:
  - 1.5.1 Meet at least semi-annually, keep regular meeting minutes, evaluate complaints, develop continuing education courses, cooperatively and work on quality management issues, and provide updates on pre-hospital issues, which affect the MEDICAL CENTER or EMS AGENCY.
  - 1.5.2 Develop, implement and maintain a conflict resolution procedure that:
    - 1.5.2.1 Investigates and resolves patient, physician, Pre-Hospital Manager and Nurse Intermediary complaints about the EMS AGENCY, its procedures,

and EMS AGENCY's Pre-Hospital Providers; and

1.5.2.2 Investigates and resolves EMS AGENCY complaints about the MEDICAL CENTER, its procedures, the Medical Director, Emergency Physicians, Nurse Intermediary, Pre-Hospital Manager or other MEDICAL CENTER personnel.

1.5.3 Develop, implement and maintain written policies and procedures for the following in compliance with ADHS:

1.5.3.1 Withdrawal or suspension of medical direction; and

1.5.3.2 Notifying the EMS AGENCY and the Pre-Hospital Providers of any withdrawal or suspension of medical direction.

1.5.4 Establish, implement and maintain written medical direction requirements for the Pre-Hospital Providers.

1.5.5 Develop, implement and maintain a procedure to propose a corrective action plan when review of cases indicates a lapse in following protocols or procedures.

1.6 MEDICAL CENTER shall establish, implement and maintain a procedure for replenishing medical and pharmaceutical supplies expended during the treatment of any patients transported to the MEDICAL CENTER. EMS AGENCY shall reimburse MEDICAL CENTER for all supplies utilized by EMS AGENCY's Pre-Hospital Providers for treatment during transport. The reimbursement rate shall be at MEDICAL CENTER's cost.

1.6.1 Items in the drug box are restricted to those identified in Arizona Administrative Code R9-25-503 Table 1 ((Authorization for Administration, Monitoring, and Assistance in Patient Self-

Administration of Agents by EMT Certification; Identification of Transport Agents; Administration Requirements; and Minimum Supply Requirements for Agents)as amended from time to time. Exceptions can be made by the Medical Director for pilot studies, expanded scope of practice, such as;; HazMat paramedics, Tactical Operating Unit paramedics, Wilderness paramedics, Wildland paramedics, or EMTs of all levels in a disaster situation.

- 1.6.2 MEDICAL CENTER and EMS AGENCY shall adhere to the protocol for drug box procedures set forth in Arizona Administrative Code R9-25-503, as amended from time to time.
- 1.6.3 MEDICAL CENTER shall establish and implement a procedure, which meets applicable federal and state requirements to assure the appropriate disposal of contaminated waste, expended during the treatment of any patients transported to any other medical facility. EMS AGENCY may dispose of such waste at the MEDICAL CENTER.
- 1.7 MEDICAL CENTER may provide supervised clinical training to ALS Personnel as agreed upon by the Medical Director and the EMS AGENCY.
- 1.8 MEDICAL CENTER may provide continuing education as deemed necessary by the Medical Director, Pre-Hospital Manager or the EMS AGENCY as agreed upon by MEDICAL CENTER and EMS AGENCY.
- 1.9 MEDICAL CENTER shall have operational radio and biotelemetry equipment (if applicable) and tape recording devices compatible with the EMS AGENCY,. Such equipment shall be located in the Emergency Department and will assist in providing direct communication with Pre-Hospital Providers.
- 1.10 MEDICAL CENTER shall have a dedicated telephone line for Pre-Hospital Providers to contact the Emergency Department, on a continuous 24 hour, 7 days per week basis.
- 1.11 MEDICAL CENTER shall utilize and adhere to medical control plans adopted by the local Arizona Emergency Medical Services (“AEMS”) coordinating system.

- 1.12 MEDICAL CENTER agrees to participate in the EMS AGENCY’s quality management program by providing review, consultation and/or medical direction when deemed necessary by MEDICAL CENTER or as requested by the EMS AGENCY and approved by the Medical Director.
- 1.13 MEDICAL CENTER shall continuously through the duration of the Agreement maintain in good standing all applicable local, state, county and federal licenses, regulatory approvals, registrations and certifications, including, but not limited to those required, suggested or contemplated by R9-25-207, R9-25-208, R9-25-210, and all applicable provisions of the Arizona Administrative Code, Title 9, Chapter 25, as amended from time to time and Chapter 21.1, Title 36, Arizona Revised Statutes, as amended from time to time. MEDICAL CENTER shall perform its technical and professional services hereunder in a manner in accordance with all federal, state, county and local statutes, permits, policies, rules, administrative regulations and laws (“Law” or “Laws”).”

2 EMS AGENCY Responsibilities.

- 2.1 EMS AGENCY shall only utilize Pre-Hospital Providers with valid certification by the ADHS Bureau of Emergency Medical Services as prescribed in Arizona Administrative Code, Title 9, Chapter 25, or licensed by the Arizona Board of Nursing.
- 2.2 EMS AGENCY shall verify that only Pre-Hospital Providers with valid certifications or licenses are assigned to the MEDICAL CENTER
  - 2.2.1 EMS AGENCY shall provide MEDICAL CENTER with an accurate written list of the names of each Pre-Hospital Provider currently assigned to the MEDICAL CENTER.
  - 2.2.2 EMS AGENCY shall notify MEDICAL CENTER in writing within thirty (30) days of any termination, transfer or addition of any Pre-Hospital Providers. Notification shall include the names, license/certification expiration date, and the effective dates of employment, transfer or termination. For each Pre-Hospital Provider assigned to MEDICAL CENTER, EMS AGENCY shall conduct a primary source verification of any required license/certification, and provide

MEDICAL CENTER a copy of the license/Certification and attestation of primary source verification.

2.2.3 EMS AGENCY shall provide communication equipment in good working order that allows MEDICAL CENTER to communicate with Pre-Hospital Providers in the field.

2.3 EMS AGENCY shall require its Pre-Hospital Providers to meet ADHS continuing education requirements for re-certification.

2.4 EMS AGENCY shall be responsible for the procedures used in responding to and giving assistance at the scene of an emergency, unless adherence to these policies would conflict with applicable MEDICAL CENTER procedures, in which case MEDICAL CENTER procedures may be followed as long as EMS AGENCY has actual knowledge of the procedures, agrees to follow them in writing and as long as these procedures, and any modifications, comply with acceptable professional standards of the medical community and comply with all ADHS requirements, Chapter 21.1, Title 36, Arizona Revised Statutes and Title 9, Arizona Administrative Code. MEDICAL CENTER medical control authorities shall assist EMS AGENCY's personnel by radio or phone communication when requested.

2.5 EMS AGENCY shall initiate a patient care report for each patient contact. When transported to a receiving facility, the patient(s), the record(s), and the care of the patient(s) shall immediately be transferred to that facility and become the responsibility of the receiving facility. EMS AGENCY shall provide the MEDICAL CENTER with copies of the patient care record in a timely manner.

2.6 EMS AGENCY shall allow ride-along privilege to MEDICAL CENTER medical control authorities and intermediaries for experience and observations.

2.7 EMS AGENCY agrees to provide representation and participation in the base Hospital Continuous Quality Improvement Committee

3 Term. The term of this Agreement shall be until terminated by either party providing 30 days' written notice to the other party. This Agreement may be terminated at any time with or without cause by either party providing thirty (30) days written notice to the other party. Either party may terminate this Agreement immediately in the event of material breach of the terms of this Agreement by providing written notice to the party in breach.

#### 4 Additional Requirements.

4.1 Independent Contractor Status. EMS AGENCY shall at all times be deemed to be an independent contractor. Its employees shall not be regarded as employees or agents of MEDICAL CENTER for the payment of any employer taxes such as FICA, unemployment, and worker's compensation; MEDICAL CENTER shall not be responsible for those taxes or any fringe benefits for the EMS AGENCY's employees. Further, the employees of EMS AGENCY shall not be regarded as employees of MEDICAL CENTER with respect to any intentional or negligent activity in which they may be involved or for any other purpose.

4.1.1 In the event any governmental entity, including the Internal Revenue Service, should question or challenge EMS AGENCY regarding the independent contractor status of EMS AGENCY or its employees/subcontractors with respect to MEDICAL CENTER and the services rendered hereunder, EMS AGENCY shall immediately notify MEDICAL CENTER and MEDICAL CENTER shall have the right to participate in any discussion or negotiation occurring with such governmental entity, regardless of who initiated such discussions or negotiations.

4.2 Mutual Indemnification.

4.2.1 To the fullest extent permitted by law, the MEDICAL CENTER, its successors, assigns and guarantors, shall defend, indemnify, protect and hold harmless the EMS AGENCY, its Council members, agents, officers, officials and employees from and against any and all allegations, demands, proceedings, actions, claims, damages, losses, expenses, judgments, fines, charges, penalties, administrative and judicial proceedings and orders, remedial actions of any kind, and all costs and cleanup actions of any kind, all costs and expenses incurred in connection therewith, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting, relating to, arising out of, or resulting from, directly or indirectly, in whole or in part, from any acts, errors, mistakes, omissions, work or services of



MEDICAL CENTER, its agents or employees, in the performance of this Agreement by MEDICAL CENTER.

4.2.2 To the fullest extent permitted by law, the EMS AGENCY, its successors, assigns and guarantors, shall defend, indemnify, protect and hold harmless the MEDICAL CENTER, its board members, agents, officers, officials and employees from and against any and all allegations, demands, proceedings, actions, claims, damages, losses, expenses, judgments, fines, charges, penalties, administrative and judicial proceedings and orders, remedial actions of any kind, and all costs and cleanup actions of any kind, all costs and expenses incurred in connection therewith, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting, relating to, arising out of, or resulting from, directly or indirectly, in whole or in part, from any acts, errors, mistakes, omissions, work or services of EMS AGENCY, its agents or employees, in the performance of this Agreement by EMS AGENCY.

4.2.3 The indemnity provisions of this Agreement shall not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions. The insurance provisions set forth in this Agreement are separate and independent from the indemnity provisions of this Agreement and shall not be construed in any way to limit the scope and magnitude of the indemnity provisions.

4.3 Insurance. Both parties agree to secure and maintain in force during the term of this Agreement comprehensive general liability, including blanket contractual liability and automobile insurance coverage, in addition to professional liability insurance with minimum limits of one million dollars (\$1,000,000.00) per occurrence and three million dollars (\$3,000,000.00) in the aggregate. Either party may satisfy the requirements of this Section 4.3 through a program of self-insurance.

4.3.1 As regards professional liability insurance, EMS AGENCY further shall maintain “continuous coverage” as defined by this Section for the entire relevant term. The relevant term shall commence

with the effective date of the first agreement between the parties regarding the matters described herein, and shall continue through the term of this Agreement, as well as any extensions or renewals hereof, and for a period thereafter of no less than twenty (20) years. In order to maintain continuous coverage for the entire relevant term, EMS AGENCY shall, if it changes insurers for any reason, take the necessary actions required in order to provide continuous coverage by either obtaining "tail" insurance from the preceding carriers or "nose" insurance from the subsequent carriers. In order to satisfy the requirements of this Section, the "tail" insurance must provide for either an unlimited discovery/reporting period or a discovery/reporting period which would extend beyond the last effective day of the last contract between the parties for a period of twenty (20) years. In order to satisfy the requirements of this Section for "nose" insurance, the retroactive effective date for such insurance must be at least the first date of the relevant term noted above. EMS AGENCY will provide proof of current insurance prior to the commencement date of the relevant term, and, in the event of modification, termination, expiration, non-renewal or cancellation of any of the aforesaid policies of insurance, EMS AGENCY shall give MEDICAL CENTER written notice thereof within five (5) business days of EMS AGENCY's receipt of such notification from any of its insurers. In the event EMS AGENCY fails to procure, maintain, or pay for said insurance as required herein, MEDICAL CENTER shall have the right, but not be obligated, to obtain such insurance. In that event, EMS AGENCY shall reimburse MEDICAL CENTER for the cost thereof, and failure to repay the same upon request by MEDICAL CENTER shall constitute a material breach of this Agreement.

- 4.3.2 Both parties shall maintain in place workers' compensation insurance coverage as required by federal and state law. Upon request, each party agrees to provide certificates of insurance, which state that the above coverage is in force and will continue in force throughout the term of this

Agreement except that a thirty (30) day prior written notice of expiration, cancellation or substantial change shall be given to the other party.

- 4.4 Compliance with Federal Employment Law. EMS AGENCY agrees to comply with all state and federal Equal Employment Opportunity, Immigration, and Affirmative Action requirements including 42 U.S.C. Sec. 2000 (e) et seq, The Civil Rights Act of 1964, The Civil Rights Act of 1991, Sections 503 and 504 of the Rehabilitation Act of 1973, Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, the Immigration Reform Act of 1986, the Americans with Disabilities Act and any amendments and applicable regulations pertaining thereto.
- 4.5 Modification Based Upon Change in Law or Interpretation Thereof. If, as a result of any federal, state or local law, rules or regulation modification of the Agreement is necessary, the parties will so modify this Agreement as to conform to such law, rule or regulation if such modification can be accomplished without materially altering the benefits and costs of this Agreement accruing to, and borne by each party hereto.
- 4.6 Regulatory Termination. If, prior to the expiration of the term of this Agreement, any federal, state or local regulatory body, including but not limited to The Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services (HHS) or the Internal Revenue Service (IRS) determines that this Agreement is illegal or jeopardizes MEDICAL CENTER's tax exempt status or otherwise materially affects either party's business, then the affected party shall give the other party such notice as is reasonable in the circumstances and shall make available a reasonable period within which to cure. If no cure is implemented by the parties, then MEDICAL CENTER, in its discretion may terminate this Agreement with such notice as is reasonable under the circumstances.
- 4.7 Notice. Any notice required to be given under this Agreement shall be in writing, and shall be deemed delivered when personally delivered or three (3) days after the same is sent by certified mail, postage prepaid, as follows:

If to EMS AGENCY:  
Town of Queen Creek Fire Department  
22350 S. Ellsworth Rd  
Queen Creek, AZ  
Attention: Joe LaFortune, Public Safety Division Manager

Copy to:

Dickinson Wright/Mariscal Weeks  
Town Attorneys  
2901 North Central Avenue, Suite 200  
Phoenix, AZ 85012

Attn: Fredda J. Bisman

to MEDICAL CENTER:

President and CEO  
Mercy Gilbert Medical Center  
3555 S. Val Vista Drive  
3555 S. Val Vista Drive  
Gilbert, AZ 85296

Copy to:

Vice President/Associate General Counsel  
Dignity Health  
Legal Department  
3030 N. Central Avenue, Suite 1002  
Phoenix, AZ 85012

- 4.8 Compliance with HIPAA. MEDICAL CENTER is required to comply with the Standards for Privacy of Individually Identifiable Information under the Health Insurance Portability and Accountability Act of 1996 contained in 45 CFR Parts 160 and 164 (the "HIPAA Privacy Standards"), as of the effective date of the HIPAA Privacy Standards on April 14, 2003 or as later determined. If this Agreement must be amended to secure such compliance, the parties will meet in good faith to agree upon such amendments. If the parties cannot agree upon such amendments, then any party may terminate the Agreement upon thirty (30) days written notice to the other party.
- 4.9 Confidentiality. EMS AGENCY, its employees and agents shall keep confidential all knowledge, information and documents entrusted to its care by MEDICAL CENTER. Neither EMS Agency, its employees nor agents shall disclose any knowledge, information or documents entrusted to it by MEDICAL CENTER to any person, firm or corporation other than the person, firm or corporation designated by MEDICAL CENTER. Knowledge, information and documents entrusted by MEDICAL CENTER to

EMS AGENCY may include, but are not limited to, the names of vendors and the terms and conditions (including financial information) with vendors, the names of patients and the terms and conditions (including financial information) of agreements with or for the benefit of patients and all medical records and information.

- 4.10 Assignment. This Agreement may not be assigned by either party without the prior written consent of the other party. If consent to an assignment is obtained, this Agreement is binding on the successors and assigns of the parties to this Agreement.
- 4.11 Integration. This Agreement contains the entire agreement between the parties. All prior negotiations between the parties are merged in this and there are no understandings or agreements other than those incorporated herein. This Agreement may not be modified except by written instrument signed by both parties.
- 4.12 Force Majeure. In case performance of any terms or provisions hereof (other than the payment of monies) shall be delayed or prevented because of compliance with any law, decree, or order of any governmental agency or authority, either local, state or federal, or because of riots, war, public disturbances, strikes, lockouts, differences with workers, fires, floods, acts of God, or any other reason which is not within the control of the party whose performance is interfered with and which, by the exercise of reasonable diligence said party is unable to prevent, the party so suffering may at its option suspend, without liability, the performance of its obligations hereunder (other than the payment of monies) during the period such cause continues, and extend the term of this Agreement for the period of such suspension of performance of duties hereunder.
- 4.13 Supersede and Replace. This Agreement is intended to supersede and replace any existing agreements between the parties with regard to the subject matter contained herein.
- 4.14 Transactional Conflicts of Interest. The parties hereto both acknowledge that this Agreement is subject to cancellation by EMS AGENCY pursuant to provisions of Section 38-511, Arizona Revised Statutes.
- 4.15 Definitions. Unless otherwise specified herein, the terms used in this Agreement shall have the same meanings as those defined in Arizona Administrative Code § R9-25-101 and Arizona Revised Statutes § 36-2201

4.16 Health Requirements for EMS AGENCY personnel working at MEDICAL CENTER. EMS AGENCY shall demonstrate, at MEDICAL CENTER's request:

Measles, Mumps, Rubella -

Titers for Measles, Mumps, Rubella will be performed at the time of hire for all employees who do not have proof of prior immunization or disease (physician record of prior immunization or prior positive titer). Those born after January 1, 1942 and before January 1, 1957 are considered to be immunized if they received one dose of live vaccine. Those born after January 1, 1957 are considered to be immune if they received two doses of live vaccine after January 1, 1968 and after their first birthday.

Before administering titer, assure that women of childbearing age are not pregnant. Schedule for immunization with MMR: initial injection with second injection one (1) month later.

Varicella -

Titer performed at the time of hire for those without proof of immunity (either prior documented disease or prior documented immunization). For those without immunity, active immunization administered with initial dose, followed by second dose with 4-8 weeks of the first dose.

TB screening test -

EMS AGENCY Personnel shall have either an annual TB skin test which shows a negative result or, if EMS AGENCY Personnel tests positive for TB, or has previously tested positive for TB, then EMS AGENCY shall for that Personnel submit proof of a chest x-ray performed since the first positive result, showing the lungs to be free from evidence of pulmonary tuberculosis or contagium, and an annual TB screening questionnaire completed and signed by the Personnel who tested positive. The TB screening questionnaire must either verify that the Personnel is asymptomatic for TB, or if it does not, then that Personnel must be examined by a physician and submit to MEDICAL CENTER a signed physician's declaration,

dated later than the date on the annual TB screening questionnaire, stating that the Personnel is free from pulmonary tuberculosis or contagium.

- 4.17 Conflict of Interest Disclosure. EMS AGENCY represents and warrants that neither EMS AGENCY nor any affiliate of EMS AGENCY nor any officers, directors, employees, partners, members, owners or shareholders of EMS AGENCY or any affiliate of EMS AGENCY is related to, affiliated in any way with, or employs (or otherwise has a compensation interest with) any officer, director or employee of MEDICAL CENTER.
- 4.18 No Federal Exclusion. EMS AGENCY hereby represents and warrants that EMS AGENCY and all personnel providing services under this Agreement are not and at no time have been excluded from participation in any federally funded health care program, including Medicare and Medicaid. EMS AGENCY hereby agrees to immediately notify MEDICAL CENTER of any threatened, proposed, or actual sanction or exclusion from any federally funded health care program, including Medicare and Medicaid. Such notice shall contain reasonably sufficient information to allow MEDICAL CENTER to determine the nature of any sanction. In the event that EMS AGENCY or any personnel providing services under this Agreement is excluded from participation in any federally funded health care program during the term of this Agreement, or if at any time after the effective date of this Agreement it is determined that EMS AGENCY is in breach of this Section, this Agreement shall, as of the effective date of such exclusion or breach, automatically terminate.
- 4.19 Ethical and Religious Directives. The parties recognize and understand that Mercy Gilbert Medical Center as an affiliate of Dignity Health (“Dignity Health”) operates as an extension of the religious works of the Dignity Health Sponsors. Therefore, it is understood and agreed that acts performed in rendering care to patients pursuant to this Agreement shall conform to the Ethical And Religious Directives for Catholic Health Services promulgated from time to time by the National Conference of Catholic Bishops, as approved and interpreted by the Local Ordinary, as well as the policies and procedures established by Dignity Health and its Sponsors.
- 4.20 Modification Based Upon Change in Law or Interpretation Thereof. If, as a result of any federal, state or local law, rules or regulation modification of the Agreement is necessary, the parties

will so modify this Agreement as to conform to such law, rule or regulation if such modification can be accomplished without materially altering the benefits and costs of this Agreement accruing to, and borne by each party hereto.

- 4.21 Regulatory Termination. If, prior to the expiration of the term of this Agreement, any federal, state or local regulatory body, including but not limited to The Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services (HHS) or the Internal Revenue Service (IRS) determines that this Agreement is illegal or jeopardizes MEDICAL CENTER's tax exempt status or otherwise materially affects either party's business, then the affected party shall give the other party such notice as is reasonable in the circumstances and shall make available a reasonable period within which to cure. If the parties implement no cure, then MEDICAL CENTER, in its discretion may terminate this Agreement with such notice as is reasonable under the circumstances and as provided for by this Agreement.
- 4.22 Non-Exclusive Agreement. This Agreement is not exclusive. Accordingly, MEDICAL CENTER shall have the right to enter into one or more agreements relating to the same or similar matters as are covered by this Agreement, and execution by MEDICAL CENTER of such Agreements shall not constitute a breach of this Agreement.
- 4.23 Alternative Dispute Resolution Process. If any dispute arising out of this Agreement cannot be resolved in a timely manner through executive-level negotiation, the parties shall try in good faith to settle the dispute through non-binding mediation. The parties shall agree upon a neutral third-party mediator. If, within 14 days after either party makes written request for mediation, the parties have not agreed upon the identity of the mediator and the structure thereof, the mediation shall be in Phoenix and administered by the American Arbitration Association in Phoenix, Arizona, under its Commercial Mediation Rules, and the parties shall share equally the cost thereof. Subject to the approval of all parties, such mediation may be conducted by telephone conference call for the convenience of the parties. A good faith attempt at negotiation and mediation shall be a condition precedent to the commencement of arbitration or litigation, but is not a condition precedent to any court action for injunction or other interim relief pending the outcome of mediation.



If the parties are unable to resolve the dispute in a timely manner (which in any case shall not exceed 30 days from the first notice of mediation), through negotiation or mediation, the dispute shall be settled through binding arbitration before a single arbitrator in Phoenix, Arizona administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. If the parties have previously mediated the dispute, the same person may not serve both as the mediator and the arbitrator.

- 4.24 **Access to Records for Government Inspection.** EMS AGENCY agrees until the expiration of four (4) years after the furnishing of services to be provided under this Agreement, to make available upon written request, to the Secretary of Health and Human Services or upon request, to the Comptroller General of the United States of America or any of their duly authorized representatives, the contracts, books, documents and records that are necessary to certify the nature and extent of reimbursable costs under the Medicare laws. If EMS AGENCY carries out any of the agreements under this contract through a subcontract with a value or cost of ten thousand dollars (\$10,000.00) or more over a twelve (12) month period with a related organization, such subcontract shall contain a requirement identical to that set forth in the preceding paragraph.
- 4.25 **Incorporation of Recitals.** The recitals to this Agreement are hereby affirmed by the Parties as true and correct, and are incorporated in and made a part of this Agreement by this reference.
- 4.26 **Exhibits.** All exhibits attached to and referenced in this Agreement are by this reference incorporated herein.
- 4.27 **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof. All prior and contemporaneous agreements, understandings, negotiations, representations and understandings of the Parties, oral or written, are hereby superseded by this Agreement.
- 4.28 **Amendment.** Except as otherwise specifically provided herein, no change or addition is to be made to this Agreement except by written amendment executed by the Parties.
- 4.29 **Waiver.** No waiver by any Party of a breach of this Agreement will be construed as a waiver of a succeeding breach of the same or

any other covenant of this Agreement. No delay in exercising any right granted by this Agreement will constitute a waiver of that right. No waiver shall be effective unless it is in writing and is signed by the Party asserted to have granted such waiver.

- 4.30 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument.
- 4.31 Captions. The captions or descriptive headings of the Sections of this Agreement are inserted for convenience of reference only and shall not define, limit or otherwise control or affect the scope, meaning or construction of any of the provisions of this Agreement.
- 4.32 Further Acts. Each Party agrees to execute and deliver such further agreements, documents, instruments and other writings and to perform such further acts as either Party may reasonably request in order to fully effectuate the purpose of this Agreement.
- 4.33 Time of Essence. Time is of the essence of each and every provision of this Agreement.
- 4.34 No Joint Venture or Partnership; Third Parties. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between MEDICAL CENTER and the EMS AGENCY. No term or provision of this Agreement is intended to, or shall, be for the benefit of any person, firm, organization or corporation not a party to this Agreement, and no such other person, firm, organization or corporation shall have any right or cause of action under this Agreement.
- 4.35 Good Standing; Authority. Each of the Parties represents and warrants to the other: (i) that it is duly formed and validly existing under the laws of Arizona, with respect to MEDICAL CENTER, or a municipal corporation within the state of Arizona, with respect to the EMS AGENCY; (ii) that it is duly qualified to do business in the State of Arizona and is in good standing under applicable state laws; and (iii) that the individual(s) executing this Agreement on behalf of the respective Parties are authorized and empowered to bind the Party on whose behalf each such individual is signing.

- 4.36 Severability. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable (or is construed as requiring the Parties to do any act in violation of any constitutional provision, law, regulation, Town code or Town charter), such provision shall be deemed severed from this Agreement and this Agreement shall otherwise remain in full force and effect, provided that this Agreement shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed agreement provides essentially the same rights and benefits (economic and otherwise) to the Parties as if such severance and reformation were not required. The Parties further agree, in such circumstances, to do all acts and to execute all amendments, instruments and consents necessary to accomplish and to give effect to the purposes of this Agreement, as reformed.
- 4.37 Governing Law. This Agreement is made and is to be performed in the State of Arizona and shall be governed by the internal, substantive laws of the State of Arizona without regard to any conflict of law principles. Any action brought to interpret, enforce or construe any provision of this Agreement or to declare the rights of the Parties under this Agreement shall be commenced and maintained in the Superior Court of the State of Arizona in and for the County of Maricopa (or, as may be appropriate, in the Justice Courts of Maricopa County or in the United States District Court for the District of Arizona, if, but only if, the Superior Court lacks or declines jurisdiction over such action). The Parties irrevocably consent to jurisdiction and venue in such courts for such purposes and agree not to seek transfer or removal of any action commenced in accordance with the terms of this section.
- 4.38 Cooperation in Event of Legal Challenge. In the event of any legal action or proceeding instituted by a third party challenging the validity of any provision of this Agreement, the parties agree to cooperate in diligently defending this action or proceeding.
- 4.39 Nonliability of Town Officials and Employees. No official, representative, agent, attorney or employee of the EMS AGENCY shall be personally liable to MEDICAL CENTER, or to any successor in interest to MEDICAL CENTER, in the event of any default by the EMS AGENCY or for any amount which may become due to MEDICAL CENTER or successor, or with respect to any obligation of the EMS AGENCY under the terms of this Agreement.
- 4.40 Construction. The terms and provisions of this Agreement represent the results of negotiations between the parties, each of

which has been or has had the opportunity to be represented by counsel of its own choosing, and neither of which has acted under any duress or compulsion, whether legal, economic or otherwise. Consequently, the terms and provisions of this Agreement shall be interpreted and construed in accordance with their usual and customary meanings, and the parties each hereby waive the application of any rule of law which would otherwise be applicable in connection with the interpretation and construction of this Agreement that ambiguous or conflicting terms or provisions contained in this Agreement shall be interpreted or construed against the party whose attorney prepared or drafted the executed Agreement or any earlier draft of the same or any of its exhibits. Whenever the context of this Agreement requires, the singular shall include the plural, and the masculine, neutral or feminine shall include each of the other.

- 4.41 Business Days. If the last day of any time period stated in this Agreement or the date on which any obligation to be performed under this Agreement shall fall on a Saturday, Sunday or legal holiday in the State of Arizona, then the duration of such time period or the date of performance, as applicable, shall be extended so that it shall end on the next succeeding day which is not a Saturday, Sunday or legal holiday.
- 4.42 Attorneys' Fees. In the event any action, suit or proceeding is brought by any Party to enforce compliance with this Agreement, to exercise any rights or remedies under this Agreement, or to declare the rights of the Parties to this Agreement, the Party which does not prevail shall pay to the prevailing Party all costs and expenses of such action, suit or proceeding, together with such sum as the court (and not the jury) may adjudge reasonable as attorneys' fees to be allowed in said suit, action or proceeding.
- 4.43 Successors. All of the provisions of this Agreement shall inure to the benefit of and be binding upon the nominees, successors and assigns of the parties hereto.

Town of Queen Creek, for and on behalf  
of the Town of Queen Creek Fire Department

Dignity Health d/b/a  
Mercy Gilbert Medical Center

By: \_\_\_\_\_

By: \_\_\_\_\_

Tim Bricker, President

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_





**Date:** June 13, 2013  
**To:** Mayor and Council  
**Through:** John Kross, Town Manager  
Fredda Bisman, Town Attorney  
**From:** Jennifer Robinson, Town Clerk  
**RE:** Liquor License Applications for Queen Creek Winery -  
Withdrawal

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The applicant, John McLoughlin, True Arizona Wine Experience LLC., *Queen Creek Winery*, has withdrawn his winery liquor license applications (07 Wine & Beer Bar) and (13 Domestic Farm Winery).

The proposed location at Schnepf Farms was posted for 20 days as required and a Notice of Public Hearing was published in the newspaper advertising the Public Hearing on June 19, 2013.

If any member of the public completes a Request to Speak Card for the public hearing, then it must be opened. Since the applicant has withdrawn the applications, there is no other action required from the Council.



Requesting Department:  
Town Manager

TAB G

**TO: HONORABLE MAYOR AND TOWN COUNCIL**

**FROM: COUNCIL BUDGET COMMITTEE  
JOHN KROSS, TOWN MANAGER  
PATRICK FLYNN, ASSISTANT TOWN MANAGER/CFO**

**RE: PUBLIC HEARING ON THE PROPOSED TOWN BUDGET  
AND PROPERTY TAX LEVY FOR FY13/14; DISCUSSION AND  
POSSIBLE ACTION ON RESOLUTION 945-13 FOR ADOPTING  
THE FY13/14 TOWN BUDGET**

**DATE: JUNE 19, 2013**

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**Council Budget Committee Recommendation:**

Approve

**Staff Recommendation:**

Staff recommends approval of the Town's FY13/14 budget, including the operating budget (all funds) and the FY13/14 Capital Budget Program.

**Proposed Motion:**

Motion to approve resolution 945-13 adopting the Town's FY 13/14 Town Budget.

**KRA #5**

Financial Management and Sustainability

**Discussion:**

On June 5, 2013, the Town Council approved the Town's FY13/14 tentative budget. The purpose of the tentative budget was to establish the maximum budget or budget ceiling for the next fiscal year. For this council meeting the Council will conduct a public hearing as well as consider final action on the Town budget. In addition, the Council will conduct a hearing on the proposed property tax levy for FY13/14. Final consideration and action on the tax levy will occur at your July 17 council meeting. By state law, at least seven days must elapse

between the adoption of the budget and consideration of the tax levy for the Town. This action will then finalize the budget process for FY13/14.

The Town's budget for FY13/14 amounts to \$117.4M. This budget includes money for the general fund \$17.8M, water fund \$9.6M, sewer fund \$7.0M, solid waste \$1.7M, Transportation Capital Programs \$5.1M, and Emergency Services fund \$8.4M. In addition, the budget includes \$47.5 M for the acquisition and operation cost of the H2O water company. With Home rule, the entire acquisition cost and FY14 operations cost must be reflected in the budget. The remaining dollars that comprise the budget include monies for grants, special assessments, special districts and the like as well as carry forward dollars (capital monies approved in previous budgets but unspent). These funds and monies require inclusion in the budget in order to get the associated expenditure authority for the next fiscal year.

Since FY06/07 when the town first started reducing budgets due to the economy, we have been addressing shortfalls in the annual budget ever since. As a result of these shortfalls, we had to take a myriad of actions to balance the budget over the years including cutting employee pay, reducing hours, modifying Town programs, and laying off Town staff among many things.

Given the building uptick that we saw start beginning in April 2012, this budget year was different from the past in that we projected a surplus in the budget for FY13/14 and beyond. While in the past, we had to 'sweep' our many Town funds and still end with a shortfall to address, most of our Town funds are able to stand on their own, thus giving us some flexibility in the FY14 budget program. That said, we still have a few areas or funds that show shortfalls in FY13/14 including the Emergency Services Fund (\$2.6M), the Library Fund (\$.4M) and HPEC (almost \$.7M) that need to be addressed with General Fund transfers and contributions. However even with these transfers, the General Fund program remains in a 'surplus' condition that again provided us some needed flexibility in the budget.

Although the Town Council considers the budget in the May/June time frame, our budget process starts almost six months prior with development of our long-range financial plan and associated budget assumptions, preparation of our 'base' budget for Town programs and estimating the all-important revenues that support the budget. Following this effort and analysis including doing the required General Fund transfers noted above, our General fund showed a surplus for FY13/14 (approximately \$3.0M).

Included in the FY13/14 recommended budget are monies to 1) restore the remainder of the employee pay reductions taken several years ago, 2) reinstating the employee merit program of 1-3% wage adjustments based on performance, 3) more professional development monies and 4) monies to do an employee compensation and classification study. We believe with the above that employee



morale will be strengthened in the organization following years of cutback management, plus help stem the turnover of staff that we have seen over the last year with the economy's improvement.

In addition to the above, included in the recommended FY14 budget are some budget supplemental or additions that will help address service delivery in the Town and strengthen programs that were greatly impacted by years of budget reductions. The following is summary of these supplementals by department.

- Economic Development                      \$ 238,000
- Development Services                      1,193,200
- Workforce & Technology                      375,300
- Town Manager                                  70,000
- Public Works-Solid Waste                      60,000
- Water    203,000
- Emergency Medical Services                      245,3000

As you can see most of the budget supplementals or additions are primarily in our development services area. This department was most impacted by the downturn in the economy and decline in building activity. Given the significant building uptick and our long-range projection for the same, it was paramount to restore resources to this group if we are to maintain some reasonable turnaround times for our building and development customer group and be the place of choice for future development.

Furthermore, we are able to do some capital projects as part of the FY14 budget program. Our water program contains (almost \$1.1M) of capital program recommendations; our sewer program contains (\$1.1M) of proposed capital projects. In addition, we have included some monies to do a splash park (\$120K) and a dog park (\$120K). Moreover, we have updated the Town's transportation capital improvement plan to include the transportation projects approved by Council from your January meeting with the \$10 million earmarked for this purpose.

Further, beyond our 3% contingency reserve (\$544K) included in the General Fund budget, we have also included a \$500K reserve for the potential revenue impact from state-shared revenues from moving to 'point of sale' in computing construction sales taxes. Although not approved by the Legislature at this point, we are building a reserve now for this possibility. As you know, we are opposed to many aspects of this legislation.

The FY14 budget includes some proposed revenues: 1) a 10% building fee increase effective January 1, 2014 to help finance some of the development services budget additions, including needed technology changes in the department and 2) a solid waste rate increase. At your June 5 Town Council

meeting, you heard a staff presentation on this proposed increase in solid waste fees.

Finally, this staff report includes attachments for the required state budget schedules (A-G) plus attachments that show recommended capital projects in the FY14 budget, plus the recommended new staffing that is part of the budget. Again, staff will be available to respond to any of the above. Approval of the FY13/14 budget is recommended.

**Property Tax Levy:**

The proposed primary property tax levy for FY13/14 amounts to \$3,628,882, down from \$3,780,217 from a year ago. This represents a decline of 4.1% from a year ago. Given the double digit declines of recent years, we see this as a positive sign with real estate now stabilizing. With the recession and housing downturn, we saw an approximately 35% overall decline in real estate values and associated property tax revenue and is the primary reason for the shortfall in the Emergency Services fund. The property tax rate is maintained at \$1.95 per \$100 of assessed value. Our tax levy is earmarked for public safety purposes.

In addition to the primary property tax levy, the Town levies a secondary property tax for all the street lighting districts in the community. The Town currently pays the electric bills for each street lighting district and the secondary levy reimburses the Town for these annual expenses. The secondary levy amounts to \$424,000 for next fiscal year.

**Fiscal Impact:**

The budget is arguably the single most significant policy document considered by the Council. It serves as the authority to spend Town funds for programs and projects established within Town Council goals and strategic plans. As indicated above, the recommended budget for next year is set at \$117,408,176 including all Town funds.

**Alternative:**

We have limited alternatives at this point. Council could delay action in the budget however it would require scheduling some special Town Council meetings if we are to continue moving forward and have a budget that is effective July 1.

**Attachments:**

1. Budget Resolution 945-13
2. Required State Budget Forms – Schedules A to G
3. Capital Project Recommendations

**RESOLUTION 945-13**

**TOWN OF QUEEN CREEK**

**Resolution for the Adoption of the Budget**

**Fiscal Year 2014**

WHEREAS, in accordance with the provisions of Title 42, Chapter 17, Articles 1-5, Arizona Revised Statutes (A.R.S.), the Town Council did, on June 5, 2013, make an estimate of the different amounts required to meet the public expenditures/expenses for the ensuing year, also an estimate of revenues from sources other than direct taxation, and the amount to be raised by taxation upon real and personal property of the Town of Queen Creek, and

WHEREAS, in accordance with said chapter of said title, and following due public notice, the Council met on June 19, 2013, at which meeting any taxpayer was privileged to appear and be heard in favor of or against any of the proposed expenditures/expenses or tax levies, and

WHEREAS, it appears that publication has been duly made as required by law, of said estimates together with a notice that the Town Council would meet on June 19, 2013, at the office of the Council for the purpose of hearing taxpayers and making tax levies as set forth in said estimates, and

WHEREAS, it appears that the sums to be raised by taxation, as specified therein, do not in the aggregate exceed that amount as computed in A.R.S. §42-17051(A), therefore be it

RESOLVED, that the said estimates of revenues and expenditures/expenses shown on the accompanying schedules, as now increased, reduced, or changed, are hereby adopted as the budget of the Town of Queen Creek for the fiscal year 2013/2014.

Passed by the Mayor and Queen CreekTown Council, this 19th day of June.

FOR THE TOWN OF QUEEN CREEK:

ATTESTED TO:

\_\_\_\_\_  
Gail Barney, Mayor

\_\_\_\_\_  
Jennifer F. Robinson, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:

\_\_\_\_\_  
John Kross, Town Manger

\_\_\_\_\_  
Attorneys for the Town  
Dickinson Wright

TOWN OF QUEEN CREEK  
Summary Schedule of Estimated Revenues and Expenditures/Expenses  
Fiscal Year 2014

FUND	ADOPTED BUDGETED EXPENDITURES/EXPENSES* 2013	ACTUAL EXPENDITURES/EXPENSES** 2013	FUND BALANCE/ NET POSITION*** July 1, 2013**	PROPERTY TAX REVENUES 2014	ESTIMATED REVENUES OTHER THAN PROPERTY TAXES 2014	OTHER FINANCING 2014		INTERFUND TRANSFERS 2014		TOTAL FINANCIAL RESOURCES AVAILABLE 2014	BUDGETED EXPENDITURES/EXPENSES 2014
						SOURCES	<USES>	IN	<OUT>		
1. General Fund	\$ 13,959,814	\$ 12,928,669	\$ 14,736,000		\$ 21,741,167	\$	\$	\$	\$ 3,898,119	\$ 32,579,048	\$ 17,843,048
2. Special Revenue Funds				Primary & Secondary: 4,052,882	9,367,867			3,826,044	1,007,709	26,408,084	14,724,634
3. Debt Service Funds Available	3,917,000	3,917,225			1,840,990			2,077,260		3,918,250	3,918,250
4. Less: Amounts for Future Debt Retirement											
5. Total Debt Service Funds	3,917,000	3,917,225			1,840,990			2,077,260		3,918,250	3,918,250
6. Capital Projects Funds	11,058,304	985,875	12,339,000		16,607,995			553,665	2,051,141	27,449,519	15,110,519
7. Permanent Funds											
8. Enterprise Funds Available	15,388,961	14,117,285	3,330,000		65,311,725			750,000	250,000	69,141,725	65,811,725
9. Less: Amounts for Future Debt Retirement											
10. Total Enterprise Funds	15,388,961	14,117,285	3,330,000		65,311,725			750,000	250,000	69,141,725	65,811,725
11. Internal Service Funds											
12. TOTAL ALL FUNDS	\$ 59,820,574	\$ 45,232,897	\$ 40,574,000	\$ 4,052,882	\$ 114,869,744	\$	\$	\$ 7,206,969	\$ 7,206,969	\$ 159,496,626	\$ 117,408,176

**EXPENDITURE LIMITATION COMPARISON**

	2013	2014
1. Budgeted expenditures/expenses	\$ 59,820,574	\$ 117,408,176
2. Add/subtract: estimated net reconciling items		
3. Budgeted expenditures/expenses adjusted for reconciling items	59,820,574	117,408,176
4. Less: estimated exclusions		
5. Amount subject to the expenditure limitation	\$ 59,820,574	\$ 117,408,176
6. EEC or voter-approved alternative expenditure limitation	\$	\$

The city/town does not levy property taxes and does not have special assessment districts for which property taxes are levied. Therefore, Schedule B has been omitted.

\* Includes Expenditure/Expense Adjustments Approved in current year from Schedule E.

\*\* Includes actual amounts as of the date the proposed budget was prepared, adjusted for estimated activity for the remainder of the fiscal year.

\*\*\* Amounts in this column represent Fund Balance/Net Position amounts except for amounts not in spendable form (e.g., prepaids and inventories) or legally or contractually required to be maintained intact (e.g., principal of a permanent fund).

**TOWN OF QUEEN CREEK**  
**Tax Levy and Tax Rate Information**  
**Fiscal Year 2014**

	2013	2014
1. Maximum allowable primary property tax levy. A.R.S. §42-17051(A)	\$ 7,032,752	\$ 7,366,600
2. Amount received from primary property taxation in the <b>current year</b> in excess of the sum of that year's maximum allowable primary property tax levy. A.R.S. §42-17102(A)(18)	\$	
3. Property tax levy amounts		
A. Primary property taxes	\$ 3,780,217	\$ 3,628,882
B. Secondary property taxes	375,000	424,000
C. Total property tax levy amounts	\$ 4,155,217	\$ 4,052,882
4. Property taxes collected*		
A. Primary property taxes		
(1) <b>Current</b> year's levy	\$ 3,715,208	
(2) Prior years' levies		
(3) Total primary property taxes	\$ 3,715,208	
B. Secondary property taxes		
(1) <b>Current</b> year's levy	\$ 366,036	
(2) Prior years' levies		
(3) Total secondary property taxes	\$ 366,036	
C. Total property taxes collected	\$ 4,081,244	
5. Property tax rates		
A. City/Town tax rate		
(1) Primary property tax rate	1.9500	1.9500
(2) Secondary property tax rate		
(3) Total city/town tax rate	1.9500	1.9500
B. Special assessment district tax rates		
Secondary property tax rates - As of the date the proposed budget was prepared, the city/town was operating <u>66</u> special assessment districts for which secondary property taxes are levied. For information pertaining to these special assessment districts and their tax rates, please contact the city/town.		

\* Includes actual property taxes collected as of the date the proposed budget was prepared, plus estimated property tax collections for the remainder of the fiscal year.

**TOWN OF QUEEN CREEK**  
**Revenues Other Than Property Taxes**  
**Fiscal Year 2014**

SOURCE OF REVENUES	ESTIMATED REVENUES 2013	ACTUAL REVENUES* 2013	ESTIMATED REVENUES 2014
<b>GENERAL FUND</b>			
<b>Local taxes</b>			
City Sales Tax	\$ 8,922,000	\$ 11,259,845	\$ 10,160,000
Sales Tax Recovery	144,000	118,284	60,000
<b>Licenses and permits</b>			
Business Licenses	69,600	66,609	70,000
Liquor License	3,000	3,000	3,000
Building Revenue	790,000	3,373,509	2,505,600
<b>Intergovernmental</b>			
State Sales Tax	2,204,313	2,113,973	2,278,000
Motor Vehicle Tax	873,907	829,813	879,000
Urban Revenue Sharing	2,692,475	2,692,719	2,941,000
<b>Charges for services</b>			
Gas Franchises	64,000	70,263	67,000
Cable Licenses	150,000	158,572	152,000
Telecommunications	72,996	89,920	99,000
Recreation User Fees	298,400	219,802	173,600
Town Facility Revenue	140,000	167,728	147,000
<b>Interest on investments</b>			
Interest Income	225,000	261,788	225,000
<b>Miscellaneous</b>			
Miscellaneous Revenue	100,000	510,225	100,000
Fund Balance	1,231,000		500,000
Departmental Support Revenue	1,575,700	1,546,721	1,380,967
<b>Total General Fund</b>	<b>\$ 19,556,391</b>	<b>\$ 23,482,772</b>	<b>\$ 21,741,167</b>
<b>SPECIAL REVENUE FUNDS</b>			
<b>Highway User Revenue Fund</b>			
Highway Users Revenue	\$ 1,483,531	\$ 1,389,770	\$ 1,487,000
Pinal County Taxes	8,000	15,683	15,000
Fund Balance / Carry Forward	22,000		
<b>Total Highway User Revenue Fund</b>	<b>\$ 1,513,531</b>	<b>\$ 1,405,453</b>	<b>\$ 1,502,000</b>
<b>Waste Water Development Fee</b>			
Development Fees	\$ 695,993	\$ 3,239,889	\$ See Sewer Utility
Interest Income		5,697	
Fund Balance / Carry Forward			
<b>Total Waste Water Development Fee</b>	<b>\$ 695,993</b>	<b>\$ 3,245,585</b>	<b>\$</b>
<b>Horseshoe Park and Equestrian Centre (HPEC)</b>			
Park Revenues	\$ 505,999	\$ 478,229	\$ 525,000
<b>Total HPEC</b>	<b>\$ 505,999</b>	<b>\$ 478,229</b>	<b>\$ 525,000</b>

**TOWN OF QUEEN CREEK**  
**Revenues Other Than Property Taxes**  
**Fiscal Year 2014**

SOURCE OF REVENUES	ESTIMATED REVENUES 2013	ACTUAL REVENUES* 2013	ESTIMATED REVENUES 2014
<b>Parks Development Fee</b>			
Parks Development Fees	\$ 540,625	\$ 2,347,751	\$ 1,946,250
Interest Income		10,823	
Fund Balance / Carry Forward			
<b>Total Parks Development Fee</b>	<b>\$ 540,625</b>	<b>\$ 2,358,574</b>	<b>\$ 1,946,250</b>
<b>Town Buildings &amp; Vehicle Fund</b>			
Town Building & Vehicle Development Fee	\$ 182,510	\$ 823,056	\$ 817,815
Fund Balance	50,000		
<b>Total Transportation Development Fee</b>	<b>\$ 232,510</b>	<b>\$ 823,056</b>	<b>\$ 817,815</b>
<b>Transportation Development Fee</b>			
Transportation Development Impact Fee	\$ 154,454	\$ 556,337	\$ 553,665
<b>Total Transportation Development Fee</b>	<b>\$ 154,454</b>	<b>\$ 556,337</b>	<b>\$ 553,665</b>
<b>Library Development Fee</b>			
Library Development Impact Fee	\$ 171,250	\$ 840,019	\$ 616,500
Interest Income		3,584	
Fund Balance			
<b>Total Library Development Fee</b>	<b>\$ 171,250</b>	<b>\$ 843,602</b>	<b>\$ 616,500</b>
<b>Community Events</b>			
Contributions/Donations	\$ 35,000	\$ 15,509	\$ 25,000
Fund Balance			10,000
<b>Total Community Events</b>	<b>\$ 35,000</b>	<b>\$ 15,509</b>	<b>\$ 35,000</b>
<b>Public Safety Development Fee</b>			
Public Safety Development Fees	\$ 92,436	\$ 440,703	\$ 332,625
Interest Income		1,028	
Fund Balance			
<b>Total Public Safety Development Fee</b>	<b>92,436</b>	<b>\$ 441,731</b>	<b>\$ 332,625</b>
<b>Emergency Services</b>			
City Sales Tax	\$ 1,116,000	\$ 1,240,924	\$ 1,207,000
Miscellaneous	15,000	32,313	30,000
Fire Inspections	20,000	31,808	45,000
County Island Fire District			912,000
Fund Balance			
<b>Total Emergency Services</b>	<b>\$ 1,151,000</b>	<b>\$ 1,305,045</b>	<b>\$ 2,194,000</b>
<b>Fire Development Fee</b>			
Fire Development Fees	\$ 108,081	\$ 472,385	\$ 388,395
Fund Balance	20,000		
<b>Total Fire Development Fee</b>	<b>\$ 128,081</b>	<b>\$ 472,385</b>	<b>\$ 388,395</b>
<b>Municipal Town Center</b>			
City Sales Tax	\$ 360,000	\$ 386,161	\$ 435,117
Town Facility Rentals	33,000	18,764	15,000
Signage Revenue		5,594	6,500
Fund Balance	100,000		
Contributions/Donations		3,862	
<b>Total Municipal Town Center</b>	<b>\$ 493,000</b>	<b>\$ 414,380</b>	<b>\$ 456,617</b>
<b>Total Special Revenue Funds</b>	<b>\$ 5,713,879</b>	<b>\$ 12,359,888</b>	<b>\$ 9,367,867</b>

**TOWN OF QUEEN CREEK**  
**Revenues Other Than Property Taxes**  
**Fiscal Year 2014**

SOURCE OF REVENUES	ESTIMATED REVENUES 2013	ACTUAL REVENUES* 2013	ESTIMATED REVENUES 2014
<b>DEBT SERVICE FUNDS</b>			
<b>Special Assessment</b>			
Property Assessments	\$ 1,840,990	\$ 1,840,491	\$ 1,840,990
<b>Total Special Assessment</b>	<b>\$ 1,840,990</b>	<b>\$ 1,840,491</b>	<b>\$ 1,840,990</b>
<b>Total Debt Service Funds</b>	<b>\$ 1,840,990</b>	<b>\$ 1,840,491</b>	<b>\$ 1,840,990</b>
<b>CAPITAL PROJECTS FUNDS</b>			
<b>Drainage &amp; Transportaion</b>			
2% Construction Sales Tax	\$ 960,000	\$ 1,359,057	\$ 1,317,000
Fund Balance / Carry Forward	759,618		3,178,495
Developer Contribution	110,000	3,236,384	
Reimbursement from Government Agency	254,235		2,112,500
Interest Income	143,000	30,808	
<b>Total Drainage &amp; Transportaion</b>	<b>\$ 2,226,853</b>	<b>\$ 4,626,249</b>	<b>\$ 6,607,995</b>
<b>Carry Forward / Miscellaneous</b>			
Unallocated Revenue	\$ 10,000,000	\$	\$ 10,000,000
	\$ 10,000,000	\$	\$ 10,000,000
<b>Total Capital Projects Funds</b>	<b>\$ 12,226,853</b>	<b>\$ 4,626,249</b>	<b>\$ 16,607,995</b>
<b>ENTERPRISE FUNDS</b>			
<b>Sewer Utility</b>			
User Fees	\$ 3,329,564	\$ 3,462,119	\$ 3,919,851
Interest Income	15,000	10,745	
Fund Balance	1,067,668		
Development Fees			2,328,224
<b>Total Sewer Utility</b>	<b>\$ 4,412,232</b>	<b>\$ 3,472,864</b>	<b>\$ 6,248,075</b>
<b>Water Company</b>			
Water Sales	\$ 8,790,000	\$ 9,011,164	\$ 9,610,663
Miscellaneous	228,400	212,111	239,400
Loan Proceeds			47,500,000
Fund Balance	250,000		
<b>Total Water Company</b>	<b>\$ 9,268,400</b>	<b>\$ 9,223,275</b>	<b>\$ 57,350,063</b>
<b>Solid Waste</b>			
User Fees	\$ 1,440,185	\$ 1,454,400	\$ 1,626,087
Recycling	68,392	50,900	20,000
Cart Fees		79,527	67,500
Fund Balance	45,000		
<b>Total Solid Waste</b>	<b>\$ 1,553,577</b>	<b>\$ 1,584,827</b>	<b>\$ 1,713,587</b>
<b>Total Enterprise Funds</b>	<b>\$ 15,234,209</b>	<b>\$ 14,280,966</b>	<b>\$ 65,311,725</b>
<b>TOTAL ALL FUNDS</b>	<b>\$ 54,572,322</b>	<b>\$ 56,590,367</b>	<b>\$ 114,869,744</b>

\* Includes actual revenues recognized on the modified accrual or accrual basis as of the date the proposed budget was prepared, plus estimated revenues for the remainder of the fiscal year.



**TOWN OF QUEEN CREEK**  
**Other Financing Sources/<Uses> and Interfund Transfers**  
**Fiscal Year 2014**

FUND	OTHER FINANCING 2014		INTERFUND TRANSFERS 2014	
	SOURCES	<USES>	IN	<OUT>
<b>GENERAL FUND</b>				
Waste Water	\$	\$	\$	\$ 500,000
Library				393,029
Emergency Services				2,315,785
Horseshoe Park and Equestrian Centre				689,305
<b>Total General Fund</b>	\$	\$	\$	\$ 3,898,119
<b>SPECIAL REVENUE FUNDS</b>				
Emergency Services	\$	\$	\$ 2,648,410	\$ 95,300
Public Safety				332,625
Library			393,029	
Fire			95,300	26,119
Transportation				553,665
Horseshoe Park and Equestrian Centre			689,305	
<b>Total Special Revenue Funds</b>	\$	\$	\$ 3,826,044	\$ 1,007,709
<b>DEBT SERVICE FUNDS</b>				
Special Assessment	\$	\$	\$ 2,077,260	\$
<b>Total Debt Service Funds</b>	\$	\$	\$ 2,077,260	\$
<b>CAPITAL PROJECTS FUNDS</b>				
Drainage & Transportation	\$	\$	\$ 553,665	\$ 2,051,141
<b>Total Capital Projects Funds</b>	\$	\$	\$ 553,665	\$ 2,051,141
<b>ENTERPRISE FUNDS</b>				
Water Division	\$	\$	\$	\$ 250,000
Sewer Utility			750,000	
<b>Total Enterprise Funds</b>	\$	\$	\$ 750,000	\$ 250,000
<b>TOTAL ALL FUNDS</b>	\$	\$	\$ 7,206,969	\$ 7,206,969

**TOWN OF QUEEN CREEK**  
**Expenditures/Expenses by Fund**  
**Fiscal Year 2014**

FUND/DEPARTMENT	ADOPTED BUDGETED EXPENDITURES/ EXPENSES 2013	EXPENDITURE/ EXPENSE ADJUSTMENTS APPROVED 2013	ACTUAL EXPENDITURES/ EXPENSES* 2013	BUDGETED EXPENDITURES/ EXPENSES** 2014
<b>GENERAL FUND</b>				
Town Council	\$ 155,535	\$	\$ 141,467	\$ 199,935
Town Manager	612,266		611,060	867,597
Town Clerk & Legal Services	528,418		409,290	586,849
Management Services	1,453,122		1,221,050	1,305,049
Development Services	4,993,592	411,556	4,955,388	7,197,851
Workforce & Technology	1,595,796		1,524,233	2,295,098
Economic Development	857,911		845,512	1,165,294
Non-Departmental	3,389,618	(38,000)	3,220,669	4,225,375
<b>Total General Fund</b>	<b>\$ 13,586,258</b>	<b>\$ 373,556</b>	<b>\$ 12,928,669</b>	<b>\$ 17,843,048</b>
<b>SPECIAL REVENUE FUNDS</b>				
Highway Users Revenue	\$ 1,513,531	\$ 130,542	\$ 1,586,368	\$ 1,502,000
Street Light Improv District	400,373		361,594	424,000
Parks Development Fee	2,240,350		1,194,149	1,162,691
Town Bldgs & Vehicle Dev Fee	737,838		737,049	687,799
Transportation Dev Fee				
Library Development Fee	1,012,872		1,012,320	1,009,529
Community Events	35,000		17,114	35,000
Public Safety Dev Fee	355,806		349,912	
Fire Development Fee	332,190		337,353	173,318
Emergency Services	7,628,696		6,637,928	8,375,992
Horseshoe Park	937,547	38,000	973,989	1,214,305
Town Center	133,750		76,067	140,000
<b>Total Special Revenue Funds</b>	<b>\$ 15,327,953</b>	<b>\$ 168,542</b>	<b>\$ 13,283,843</b>	<b>\$ 14,724,634</b>
<b>DEBT SERVICE FUNDS</b>				
Special Assessment Fund	\$ 3,917,000	\$	\$ 3,917,225	\$ 3,918,250
<b>Total Debt Service Funds</b>	<b>\$ 3,917,000</b>	<b>\$</b>	<b>\$ 3,917,225</b>	<b>\$ 3,918,250</b>
<b>CAPITAL PROJECTS FUNDS</b>				
Drainage & Transportation	\$ 1,973,402	\$	\$ 985,875	\$ 5,110,519
Carry Forward / Miscellaneous	10,000,000	(915,098)		10,000,000
<b>Total Capital Projects Funds</b>	<b>\$ 11,973,402</b>	<b>\$ (915,098)</b>	<b>\$ 985,875</b>	<b>\$ 15,110,519</b>
<b>ENTERPRISE FUNDS</b>				
Sewer Utility	\$ 5,858,225	\$	\$ 4,809,065	\$ 6,998,075
Water Company	7,604,159	373,000	7,844,361	57,100,063 ***
Solid Waste	1,553,577		1,463,859	1,713,587
<b>Total Enterprise Funds</b>	<b>\$ 15,015,961</b>	<b>\$ 373,000</b>	<b>\$ 14,117,285</b>	<b>\$ 65,811,725</b>
<b>TOTAL ALL FUNDS</b>	<b>\$ 59,820,574</b>	<b>\$</b>	<b>\$ 45,232,897</b>	<b>\$ 117,408,176</b>

\* Includes actual expenditures/expenses recognized on the modified accrual or accrual basis as of the date the proposed budget was prepared, plus estimated expenditures/expenses for the remainder of the fiscal year.

\*\* Budgeted expenditures/expense includes budgeted fund balances, reserves and contingency.

\*\*\* Includes \$47.5 million of acquisition and operating costs for H2O Water Company.

**TOWN OF QUEEN CREEK**  
**Full-Time Employees and Personnel Compensation**  
**Fiscal Year 2014**

FUND	Full-Time Equivalent (FTE) 2014	Employee Salaries and Hourly Costs 2014	Retirement Costs 2014	Healthcare Costs 2014	Other Benefit Costs 2014	Total Estimated Personnel Compensation 2014
<b>GENERAL FUND</b>						
Town Council	7.00	\$ 83,638	\$	\$	\$ 10,405	= \$ 94,043
Town Manager	5.00	560,423	104,896	31,518	53,496	= 750,333
Town Clerk & Legal Services	2.00	136,206	15,175	21,258	10,924	= 183,563
Management Services	15.10	801,765	68,811	118,351	104,232	= 1,093,159
Development Services	66.32	3,569,258	372,836	565,272	477,164	= 4,984,530
Workforce & Technology	10.30	718,136	81,079	46,291	105,327	= 950,833
Economic Development	15.50	997,971	116,169	138,330	107,393	= 1,359,863
Non-Departmental		75,000		\$		= \$ 75,000
<b>Total General Fund</b>	<b>121.22</b>	<b>\$ 6,942,397</b>	<b>\$ 758,966</b>	<b>\$ 921,020</b>	<b>\$ 868,941</b>	<b>= \$ 9,491,324</b>
<b>ENTERPRISE FUNDS</b>						
Water	22.70	\$ 1,241,893	\$ 127,473	\$ 219,221	\$ 134,551	= \$ 1,723,138
Sewer	3.30	175,539	18,082	45,962	19,021	= 258,604
Solid Waste	2.80	151,301	10,206	26,768	29,699	= 217,974
EMS	34.50	2,710,359	339,470	332,696	281,329	= 3,663,854
<b>Total Enterprise Funds</b>	<b>63.30</b>	<b>\$ 4,279,092</b>	<b>\$ 495,231</b>	<b>\$ 624,647</b>	<b>\$ 464,600</b>	<b>= \$ 5,863,570</b>
<b>TOTAL ALL FUNDS</b>	<b>184.52</b>	<b>\$ 11,221,489</b>	<b>\$ 1,254,197</b>	<b>\$ 1,545,667</b>	<b>\$ 1,333,541</b>	<b>= \$ 15,354,894</b>



**TOWN OF QUEEN CREEK  
OPERATING FUNDS CAPITAL  
FY13/14 RECOMMENDED BUDGET**

**GENERAL FUND (Funded from General Fund)**

DESCRIPTION	2014
SPLASH PAD	\$ 120,000
DOG PARK	120,000
HOTEL FEASABILITY STUDY (TOWN WIDE)	50,000
STALL MATS	20,000
SOUND FOR SHED ROWS	10,000
CASE 570 NXT TRACTOR W/CAB	95,044
COUNCIL CHAMBER TECHNOLOGY UPGRADE	50,000
VIRTUAL DESKTOP	310,210
LIS/IVR REPLACEMENT	296,176
FOUNDERS PARK PLAYGROUND SHADE STRUCTURE	20,000
MONUMENT SIGNS	100,000
<b>TOTAL BUDGETED EXPENDITURE</b>	<b>\$ 1,191,430</b>

**EMERGENCY SERVICES (Funded from EMS Program)**

DESCRIPTION	2014
FIRE PUMPER TRUCK (LEASE/PURCHASE)	\$ 95,300 <sup>1</sup>
<b>TOTAL BUDGETED EXPENDITURE</b>	<b>\$ 95,300</b>

1. Reflects year one of a 7 year lease/purchase for new fire apparatus, total acquisitions cost \$600,000.



**TOWN OF QUEEN CREEK  
UTILITY FUNDS CAPITAL BUDGET  
FY13/14 RECOMMENDED BUDGET**

**SEWER (Funded from Sewer/Waste Water Program)**

DESCRIPTION	2014
VICTORIA DOSING SITE	\$ 50,000
SEWER MASTER PLAN UPDATE	60,000
HASTINGS DOSING SITE	65,000
VILLAGES DOSING SITE	75,000
RIGGS RD EXTENSION - ELLSWORTH EAST	90,000
POWER RD LIFT STATION - OCOTILLO	150,000
RIGGS RD EXTENSION - POWER TO HAWES	264,000
RITTENHOUSE EXTENSION TO RYAN	365,440
<b>TOTAL BUDGETED EXPENDITURE</b>	<b>\$ 1,119,440</b>

**WATER (Funded from Water Program)**

DESCRIPTION	2014
WATER TRUCK	\$ 128,100
ORCHARD RANCH OUT FLOW STANDPIPE FOR IRRIGATION	20,000
SHCNEPF WELL SITE IMPROVEMENTS	35,000
VICTORIA WELL SITE IMPROVEMENTS	40,000
CONVERSION OF WELLS TO RECOVERY WELLS	50,000
RIGGS RD EXTENSION - ELLSWORTH EAST	50,000
ORCHARD RANCH BOOSTER TO UPPER ZONE	50,000
SCADA SOFTWARE PLATFORM UPGRADE	60,000
HASING WELL SITE IMPROVEMENTS	65,000
SOSSAMAN - 2 WELLS, STORAGE, TRANSMISSION	150,000
WATER MASTER PLAN	150,000
MAIN FROM SOSSAMAN TO 195TH ST	250,000
<b>TOTAL BUDGETED EXPENDITURE</b>	<b>\$ 1,048,100</b>



**TOWN OF QUEEN CREEK  
DRAINAGE & TRANSPORTATION  
FY13/14 RECOMMENDED CAPITAL BUDGET**

DESCRIPTION	2014
<b>PROJECTS</b>	
LIBRARY ACCESS ROAD	\$ 185,000
INTERSECTION OF RITTENHOUSE AND CLOUD	250,000
RITTENHOUSE WEST OF VESTAR	737,874
OCOTILLO UPRR CROSSING	115,000
ELSWORTH OCOTILLO TO RITTENHOUSE	500,000
CHANDLER HTS @ SOSSAMAN TRAFFIC SIGNAL	420,000
FREEWAY DIRECTIONAL SIGNS	50,000
TRANSPORTATION STUDY	150,000
FLASHING YELLOW TURN SIGNAL AT QC MARKETPLACE	15,000
CROSS WALK INVENTORY FOR PRIORITY INTERSECTIONS	40,000
OCOTILLO POWER TO RECKER	2,000,000 <sup>1</sup>
<b>TOTAL BUDGETED EXPENDITURE</b>	<b>\$ 4,462,874</b>
<b>PROJECTS APPROVED BY COUNCIL 01/16/2013</b>	

1. Reflects monies from Town of Gilbert. The remainder of the total capital budget is funded from fund balance reserves.



## TOWN OF QUEEN CREEK FY 13/14 RECOMMENDED NEW STAFFING

Department	Cost Center	Description	Personnel Costs <sup>1</sup>
Workforce & Technology	Information Technology	Business Analyst	\$ 64,395
Economic Development	Economic Development	Analyst	64,395
Economic Development	Marketing & Communications	Part Time Media Specialist	35,000
Economic Development	Horseshoe Park & Equestrian Centre	M&O Tech	48,000
Economic Development	QC Inc.	Part Time Staffing	15,000 *
Development Services	Planning	Principle Planner	110,641
Development Services	Planning	Planning Admin Assistant	45,080
Development Services	Engineering	Traffic Engineer/Town Engineer	93,131
Development Services	Engineering	Part Time Inspector	35,188
Development Services	Building Safety	Inspector	71,344
Development Services	Building Safety	Plans Examiner	84,690
Development Services	Streets	M&O Assistant	45,079
Development Services	Streets	M&O Assistant	45,079
Development Services	Grounds	Part Time Park Ranger	21,653
Development Services	Neighborhood Preservation	Part Time Coordinator	19,403
Development Services	Neighborhood Preservation	Part Time Coordinator	19,403
Development Services	Solid Waste	Part Time Admin Assistant	30,000 *
Development Services	Solid Waste	Part Time Inspector	30,000 *
Utilities	Water	Management Assistant	73,000 *
EMS	Fire	Fire Fighter	86,390 *
EMS	Fire	Fire Fighter	86,390 *
Total New Full Time Employees		17	\$ 1,123,261
General Fund Full Time Employees		12.5	\$ 802,481
Other Funds Full Time Employees		4.5	\$ 320,780

1. Includes fringe benefit costs

\*These positions are not funded from the General Fund but through the special revenue funds/enterprise funds.

Requesting Department:

Town Manager



TAB H

**TO: HONORABLE MAYOR AND TOWN COUNCIL**  
**THROUGH: JOHN KROSS, TOWN MANAGER**  
**FROM: PATRICK FLYNN, ASSISTANT TOWN MANAGER**  
**TRACY CORMAN, SENIOR MANAGEMENT ASSISTANT**  
**RE: DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 949-13**  
**APPROVING THE ASSET PURCHASE AGREEMENT FOR ACQUIRING**  
**THE H2O, INC. WATER UTILITY**  
**DATE: JUNE 19, 2013**

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**Staff Recommendation:**

Staff recommends approval of Resolution 949-13 approving the attached asset purchase agreement for acquiring the H2O Inc. Water Utility.

**Relevant Council Goal(s):**

- KRA 4 Environment; Goal 2 Ensure a safe and sustainable water supply that allows for implementation of the General Plan.

**Proposed Motion:**

Move to approve Resolution 949-13 approving the asset purchase agreement for acquiring the H2O Inc. Water Utility.

**Discussion:**

The attached Asset Purchase Agreement is the result of a lengthy process of negotiation with H2O, Inc., a preliminary review of the company and a public election held on May 21, 2013. A brief timeline of the major project milestones to date is provided below.

Project Timeline to Date

Nov. 9, 2012: Council approved Resolution 920-12 authorizing Town staff to negotiate purchase terms with H2O, Inc. Water Utility.

Dec. 19, 2012 Council approved the initial Purchase Terms with a down payment of \$15,000,000 due at the close of escrow, to be funded by a loan from the Water Infrastructure Financing Authority (WIFA). The terms specify that the balance of the acquisition is to be paid by issuing 30 year tax exempt municipal revenue bonds to H2O, Inc. as follows:

Years 1-5 Interest only as follows:

Yr 1 \$1,539,508.00

Yr 2 \$1,609,860.00



Yr 3 \$1,679,813.00  
Yr 4 \$1,747,766.00  
Yr 5 \$1,819,719.00

Years 6-30 Fully Amortizing Bond with annual payments of \$1,819,719.00.

This stream of payments amounts to a present day acquisition price of approximately \$44,000,000.

- Jan. 2013 Due to a Court of Appeals ruling on a case from the City of Marana vs. Pima County, the Town was required to hold an election to ask voters for the authority to purchase the H2O, Inc. Water Utility.
- Feb. 6, 2013 Council approved Resolution #932-13 calling a special election to be held on May 21, 2013.
- May 21, 2013 The special election resulted in a final vote of 2,550 in favor, and 379 opposed to the purchase.
- Jun. 19, 2013 Water Infrastructure Finance Authority (WIFA) Board meeting to consider approval of the Town's application for a \$16,000,000 low interest loan. This loan will cover both the cost of the \$15,000,000 down payment as well as all costs associated with the acquisition, engineering and future interconnections between the water systems.

The attached Asset Purchase Agreement sets forth a purchase price that includes a down payment of \$15,000,000 to be paid at the time of closing, and the subsequent payment by the Town of a set of annual payments set forth in the approved Purchase Terms. The Series 2013 Purchase Agreement and Series 2013 Obligation Indenture for the annual payments will be considered by Council under a separate resolution at the meeting in July.

Based on the agreement the Town will be acquiring all of the H2O, Inc. assets with a territory of 23 square miles and approximately 9,500 current customers, with the ability to expand to 25,000 customers. The assets in this agreement do not include the physical H2O, Inc. office building. This building is owned by a separate entity and leased to H2O, Inc.

Under the agreement the Town will also be assuming all outstanding liabilities for mainline agreements. Mainline agreements are made when developers install water facilities for their developments. These agreements expire after 10 years, and would require the Town to pay developers 10% of the water revenues within their development. The estimated payout on all of these agreements over the next 10 years is approximately \$2,500,000. These annual payments have been factored in to the pro forma financial statements.

The acquisition does not require a rate increase for Queen Creek water customers, and should the Town acquire H2O, water rates for current H2O customers would match the current rates paid by Queen Creek customers. Monthly water bills for the majority of current H2O customers, those using 7,500-10,000 gallons of water per month, will remain unchanged. Queen Creek's water service and H2O also use similar technologies and billing techniques, which means customers would notice little difference.

Conditions of closing include approval of the WIFA loan to pay for the down payment and connection costs, approval by the Arizona Corporation Commission and satisfactory findings of the due diligence review. After approval of this purchase agreement, the Town has 60 days to complete the due diligence review of H2O, Inc. This review has been ongoing and includes the audit review to assess the financial records of the company, and the engineering review to evaluate the infrastructure (pumps, piping, equipment and so on) of the company.

The WIFA Board meeting to consider the Town's application for a \$16,000,000 loan is being held on the afternoon of June 19, 2013. We will report out the results of this meeting at your Council meeting that evening. The Town's application includes the \$15,000,000 down payment for the acquisition, and additional \$1,000,000 will cover costs associated with the acquisition, engineering and future interconnections between the systems.

If WIFA approves the loan, and Council approves the asset purchase agreement, the next steps would include:

- Consideration at the July Council meeting to approve a resolution that would approve the Series 2013 Purchase Agreement and Series 2013 Obligation Indenture setting forth the annual payment schedule listed above.
- Consideration at the July Council meeting to approve a resolution authorizing staff to execute the WIFA loan documents at the time of closing, based on the results of the June 19 meeting.
- Arizona Corporation Commission action to delete H2O's Certificate of Convenience and Necessity. The anticipated hearing dates are Aug. 13 and 14.
- Estimated close of escrow in late September or early October.

**Fiscal Impact:**

The present day value of the purchase price for acquiring H2O Inc. is approximately \$44,000,000. The purchase will include an initial down payment at close of escrow in the amount of \$15,000,000, with the balance paid through issuing a 30 year tax exempt municipal revenue bond to H2O, Inc. Funds for the initial down payment are planned to come through the Water Infrastructure Finance Authority (WIFA) program. The remaining annual payments are planned to be paid by future revenues generated by the utility. The debt service payments, along with all operating expenses are financed through revenues generated by the H2O utility.

The Town's WIFA loan application for \$16,000,000 includes the down payment for the acquisition, and additional \$1,000,000 will cover costs associated with the acquisition, engineering and future interconnections between the systems.

As mentioned above, the Town would assume H2O's mainline extension agreements. These agreements expire after 10 years, and would require the Town to pay developers 10% of the water revenues within their development. The estimated payout on all of these agreements over the next 10 years is approximately \$2,500,000. These payments have been factored in to the long range financial projects for operating the utility.

**Alternatives:**

The Council may decide not to move forward with the acquisition of the H2O Inc. Water Utility.

**Attachments:**

Resolution 949-13

Asset Purchase Agreement

RESOLUTION NO. 949-13

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF TOWN OF QUEEN CREEK APPROVING THE FORM, AND AUTHORIZING THE EXECUTION AND DELIVERY, OF AN ASSET PURCHASE AGREEMENT AND ESCROW INSTRUCTIONS WITH H2O, INC.; DELEGATING THE DETERMINATION OF CERTAIN MATTERS RELATING THERETO TO THE MAYOR OR TO THE MANAGER OF THE TOWN; PROVIDING FOR THE MAKING OF CERTAIN COVENANTS AND AGREEMENTS WITH RESPECT THERETO; AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY SUCH ASSET PURCHASE AGREEMENT AND ESCROW INSTRUCTIONS AND/OR RELATED OR ATTACHED AGREEMENTS AND DOCUMENTS, AND BY THIS RESOLUTION; AND DECLARING AN EMERGENCY

WHEREAS, Town of Queen Creek (the "Town") has proposed to acquire (the "Acquisition") substantially all of the assets (the "Assets") of H2O Inc., an Arizona corporation (the "Seller"), pursuant to that certain Asset Purchase Agreement and Escrow Instructions, dated as of June 19, 2013 (the "Asset Purchase Agreement"). The Assets, when acquired, will then be assimilated into the Town's existing water delivery system, which water delivery system, it is contemplated, will generate monies necessary to fund, in full, the Source of Repayment (herein so called) for the Series 2013 Obligation Payments (as herein defined), such Source of Repayment being net revenues generated by said water delivery system, as so augmented;

WHEREAS, the Asset Purchase Agreement contemplates that the Acquisition will be accomplished by paying a Purchase Price (herein so called) of Fifteen Million Dollars (\$15,000,000.00) in cash (to be obtained by the Town pursuant to a contemplated loan from the Water Infrastructure Finance Authority of Arizona) at the Closing (herein so called) of the transactions contemplated by the Asset Purchase Agreement, and the subsequent payment by the Town of the deferred portion of the Purchase Price in a series of payments ("Series 2013 Obligation Payments") stipulated in the Asset Purchase Agreement;

WHEREAS, the Series 2013 Obligation Payments will be further evidenced by the execution and delivery by the Town and the Trustee named therein of forms of Series 2013 Purchase Agreement and Series 2013 Obligation Indenture (collectively, the "Series 2013 Obligation Documents"), which are still under negotiation with the Seller and which, when approved by the Town and the Seller, will be attached to the Asset Purchase Agreement, all of which, it is presently contemplated, will be the subject of a separate Resolution of the Town to be adopted at a meeting of the Common Counsel of the Town presently scheduled for July 17, 2013;

WHEREAS, the Mayor and Common Council of the Town have determined that it will be beneficial to the citizens of the Town to enter into and to perform the Asset Purchase

Agreement, whereby the Town will consummate the Acquisition (thus substantially increasing the size and efficiency of the Town's water delivery system) and will thereafter commit to pay, from the Source of Repayment, the Series 2013 Obligation Payments; and

WHEREAS, there has been placed on file with the Clerk of the Town and presented at the meeting at which this Resolution was adopted the proposed form of the Asset Purchase Agreement with all Exhibits attached.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COMMON COUNCIL OF TOWN OF QUEEN CREEK THAT:**

Section 1. The form, terms and provisions of the Asset Purchase Agreement, in the form of such Agreement (including the Exhibits thereto as now appearing) presented at the meeting at which this Resolution was adopted, are hereby approved, with such insertions, omissions and changes, as shall be approved by the Mayor or, in the absence thereof, Vice-Mayor or Town Manager of the Town, the execution of such documents being conclusive evidence of such approval, and the Mayor or, in the absence thereof, Vice-Mayor of the Town or the Clerk of the Town, are hereby authorized and directed, for and on behalf of the Town, to execute and attest and deliver the Asset Purchase Agreement. If so approved by the parties to the Asset Purchase Agreement, the addition of the Series 2013 Obligation Documents as Exhibits to the Asset Purchase Agreement and the prospective execution and delivery of the Series 2013 Obligation Documents by the Town will be the subject of an additional Resolution of the Town, presently contemplated to be presented to the meeting of the Common Council of the Town presently scheduled on July 17, 2013.

Section 2. For the payment of the deferred portion of the Purchase Price pursuant to the Asset Purchase Agreement, the Town shall pay the Series 2013 Obligation Payments provided for in the Asset Purchase Agreement. The Town shall also pay all other amounts required to be paid by the Town pursuant to the provisions of the Asset Purchase Agreement.

Section 3. The obligation of the Town to pay the Series 2013 Obligation Payments provided for in the Asset Purchase Agreement is limited to the Source of Repayment, and the obligations of the Town to make such payments shall not constitute nor give rise to a general obligation of the Town or any claim against its *ad valorem* property taxing powers, or constitute an indebtedness within the meaning of any statutory or constitutional debt limitation applicable to the Town.

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

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

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

Section 6. All actions of the officers and agents of the Town, including the Mayor, Vice-Mayor, Manager, Common Council and staff of and for the Town, which conform to the purposes and intent of this Resolution and which further the execution and delivery of the Asset Purchase Agreement (and, as appropriate, its Exhibits) as contemplated by this Resolution, whether heretofore or hereafter taken, are hereby ratified, confirmed, adopted and approved in all respects. The proper officers and agents of the Town are hereby authorized and directed to do all such acts and things and to execute and deliver all such documents on behalf of the Town as may be necessary to carry out the terms and intent of this Resolution.

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

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

Section 9. The immediate operation of the provisions of this Resolution is necessary for the preservation of the public health and welfare and for the further reason that the execution and delivery at the earliest possible date of the Asset Purchase Agreement is urgently needed to attempt to secure the full and timely performance of the Asset Purchase Agreement by the Town and the Seller and facilitating all conditions precedent to Closing contained therein including, without limitation, filing of appropriate documentation, and conducting all appropriate proceedings, with the Arizona Corporation Commission respecting Seller's CC&N and the extinguishment thereof; therefore, an emergency is hereby declared to exist and this Resolution is enacted as an emergency measure and shall be in full force and effect from and after the passage and adoption by the Mayor and Common Council of the Town, as required by law, and this Resolution is hereby exempt from the referendum provisions of the Constitution and laws of the State of Arizona.

Section 10. After the execution and delivery of the Asset Purchase Agreement, this Resolution shall be and remain not subject to repeal until the Asset Purchase Agreement fails to

close by its terms or, closing thereunder occurs, until Series 2013 Obligation Payments shall have been fully paid, cancelled and discharged.

[SIGNATURE, ATTESTATION, APPROVAL AND CERTIFICATION APPEAR ON  
PAGES FOLLOWING]

PASSED AND ADOPTED on June 19, 2013.

---

Gail Barney, Mayor,  
Town of Queen Creek

ATTEST:

---

Jennifer F. Robinson, Clerk,  
Town of Queen Creek

APPROVED AS TO FORM:

---

Fredda Bisman, Town Attorney,  
Town of Queen Creek



CERTIFICATION

I hereby certify that the foregoing Resolution was duly passed and adopted by the Mayor and Common Council of the Town of Queen Creek, at a meeting held on the 19<sup>th</sup> day of June, 2013, and the vote was \_\_\_\_ yes and \_\_\_\_ nays and that the Mayor and \_\_\_\_ Council Members were present thereat.

---

Jennifer F. Robinson, Clerk,  
Town of Queen Creek

PHOENIX 53749-3 64776v1

**ASSET PURCHASE AGREEMENT**

**AND**

**ESCROW INSTRUCTIONS**

**Between**

**H2O, INC.,**

**an Arizona corporation,**

**as Seller**

**and**

**TOWN OF QUEEN CREEK,**

**an Arizona municipal corporation,**

**as Buyer**

**H2O, INC. ASSETS**

**Queen Creek and Maricopa/Pinal Counties, Arizona**

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## LIST OF EXHIBITS

- A Seller's Certificated Area
- B-1 Series 2013 Purchase Agreement
- B-2 Series 2013 Obligation Indenture
- C Bill of Sale
- D Assignment and Assumption of Permits
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- Schedule 2.1.1 Personal Property
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- Schedule 2.4 Assumed Liabilities
- Schedule 2.7 Meter Deposit Refunds

**ASSET PURCHASE AGREEMENT  
AND ESCROW INSTRUCTIONS**

DATED: Dated to be effective as of June 19, 2013 (the “Effective Date”).

PARTIES: This Asset Purchase Agreement and Escrow Instructions (the “Agreement”) is made between H2O, INC., an Arizona corporation, as “Seller”, and the TOWN OF QUEEN CREEK, an Arizona municipal corporation, as “Buyer”. Seller and Buyer are referred to collectively herein as the “Parties” and, individually, as a “Party”.

RECITALS:

A. Seller is a public service corporation (as defined in Article 15, Section 2 of the Arizona Constitution) and, as such, is regulated by the Arizona Corporation Commission (the “Commission”). Seller holds a Certificate of Convenience and Necessity (“CC&N”) granted by the Commission which authorizes Seller to provide water utility service within a defined geographic area (the “Certificated Area”), as depicted on the diagram attached hereto as Exhibit A, and as further legally described as a portion of Exhibit A, it being understood that if requested by either Party or by the Commission, either the depiction or the legal description (or both) of the Certificated Area as finally attached hereto at the Closing (as herein defined) may be amended to conform with any such requests.

B. Seller owns and operates a water system which serves customers residing within Seller’s Certificated Area (the “Business”).

C. Buyer desires to purchase certain assets and certain real property of Seller solely relating to the Business (the “Purchased Assets” and as further defined below) and to assume certain rights and obligations of Seller solely relating to the Business, and Seller, recognizing Buyer’s power of eminent domain and under the imminent threat of condemnation, desires to sell and transfer such assets and real property to Buyer and to assign to Buyer such rights and obligations, all upon and subject to the terms and conditions set forth herein.

D. Buyer is authorized by statute to acquire, construct and renovate public utility infrastructure.

E. Buyer proposes to finance a portion of the acquisition of the Purchased Assets pursuant to this Agreement by causing the execution and delivery of certain tax-exempt municipal revenue obligations (the “Series 2013 Obligations”) more fully described herein.

F. Seller will transfer the Purchased Assets to Buyer in exchange for, among other consideration, Buyer delivering the Series 2013 Obligations in accordance with this Agreement.

G. To secure the payments and obligations under the Series 2013 Obligations, Buyer will pledge certain revenues arising from the Water System (herein so called) of Buyer (which will include Buyer’s current Water System as augmented by the Purchased Assets upon consummation of the transactions contemplated hereby).

H. In connection with the transaction contemplated by this Agreement (the “Purchase Transaction”), the Parties contemplate the Commission’s deletion and extinguishment of Seller’s CC&N. However, such deletion and extinguishment will be conditioned upon the consummation of the Purchase Transaction in accordance with the terms of this Agreement.

AGREEMENTS:

NOW THEREFORE, in consideration of the mutual promises, agreements, representations and warranties set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. INCORPORATION OF RECITALS. All of the foregoing Recitals are hereby incorporated herein by reference as agreements of the Parties.

2. SALE AND PURCHASE OF ASSETS.

2.1. Assets to be Purchased. Subject to the terms and conditions set forth in this Agreement, Seller will sell, convey, transfer, assign and deliver to Buyer, and Buyer will purchase from Seller, upon Close of Escrow (as defined herein), all of Seller’s right, title and interest in and to the following assets of Seller solely related to the Business (collectively, the “Purchased Assets”):

2.1.1. The equipment, machinery, vehicles, furniture, fixtures, leasehold improvements, inventory, operating supplies and other similar personal property owned by Seller that is identified and/or described on Schedule 2.1.1 attached hereto, which shall be maintained in the condition as exists on the Effective Date, ordinary wear and tear excepted (collectively, the “Personal Property”), and all Personal Property, if any, acquired by Seller in the ordinary course of business after the Effective Date and prior to Close of Escrow as contemplated by Section 2.2 hereof;

2.1.2. Seller’s interest in each of the contracts and agreements that relate to the Personal Property and the Infrastructure (as defined herein), in each case which is identified and/or described on Schedule 2.1.2 attached hereto, and to the extent transferable to Buyer pursuant to the terms thereof (collectively, “Assigned Contracts”). The Assigned Contracts shall include, at not be limited to, Seller’s existing Central Arizona Project (“CAP”) contract, which the Parties will, both pre-and post-Closing, reasonably cooperate with one another in effecting the assignment thereof from Seller to Buyer;

2.1.3. Seller’s interest in the mainline extension agreements (collectively, “MEAs”) identified and/or described on Schedule 2.1.3 attached hereto, including those additional MEAs, if any, entered into by Seller after the Effective Date in accordance to the terms hereof, to the extent transferable to Buyer. Seller will reasonably cooperate with Buyer in obtaining consents of the respective counter-parties to all of said MEAs (if requested by Buyer) to the respective assignments contemplated hereby. Schedule 2.1.3 also lists four (4) Master Utility Agreements (herein so called) which shall likewise be assigned at Closing;



2.1.4. The wells, storage tanks, booster pumps, water mains, service lines, water meters and fire hydrants comprising the water infrastructure used by the Business (the "Infrastructure") in connection with its provision of water utility service to customers residing within Seller's Certificated Area (collectively, "Customers"), whether owned or leased, and identified and/or described on Schedule 2.1.4 attached hereto. The Infrastructure shall include, but not be limited to, antennas and associated equipment connected with, affixed to or otherwise utilized in connection with the Communications Tower (herein so called) also identified on Schedule 2.1.4 attached;

2.1.5. Seller's interest in the real property (the "Real Property") identified and/or described on Schedule 2.1.5 attached hereto, including all utility easements, if any (collectively, the "Utility Easements"), all tenements, hereditaments and appurtenances, if any, pertaining to the Real Property, all sewer, mineral, water and irrigation rights, if any, running with or otherwise appurtenant or pertaining to the Real Property, and all of Seller's interest, if any, in any road adjoining the Real Property, to the center line thereof. The Real Property shall also include any road franchise agreements with municipalities or Counties which, together with the Utility Easements, the Parties shall transfer at the Closing under commercially reasonable terms;

2.1.6. Seller's interest, if any, in all improvements permanently affixed to the Real Property (collectively, the "Improvements") identified and/or described on Schedule 2.1.6 attached hereto;

2.1.7. any transferable award made or to be made or settlement in lieu thereof for damage, if any, to the Real Property or Improvements by reason of condemnation, eminent domain or exercise of police power by any government, any governmental entity, department, commission, board, agency or instrumentality, or any court, tribunal or judicial body, in each case whether federal, state, county or local (each, a "Governmental Agency"), excluding Buyer;

2.1.8. all of Seller's interest, to the extent transferable, in all permits, licenses, franchises, consents, rights or authorizations issued by, and all registrations and filings with, any Governmental Agency in connection with the Business (collectively, the "Permits");

2.1.9. all accounts receivable, excluding accounts receivable for water deliveries made by Seller prior to Close of Escrow as reflected on Seller's books and records as of Close of Escrow, related to Seller's Customers (collectively, "Customer Accounts") reflected on Seller's books and records as of Close of Escrow;

2.1.10. all books, records and files pertaining to the Business which Seller is required to maintain in accordance with any law, rule or regulation of any Governmental Agency (a "Legal Requirement"), together with all other computerized records (and including "paper/hard copy" as appropriate) of the Business and/or Seller relating to the Customers, to the extent reasonably determined by Buyer to be in facilitation of, or useful in connection with, the transfer of the business contemplated hereby, transfer of Customer Accounts, future Customer billings, etc. (it being understood that such information shall not include proprietary information of Seller, personal information relating to Seller's natural person principals or information related

to other businesses of Seller or its affiliates), the Business, the operation thereof and/or the assets and liabilities transferred and assumed, respectively, hereby; and

2.1.11. to the extent Seller has any interest in any software licenses, software or data, including radio licenses or communications franchises/licenses identified by Buyer during the Study Period, which shall be transferred at Closing under transfer instruments customarily utilized with regard to such types of items, in commercially reasonable form and reasonably acceptable to both Parties.

## 2.2. The Inventories.

2.2.1. The quantity, extent and classification of the Personal Property shall be determined by a physical inventory of the Personal Property to be conducted and completed by Seller and Buyer no later than thirty (30) days after Opening of Escrow (the "Preliminary Inventory" and the "Preliminary Inventory Deadline," respectively).

2.2.2. The Preliminary Inventory shall be updated by Seller and Buyer no earlier than the third business day preceding the date scheduled for Close of Escrow as provided in this Agreement (the "Final Inventory"). The Final Inventory shall contain or reflect such deletions and additions to the Preliminary Inventory as may have occurred in the ordinary course of Seller's Business between the date of the Preliminary Inventory and Close of Escrow. Buyer recognizes that some number of the items which may be reflected on the Preliminary Inventory (which Preliminary Inventory shall exclude any disposable supplies) may not be replaced or repaired between the date of the Preliminary Inventory and the Final Inventory. In such regard, Seller shall not remove, except for obsolescence or consumption in the ordinary course of business, any of the Personal Property, and shall maintain both the quality and quantity of the same to the standards such property has historically been maintained by Seller in the ordinary course of business, ordinary wear and tear excepted. All Personal Property reflected in the Preliminary Inventory, other than that consumed in the ordinary course of business, whether or not in working order, shall become the property of Buyer at the Close of Escrow, unless Buyer elects, as to an item or items or class of classes of items, to the contrary.

2.2.3. In furtherance of the foregoing Section 2.2.2 and in addition thereto, Seller may, from time to time prior to or at Close of Escrow, by notice in accordance with the terms of this Agreement, supplement, amend or create any Schedule to this Agreement in order to add information or correct information previously supplied to Buyer. No such amendment shall be evidence, in and of itself, that the representations and warranties in the corresponding Section are no longer true and correct. It is specifically agreed that such Schedules may be amended to add immaterial items, as well as material items as approved by Buyer in accordance with Section 13.4.8 below, thereto. To the extent any Schedule to this Agreement is supplemented or amended pursuant to this Section 2.2.3, Seller shall provide all information related to the updated Schedule to Buyer contemporaneously with such amendment or supplementation.

2.3. Excluded Assets. The Purchased Assets do not and shall not include any assets of Seller which are not described in Section 2.1 above as the "Purchased Assets" and in particular: (i) Seller's CC&N, the cancellation and extinguishment of which will be conditioned

upon, and will be a condition precedent to the obligations of both Parties hereunder to, the consummation of the Purchase Transaction in accordance with the terms of this Agreement; (ii) any cash and cash equivalents, except as described in Section 2.1.9 (including marketable securities and short-term investments and other securities held by Seller); (iii) trademarks, trade names and logos of Seller; (iv) any bank accounts and security deposit boxes of Seller; (v) any rights which accrue or will accrue to Seller under this Agreement; (vi) any rights or choses in action arising out of occurrences before the Close of Escrow; or (vii) those assets related to the Business identified on Schedule 2.3 attached hereto (collectively, the “Excluded Assets”).

2.4. Assumed Liabilities. Unless otherwise set forth herein, at Close of Escrow, Seller will assign, and Buyer shall assume (without recourse), and agree to pay, discharge or perform, as appropriate, all liabilities, duties and obligations of Seller arising from and after Close of Escrow with respect to the Purchased Assets as set forth on Schedule 2.4 attached (the “Assumed Liabilities”). The Assumed Liabilities shall also include the respective obligations to refund/pay/credit any: (i) Customer account security deposits (being defined as advance deposits made by Customers to secure payment of future charges of the respective Customer accounts) which come due after Closing and only to the extent and when they do come due; Seller shall provide to Buyer a reasonable accounting of same at Closing; and (ii) Meter Deposit Refunds (as defined, and the respective responsibilities for same are set forth, in Section 2.7 below). Seller shall execute such documents as are reasonably requested by Buyer to evidence any transfer of any rights or obligations related to any of the foregoing at no material additional cost or expense to Seller, and Buyer shall have full and complete control over disposition/payment/compromise/payment of such liabilities post-Closing.

2.5. Excluded Liabilities. Buyer shall not assume, pay, discharge, perform or in any way be responsible or liable for any of Seller’s liabilities which are not described in Section 2.4 above as the “Assumed Liabilities” and in particular and without limiting the foregoing: (i) any federal, state or local income, sales or other tax payable with respect to the Business or Purchased Assets for any period prior to Close of Escrow; (ii) any liability or obligation under or in connection with any of the Excluded Assets; (iii) any liability relating to any of Seller’s employees arising from or related to Seller’s actions or omissions prior to Close of Escrow; (iv) any liability relating to: 1) taxes (whether income, excise, transaction privilege, *ad valorem* [real and personal property] or any tax which would constitute a lien encumbering the Assets in the hands of Buyer) owed, claimed to be owed, due or claimed to be due, by, to or through any state, local, county, municipal or federal taxing authority (collectively, “Tax Liabilities”); or 2) any pension or retirement or similar plan operated or supported by Seller; and (v) any suit or claim or liability owed or claimed to be due to any third party arising from or related to Seller’s actions or omissions prior to Close of Escrow (collectively, the “Excluded Liabilities”). Subject and up to the Excluded Liability Indemnity Limit (as herein defined), Seller shall indemnify, pay, protect, defend and save and hold Buyer harmless from any cause, claim, damage, liability or obligation of any kind, type or nature arising out of the Excluded Liabilities, so long as not caused, in whole or substantial part, by the acts or omissions of Buyer (Seller’s indemnity obligations in this sentence being herein called the “Excluded Liability Indemnity”). “Excluded Liability Indemnity Limit” shall mean Fifty Thousand Dollars (\$50,000.00), which Limit shall not include and is inapplicable to: a) any items prorated hereunder, for which Seller is responsible as agreed in any applicable credit to Buyer at Closing; and b) Tax Liabilities, none of which shall count against the Excluded Liability Indemnity Limit.

2.6. Post-Closing Extraordinary Financial Obligations. Seller represents, and Buyer acknowledges, that there are certain on-going financial obligations that occur in the normal course of Seller's operation of the Business that Seller must continue to incur. Seller agrees, however, that, with the exception of such ordinary course financial obligations (which shall not, without Buyer's consent, exceed the limitation set forth immediately below), except for Required Obligations (as defined immediately below) Seller shall not enter into any new financial obligation whereby it obligates Buyer to any expense to be incurred subsequent to the Close of Escrow in excess, in the aggregate, of Twenty-Five Thousand Dollars (\$25,000.00) and from and after the end of the Study Period, without the express written consent of Buyer, which consent may be given or withheld in Buyer's sole and only discretion. When used herein the term "Required Obligations" shall mean regulatory or legal obligations requiring Seller to expend funds outside the ordinary course of business as a result of actions by regulatory or public bodies in connection with Seller's regulated business as a utility provider through Closing. If Seller receives knowledge that it may be the subject of Required Obligations, Seller shall give Buyer notice thereof and the Parties shall meet and discuss the appropriate response (subject, at all times, to regulatory authority and powers).

2.7. Concerning Meter Deposits. The amount of all outstanding Meter Deposits (herein so called) relating to all current Customer accounts is set forth on Schedule 2.7. The Parties stipulate and agree that Two Hundred Sixty Seven Thousand Four Hundred Seventy Dollars (\$267,470.00) is due to be refunded (via bill credit to Customers' accounts) on or about November 30, 2013 (the "Meter Deposit Refund"). The Meter Deposit Refund shall be prorated as of the Close of Escrow by dividing the Meter Deposit Refund into a pre-Closing portion (based on the number of days elapsing from and including December 1, 2012 through and including the Closing Date) and a post-Closing portion (based on the number of days elapsing from the day after the Closing Date through November 30, 2013). Seller shall be responsible for payment of the pre-Closing portion of the Meter Deposit Refund, and will provide a credit in that amount to Buyer at Closing. Buyer shall be responsible for payment of the Meter Deposit Refund. Except for the Closing credit noted immediately above, Seller shall have no further obligation with respect to any future refunds of Meter Deposits.

### 3. PURCHASE PRICE.

3.1. Purchase Price. In consideration of the sale and transfer by Seller of the Purchased Assets, the cancellation and extinguishment of Seller's CC&N and the representations, warranties and covenants of Seller set forth herein, Buyer shall pay or cause to be paid to Seller an amount (the "Purchase Price") equal to the sum of a) and b) immediately below. The Purchase Price shall be paid as follows:

(a) \$15,000,000.00 in cash, financed through a loan (the "WIFA Loan") from the Arizona Water Infrastructure Financing Authority ("WIFA"), to be paid by wire transfer at Close of Escrow (the "Cash Payment"); and

(b) The balance of the Purchase Price shall consist of the Series 2013 Obligations, the execution and delivery of which are provided for by the Series 2013 Purchase Agreement and the Series 2013 Obligation Indenture

(respectively herein so called; collectively, with all other documents and instruments executed in connection with either of the foregoing, the “Series 2013 Obligation Documents”) in substantially the forms to be attached hereto as Exhibits B-1 and B-2 (as referenced in Section 9.2.8 below), respectively, which shall consist of a thirty-year “payment stream” of obligations paid to H2O, Inc., payable as follows:

Years 1-5 -- Interest only as follows:

Year 1:	\$1,539,508.00
Year 2:	\$1,609,860.00
Year 3:	\$1,679,813.00
Year 4:	\$1,747,766.00
Year 5:	\$1,819,719.00

Years 6-30: Fully amortizing payments at 8% interest factor per annum, with annual payments of \$1,819,719.00

3.2. Payment of Purchase Price. Buyer has heretofore delivered to Chicago Title Insurance Company, Attn: Mr. Alan Costley, 1959 S. Val Vista Road, Suite 115, Mesa, Arizona 85204, telephone (480) 539-6854 (the “Escrow Agent”) Fifty Thousand and No/100 Dollars (\$50,000.00) (the “Original Earnest Deposit”) in Escrow Agent’s Escrow No. C1300013 (the “Escrow”). The date of delivery of triplicate executed originals of this Agreement by each of Seller and Buyer, and Escrow Agent’s acknowledgment of the prior deposit of the Original Earnest Deposit are referred to herein as the “Opening of Escrow”. At the close of the Study Period, if Buyer wishes to continue the transactions contemplated hereby under Section 7 below, Buyer shall deposit an additional Four Hundred Fifty Thousand and No/100 Dollars (\$450,000.00) (the “Additional Earnest Deposit”) which, with the Original Earnest Deposit, shall constitute the Earnest Deposit (herein so called) with regard to this Transaction. Except as may otherwise be provided herein, the Earnest Deposit and Interest, as defined below, shall be credited to the Cash Payment at Closing.

3.3. Assumption of Mainline Extension Agreements and Reimbursement; Master Utility Agreements.

3.3.1. The Parties acknowledge and agree that, pursuant to the Assignment and Assumption Agreement (as defined herein), Seller will assign and Buyer will assume all obligations of Seller under the MEAs as stated on Schedule 2.4 and as of Close of Escrow. Except to the extent of any liability arising prior to Close of Escrow or relating to a breach or claimed breach of the MEAs prior to Close of Escrow, Seller shall have no further obligations with respect to such MEAs following such time. Buyer and Seller acknowledge that the monetary obligations of the MEAs are payable on a yearly basis which ends on June 30 (with payment to be made on or about August 1, immediately following). An appropriate proration of respective liabilities thereunder at Closing shall be undertaken, whereby Seller shall be debited for the pro rata share (pro rated as set forth below) of such obligations for the period from July 1, 2013, through Closing. Revenues arising out of and collected for any full months completed

before the Closing shall be multiplied by the appropriate percentage reimbursement with respect to the MEA in question and at Closing Seller will be debited and Buyer will be credited for all such full months' respective obligations with regard to all MEAs. At Closing, the Parties shall make a reasonable good faith estimate of revenue received during the Closing Month and prorate based on that figure, together with a reasonable estimate of remaining revenue to be received during the remainder of the month in which Closing occurs (the "Closing Month"). Within a reasonable period of time after the Closing Month ends, if requested by either Party, the Parties shall meet and re-prorate based on actual revenue figures; the Party which is due reimbursement from the other pursuant to such re-proration shall be reasonably promptly paid by the Party required to reimburse. Seller shall make all payments due under the MEAs on or about August 1, 2013 and shall indemnify and hold harmless Buyer from the failure to make such payments. Buyer may withhold from the next due installment under the Series 2013 Obligations any amounts failed to be paid by Seller and Buyer may pay such amounts to the respective counterparties to the MEAs who or which are then unpaid. In furtherance of the foregoing (but conditioned upon such proration), Buyer expressly agrees that it shall be responsible for reimbursement of all reimbursable sums outstanding under MEAs in force as of Close of Escrow to which Seller is a party (and to the extent sums are set forth on Schedule 2.1.3 attached hereto), and Buyer shall defend, indemnify and hold Seller harmless for, from and against any and all losses, liabilities, claims, costs, damages and expenses, including without limitation, reasonable attorneys' fees, experts' fees and court costs, incurred or which may be incurred by Seller directly or indirectly arising out of Buyer's acts or omissions with respect to such MEAs following Close of Escrow. Seller shall defend, indemnify and hold Buyer harmless for, from and against any and all losses, liabilities, claims costs, damages and expenses, including without limitation, reasonable attorneys' fees, experts' fees and court costs incurred or which may be incurred by Buyer directly or indirectly arising out of or related to a breach or claimed breach of such MEAs by Seller prior to Close of Escrow or any other liability thereunder which arose prior to Close of Escrow and which is not an Assumed Liability hereunder.

3.3.2. In consideration of Buyer's assumption of Seller's reimbursement obligations under the MEAs, Seller agrees that Buyer shall be entitled to a credit against the Purchase Price in an amount equal to the amount owed by Seller under the MEAs as of the Close of Escrow as stated above.

3.3.3. The Master Utility Agreements shall likewise be assigned by Seller at Closing under instruments of assignment reasonably acceptable to the Parties and, where required by the underlying Agreement, to the counter-party to the affected Master Utility Agreement(s).

#### 4. DISPOSITION OF EARNEST DEPOSIT.

4.1. Disposition of the Earnest Deposit. Seller and Buyer hereby instruct Escrow Agent to place the Earnest Deposit, as respectively received, in a federally insured daily interest-bearing passbook account on behalf of Seller and Buyer. The Earnest Deposit and interest thereon to the date of withdrawal (the "Interest") shall be applied as follows:

4.1.1. If: (i) Buyer cancels this Agreement as a result of a Seller Event of Default (as defined herein); or (ii) a Buyer condition to Closing hereunder is not fulfilled,

Escrow Agent shall immediately pay the Original Earnest Deposit and Interest thereon to Seller and the Additional Earnest Deposit and Interest thereon to Buyer, all upon written notice given by Buyer to Escrow Agent and Seller of such Seller Event of Default or such failure of condition.

4.1.2. If: (i) a Buyer Event of Default (as defined herein) exists prior to or at Close of Escrow, and such Buyer Event of Default is not cured within the applicable notice and cure period; (ii) a Buyer condition to Closing fails to occur through no fault of Seller; or (iii) Buyer finds the Property infeasible of acquisition under Section 7 hereof and does not timely make the Additional Earnest Deposit (after notice from Escrow Agent as set forth in Section 7 hereof), Escrow Agent shall pay the Original Earnest Deposit and Interest to Seller and return the Additional Earnest Deposit to Buyer and Interest (if therefore deposited by Buyer), without further written instructions from Seller or Buyer. Further, if a Buyer Event of Default occurs after the Additional Earnest Deposit deposited by Buyer is not timely cured in accordance with the terms hereof, the Additional Earnest Deposit and Interest shall likewise be paid by Escrow Agent to Seller.

4.1.3. If escrow closes, the Earnest Deposit and Interest shall be credited towards Buyer's Cash Payment to Seller at Close of Escrow.

## 5. THE CLOSING.

5.1. Time, Date and Place of Closing. The Purchase Transaction shall close (the "Closing"; as a verb, to "Close") and all deliveries to be made at Close of Escrow shall take place at the office of Escrow Agent at or before 2:00 p.m. local time, within five (5) business days (the "Closing Date") after the Appeal Date (as herein defined). Except as otherwise set forth herein, the Closing Date shall not be extended for any reason, without written agreement of the Parties. The term "Close of Escrow" shall mean the deliveries to be made by the Parties at the Closing Date in accordance with this Agreement.

5.2. Seller's Obligations at Close of Escrow. At or prior to Close of Escrow, Seller shall execute and/or deliver or cause to be executed and/or delivered to Escrow Agent on behalf of Buyer:

5.2.1. a bill of sale from Seller to Buyer, a specimen of which is attached hereto as Exhibit C, with appropriate schedules attached (the "Bill of Sale");

5.2.2. an assignment and assumption of permits and licenses, a specimen of which is attached hereto as Exhibit D, with appropriate schedules attached (the "Assignment and Assumption of Permits");

5.2.3. an assignment and assumption of service contracts, a specimen of which is attached hereto as Exhibit E, with appropriate schedules attached (the "Assignment and Assumption of Service Contracts");

5.2.4. a special warranty with respect to Seller's interest in the Real Property, a specimen of which is attached hereto as Exhibit F (the "Deed"), together with a form

of assignment or assignments of the Seller's interest in the Utility Easements in form or forms reasonably satisfactory to the Parties;

5.2.5. a sworn affidavit, in the form of Exhibit G attached hereto (the "Non-Foreign Affidavit") stating under penalty of perjury that Seller is not a "foreign person" as such term is defined in Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended (the "Code");

5.2.6. an assignment of warranties, a specimen of which is attached hereto as Exhibit H (the "Assignment of Warranties");

5.2.7. the Communications Tower License, lasting a period not to exceed one (1) year after Closing, a specimen of which is attached hereto as Exhibit I (the "Tower License")

5.2.8. any assignments of any well rights, water rights, well interests or any other item of similar nature relating to the Arizona Department of Water Resources ("ADWR") or to any other relevant Governmental Agencies which Buyer may reasonably require, all in the forms promulgated by Buyer, ADWR or such Agency (collectively, the "Water Rights Transfer Instruments");

5.2.9. wire transfer instructions for the disbursement of the Cash Payment; and

5.2.10. such other instruments and documents of the type or nature that are customarily provided by selling parties in connection with transactions of the type contemplated hereby and which Buyer reasonably deems to be necessary for Close of Escrow.

5.3. Buyer's Obligations at Close of Escrow. At or prior to Close of Escrow, Buyer shall execute and/or deliver or cause to be executed and/or delivered to Seller:

5.3.1. the Assignment and Assumption of Permits, the Assignment and Assumption of Service Contracts, the Assignment of Warranties and the Tower License;

5.3.2. the balance of the Cash Payment by wire transfer of immediately available funds to Escrow Agent for deposit in the Escrow. Escrow Agent shall, by wire transfer of immediately available funds to such account(s) as Seller shall advise Escrow Agent in writing, pay such funds and Interest to Seller at Close of Escrow;

5.3.3. The following items relating to the Series 2013 Obligation Documents:

- a) copies of all documents, agreements, certificates and related items executed or delivered in connection with the WIFA Loan and any other loans or obligations payable in whole or in part (whether in a senior or subordinate position) from the revenues pledged to Seller in connection with the Series 2013 Obligations, certified by an authorized official of Buyer as being a true and complete copy of each such item;



- b) a fully executed counterpart original of each of the Series 2013 Obligation Documents;
- c) copies of all documents, agreements, certificates and related items executed or delivered in connection with the issuance and delivery of the Series 2013 Obligations;
- d) documents evidencing the acquisition of ownership of the Series 2013 Property by the Trustee (as such terms are respectively defined in the Series 2013 Purchase Agreement);
- e) the unconditional approving opinion of Greenberg Traurig LLP, Bond Counsel (herein so called) to Buyer, dated the Closing Date and addressed to Seller, and a supplemental opinion of Bond Counsel relating to the Series 2013 Obligation Documents, in the respective forms of Exhibit J attached; and
- f) the opinion of Dickinson Wright Mariscal Weeks, counsel to Buyer, dated the Closing Date and addressed to Seller, in the form of Exhibit K attached.

5.3.4. such other instruments and documents of the type or nature that are customarily provided by purchasing parties in connection with transactions of the type contemplated hereby and which Seller reasonably deems to be necessary for Close of Escrow.

5.4. Transfer Documents. The Bill of Sale, the Assignment of Permits, the Assignment and Assumption Agreement, the Assignment of Warranties, the Deed, the Water Rights Transfer Instruments, the Series 2013 Obligation Documents and all documents which may be necessary to transfer the Purchased Assets are hereinafter collectively referred to as the "Transfer Documents."

## 6. PRELIMINARY TITLE REPORT AND OBJECTIONS.

### 6.1. The Report and Objections.

6.1.1. Seller shall cause Escrow Agent to issue and deliver to the Parties a preliminary title report (commitment for title insurance) concerning the Real Property (together with such Utility Easements as may be reasonably required by Buyer) together with legible copies of all instruments referred to therein (collectively, the "Report") by 5:00 p.m. local time on the 7th day following the Opening of Escrow. The Report is to be preliminary to the ALTA extended coverage owner's policy of title insurance to be issued to Buyer by Escrow Agent insuring Buyer's fee simple title to the Real Property, certain of the Utility Easements and the Improvements in the amount noted below (the "Owner's Policy"). Buyer shall pay all additional costs in regard to the extended coverage portion of the Owner's Policy as well as for any endorsements requested by Buyer, and Seller shall pay only the premium for an ATLA standard owner's policy in an insured amount not to exceed (at Seller's expense) \$15,000,000.00, the

Parties' agreed upon approximation of the value of the Real Property and associated Improvements.

6.1.2. Buyer shall have until 5:00 p.m. local time on the 10th business day after Buyer's receipt of the Report in which to advise Seller and Escrow Agent, in writing, either: (i) that the condition of title to the Real Property as evidenced by the Report is acceptable; or (ii) to object to any easements, liens, encumbrances or other exceptions or requirements in the Report (excluding real property taxes and assessments not yet due and payable which may constitute a lien on the Real Property) (collectively, the "Buyer's Objections"). If Buyer, for any reason, shall not have either approved the condition of title of the Real Property as shown by the Report or provided Buyer's Objections within the time specified in this Section 6.1.2, then Buyer shall be deemed to have approved of the condition of title of the Real Property as shown by the Report (the "Permitted Exceptions").

6.1.3. If Buyer's Objections are made within the time specified, Seller shall attempt, to the extent commercially reasonable, to cure Buyer's Objections within thirty (30) business days of receipt of same. If Seller is unable to cure Buyer's Objections within such period, Buyer shall either waive, in writing, the curing of such Buyer's Objections or Buyer shall cancel this Agreement, whereupon the Additional Earnest Deposit plus Interest thereon shall be payable immediately by Escrow Agent to Buyer and the Original Earnest Deposit and Interest thereon shall be released to Seller and, except as otherwise provided in this Agreement, neither Seller nor Buyer shall have any further liability or obligation under this Agreement. If Buyer does not provide the written waiver of Buyer's Objections by the end of the thirty day period, Buyer shall be deemed to have elected to terminate this Agreement.

## 6.2. Supplemental Title Report and Objections.

6.2.1. Escrow Agent shall issue and deliver to the Parties any supplemental title report(s) deemed necessary by Escrow Agent (the "Supplemental Report"). Buyer shall have until 5:00 p.m. local time on the 5th business day after Buyer's receipt of any Supplemental Report in which to advise Seller and Escrow Agent, in writing, of any objections Buyer may have to any item disclosed by the Supplemental Report(s) which was not set forth in the Report or a previous Supplemental Report (the "Supplemental Objections"). If Buyer, for any reason, shall not have notified Seller and Escrow Agent that the Supplemental Report is acceptable or, alternatively, notified Seller and Escrow Agent of Buyer's Supplemental Objections within the time specified in this Section 6.2.1, Buyer shall be deemed to have approved of the condition of title of the Real Property as shown by the Supplemental Report.

6.2.2. The provisions of Section 6.1.3 shall apply with regard to any attempted title cure by Seller, it being agreed that Seller shall have until 5:00 p.m. local time on the 30th business day after Seller's receipt of the Supplemental Objections, if any, within which Seller, in Seller's sole discretion, may attempt to cure the Supplemental Objections; provided, however, that in the event such time period would necessitate an extension of the date of Close of Escrow, the Parties shall be deemed to have mutually agreed to such reasonable extension as necessary to allow cure of the Supplemental Objections.

7. BUYER'S DUE DILIGENCE.

7.1. Buyer's Due Diligence Investigation. For the sole purpose of conducting Buyer's due diligence investigation of the Business, Seller agrees that Buyer and its counsel, accountants and other representatives shall have, upon reasonable notice and at Buyer's sole expense, access during normal business hours to all of Seller's properties, Infrastructure, books, accounts, records, Assigned Contracts, MEAs, hydrology studies and other documents relating to the Business. Buyer's due diligence investigation may include, but not be limited to: (i) a financial audit of Seller's books, records and data management systems; (ii) an engineering review of all of Seller's assets; (iii) a review of Seller's employee records; (iv) a review of historical and current budgets, volumetric and customer data; (v) a review of any outstanding developer and/or mainline extension agreements; and (vi) the right to copy, at Buyer's sole expense, all information and documents required by Buyer in regard to Purchase Transaction. Buyer shall have until 5:00 p.m. on the date which is sixty (60) days after the execution and delivery of this Agreement by both Parties (the "Study Period"), in which to complete its due diligence investigation and advise Seller, in writing, of any objections Buyer may have to any item(s) disclosed by Buyer's due diligence investigation. In the event Buyer provides notice of any objection, Seller shall, in its sole discretion, take commercially reasonable steps to cure such objections within thirty (30) business days of receipt of such objections. If Seller is unable to cure Buyer's objections within such period, Buyer shall either waive, in writing, the curing of such objections or Buyer may cancel this Agreement, whereupon the Additional Earnest Deposit plus Interest shall be payable immediately by Escrow Agent to Buyer, the Original Earnest Deposit shall be released to Seller and, except as otherwise provided in this Agreement, neither Seller nor Buyer shall have any further liability or obligation under this Agreement. If Buyer does not provide the written waiver of Buyer's objections by the end of the Study Period, Buyer shall be deemed to have elected to waive such objections. It is understood that information which is discovered by Buyer in its investigations shall not be deemed to be items which cause Seller any damage and therefore not subject to the obligations of indemnity above-stated.

7.2. Buyer's Inspection of the Real Property.

7.2.1. Access to the Real Property. Seller shall permit Buyer access to the Real Property at any time or times reasonable following Opening of Escrow, provided Buyer shall give Seller notice prior to entry upon the Real Property, to conduct Buyer's due diligence investigation. Buyer, its agents and consultants, subject to the requirements and obligations of Sections 7.3 and 7.4, shall use commercially reasonable steps to not materially disrupt or interfere with the operations of the Business during such investigation.

7.2.2. Prohibitions. Any provision of this Agreement to the contrary notwithstanding, Buyer shall not be entitled to conduct inspections or any Phase II environmental report or other study which may require the drilling of holes in the Real Property, or the removal of soil samples, without Seller's prior written consent, which consent shall not be unreasonably withheld, delayed or conditioned.

7.3. Buyer's Restoration of the Real Property. Buyer, at Buyer's sole cost and on or before the earlier of: (a) the completion of Buyer's due diligence investigation; or (b) termination of this Agreement, shall repair and restore any material damage to the Real

Property or the Improvements caused by any entry, testing and/or inspection of, on or upon the Real Property or the Improvements by Buyer or Buyer's representatives ("Buyer's Restoration Obligation").

7.4. Buyer's Indemnity. Buyer shall and does hereby agree to indemnify, defend and hold Seller harmless against any loss, damage or claim for personal injury or property damage arising from any acts or omissions on the part of Buyer or any agents, contractors or employees of Buyer in connection with Buyer's due diligence investigation (the "Buyer's Indemnity Obligations," and, together with Buyer's Restoration Obligation, the "Buyer's Restoration and Indemnity Obligations"). Buyer's Restoration and Indemnity Obligations shall survive any termination of this Agreement or the Close of Escrow, as applicable, for a period of one (1) year after which Buyer's Restoration and Indemnity Obligations shall automatically terminate unless prior to the end of such one-year period, Seller shall have commenced an action against Buyer exclusively in the Maricopa County, Arizona Superior Court (the "Court") to enforce Buyer's obligations under this Section 7. It is understood that information which is discovered by Buyer in its investigations shall not be deemed to be items which cause Seller any damage and therefore not subject to the obligations of indemnity above-stated.

7.5. Return of Information. In the event Escrow is cancelled, for any reason, Buyer shall promptly deliver to Seller (without retention of any copies) all documents and other information obtained from Seller in connection with the Purchase Transaction, and shall immediately destroy any notes, extracts, summaries or other materials derived in any way from materials provided by Seller to Buyer with respect to the Purchase Transaction.

## 8. SURVEY.

8.1. The Survey. If Buyer, in Buyer's sole discretion, elects to obtain a current survey of all or by portion of the Real Property and the Improvements, Buyer, at Buyer's sole cost, on or before the end of the Study Period, shall cause a certified ALTA survey of such portion of the Real Property and the Improvements as Buyer may determine (collectively, the "Survey") to be completed before the end of the Study Period by a surveyor licensed in the State of Arizona (the "Surveyor") and deposited with Escrow Agent and Seller, whereupon the legal description in the Survey shall control over the description in Schedule 2.1.5 to the extent they may be inconsistent, in which case Schedule 2.1.5 shall be deemed amended pursuant to Section 2.2.3 hereof. Buyer's election to obtain a Survey shall not be a condition to Close of Escrow. The Survey, if any, shall be certified by the Surveyor in favor of Seller, Buyer and the Escrow Agent. Seller shall provide to Buyer any current surveys of the Real Property in Seller's possession or control and shall reasonably cooperate with Buyer in updating such surveys (if possible).

## 9. CONDITIONS PRECEDENT.

9.1. Buyer's Conditions Precedent. Buyer's obligation to perform under this Agreement is expressly subject to the written satisfaction (or waiver, in writing, by Buyer) at or prior to Close of Escrow of the following:

9.1.1. The representations and warranties of Seller contained in Section 11 of this Agreement shall be true and correct in all material respects as of the Effective Date, and shall be true and correct in all material respects as of Close of Escrow as if made at and as of such time, except for: (i) changes permitted or contemplated hereby; and (ii) representations and warranties which are as of a specific date, in which event they shall be true and correct as of such date.

9.1.2. Seller shall have fully and timely performed all material obligations under this Agreement required to be performed by it at or prior to Close of Escrow pursuant to the terms hereof.

9.1.3. Escrow Agent shall have issued to Buyer the Owner's Policy (or a binding written commitment therefor), subject only to the Permitted Exceptions and those other matters, if any, approved or deemed approved by Buyer pursuant to this Agreement.

9.1.4. Buyer's Common Council (the "Council") shall have entered a final resolution approving this Agreement and the Purchase Transaction pursuant to Section 10.1, which order shall not be subject to appeal or reversal (the "Council Approval"). The Council Approval shall be obtained by Buyer at Buyer's sole cost and shall contain a provision confirming that this Agreement and the transaction contemplated hereby are being entered into by Seller in lieu of Buyer's condemnation of the Business and the Purchased Assets pursuant to Buyer's power of eminent domain.

9.1.5. Seller shall have, pursuant to Section 10.2, filed an Application for cancellation of its CC&N with the Commission.

9.1.6. The Commission shall have entered a final order approving, among other things, the deletion and extinguishment of Seller's CC&N and the transfer of Seller's Customers to Buyer, subject only to the consummation of the Purchase Transaction (the "Commission Order"), and all appeal periods therefrom shall have run with no appeal having been filed (the date upon which such appeal periods have run being herein called the "Appeal Date").

9.1.7. Buyer, at Buyer's sole cost and on terms acceptable to Buyer, in Buyer's sole discretion, shall have obtained (and closed, contemporaneously with the Closing hereunder) from WIFA, a loan or loans in the minimum principal amount of \$15,000,000.00, at an annualized weighted average interest rate not to exceed 7% as of the Close of Escrow (collectively, the "Down Payment Loan"), the proceeds of which shall be used by Buyer in the acquisition of the Purchased Assets.

9.1.8. All conditions to the execution and delivery by Buyer of the Series 2013 Obligations shall have been fulfilled including, without limitation, any reasonable and justified obligations or requirements imposed by Bond Counsel, the Trustee thereunder or any other party having any current interest in any documentation related to the Series 2013 Obligations including, without limitation, WIFA.

9.1.9. There shall have been no material adverse change in business, financial position, operation or results of operation of the Business, the Purchased Asset or Seller since the close of the Study Period.

Notwithstanding the foregoing Buyer may, in Buyer's sole discretion and if one or more of the foregoing conditions are not fulfilled as of the scheduled Closing Date, adjourn the Closing from time to time (and for as many times as Buyer may determine in its sole discretion), but in no event beyond December 31, 2013, in order to endeavor to fulfill such condition or conditions (and Seller shall continue to cooperate and Buyer shall continue to use commercially reasonable efforts during any such extended time to obtain fulfillment of such condition or conditions). It is understood that Buyer may, nevertheless, elect not to further adjourn the Closing and either waive any unfulfilled conditions and proceed to Closing or cancel this Agreement, whereupon, so long as the failure of condition was not caused by the acts or omissions of Buyer, the Additional Earnest Deposit (with Interest thereon) shall be returned to Buyer, the Original Earnest Deposit with Interest thereon) shall be paid to Seller and neither party shall have further liability to the other hereunder, except as specifically stated herein.

9.2. Seller's Conditions Precedent. Seller's obligation to perform under this Agreement is expressly subject to the written satisfaction (or waiver in writing by Seller) at or prior to Close of Escrow of the following:

9.2.1. The representations and warranties of Buyer contained in Section 12 of this Agreement shall be true and correct in all material respects as of the Effective Date and shall be true and correct in all material respects as of Close of Escrow as if made at and as of such time, except for: (i) changes permitted or contemplated hereby; and (ii) representations and warranties which are as of a specific date, in which event they shall be true and correct as of such date.

9.2.2. Buyer shall have fully and timely performed all material obligations under this Agreement required to be performed by it at or prior to Close of Escrow pursuant to the terms hereof.

9.2.3. Buyer shall have, within thirty (30) business days of Opening of Escrow and at Buyer's sole cost, filed an application with WIFA to obtain the Down Payment Loan.

9.2.4. Buyer shall have obtained approval of the Down Payment Loan at or before the regularly scheduled WIFA meeting now believed to be scheduled for on or about June 19, 2013.

9.2.5. The Commission shall have entered the Commission Order.

9.2.6. Buyer shall have filed, within twenty (20) business days of the Opening of Escrow, all necessary documents and applications, if any, required by the Commission.

9.2.7. With respect to Seller's assignment and Buyer's assumption of the MEAs, Buyer shall have obtained, at its sole cost, all requisite approvals of the Commission, if any.

9.2.8. Seller shall have received and approved all documents required by Section 5.3.3 above which are not currently attached as Exhibits hereto, it being understood that the Parties will use commercially reasonable efforts to endeavor to negotiate/finalize the forms of the Series 2013 Obligation Documents (and thereupon attach the same hereto as Exhibits), with the intent that the same shall be presented to the Council at its July 17, 2013 meeting, together with the WIFA Loan documents, for final approval.

9.2.9. Buyer shall have executed and delivered the Series 2013 Obligation Documents.

## 10. PRE-CLOSING COVENANTS OF THE PARTIES.

10.1. Council Approval. Any provision of this Agreement to the contrary notwithstanding, Buyer shall not be bound by this Agreement until Buyer obtains the Council Approval. If the Council approves this Agreement in its entirety (except for missing Exhibits noted herein), Buyer shall deposit evidence thereof with Escrow Agent, whereupon Escrow Agent will provide written notice of such deposit to Seller. If the Council fails or for any reason refuses to approve this Agreement on or before June 19, 2013, this Agreement will be deemed automatically cancelled, the Original Earnest Deposit and Interest, if any, shall be paid by Escrow Agent to Seller and neither of the Parties shall have any further liability or obligation under this Agreement. Any provision of this Agreement to the contrary notwithstanding, Buyer shall have no liability or obligation under this Agreement unless and until the Council approves this Agreement in its entirety, even if Buyer executes this Agreement.

### 10.2. Commission Approval.

10.2.1. Within ten (10) days after Opening of Escrow, Seller shall file with the Commission an application (the "Application") requesting the permanent cancellation and extinguishment of the CC&N, subject to the consummation of the Purchase Transaction. Buyer shall have the right, and currently intends, to intervene in such proceeding and support the Application.

10.2.2. Seller shall be responsible for preparing, filing and prosecuting the Application. Buyer agrees to support the Application filed by Seller (and intends to intervene in such proceeding as aforesaid) and shall reasonably expeditiously provide information reasonably requested by Seller in prosecuting the Application, including letters of support, written testimony, responses to data requests and other discovery, and attend meetings, public comment sessions, procedural conferences, hearings and open meetings.

10.2.3. In the event the Commission denies the Application, the Parties shall work cooperatively to remedy, to the extent commercially reasonable, the circumstance or circumstances which caused the Commission to deny the Application. However, the Parties shall be under no obligation to accept any stipulations, responsibilities or liabilities imposed by

the Commission which are not acceptable to a Party in its reasonable discretion in order to obtain approval of the Application.

10.2.4. Upon Commission approval of the Application and Close of Escrow, Buyer shall assume the sole right, duty and obligation to provide water service within the Certificated Area and shall take all necessary and appropriate actions relating to such water utility service.

10.3. Further Assurances. Subject to the terms and conditions of this Agreement, each Party will use commercially reasonable efforts to: (i) take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable under applicable laws to consummate the Purchase Transaction as soon as practicable after the Opening of Escrow; (ii) obtain and maintain all approvals required to be obtained from any third party and/or any Governmental Agency that are necessary to consummate the Purchase Transaction; (iii) obtain and maintain all financing necessary to consummate the Purchase Transaction; and (iv) obtain and maintain all approvals necessary to deliver the Series 2013 Obligations and consummate the Purchase Transaction. Said assurances shall include, without limitation, any post-Closing obligations relating to water transfers otherwise imposed by ADWR, the CAP or by any other relevant Governmental Agency. Prior to Closing, each Party shall also cooperate with one another with regard to the preparation, processing and execution of the Water Transfer Instruments.

10.4. Covenant to Satisfy Conditions. Seller will use its commercially reasonable efforts to ensure that the conditions set forth in Section 9 of this Agreement are satisfied, insofar as such matters are within the reasonable control of Seller. Buyer will use its commercially reasonable efforts to ensure that the conditions set forth in Section 9 of this Agreement are satisfied, insofar as such matters are within the reasonable control of Buyer.

10.5. Concerning Any Existing WIFA Loans. Seller is presently indebted to WIFA in the approximate amount of \$140,000.00 ("Seller's Outstanding WIFA Loan"). Contemporaneous with Closing (or earlier if required by WIFA) Seller shall retire in full Seller's Outstanding WIFA Loan, together with any other indebtedness which WIFA requires to be retired/addressed, which will then permit the WIFA Loan to be consummated. If acceptable to WIFA, Buyer has no objection to the contemporaneous retirement at the Closing of Seller's Outstanding WIFA Loan and/or any such other indebtedness by utilizing a portion of the Cash Payment direct from Escrow.

11. SELLER'S REPRESENTATIONS AND WARRANTIES. Subject to the terms, conditions and limitations set forth in this Agreement, Seller hereby represents and warrants to Buyer as of the Effective Date and again, except as may otherwise be disclosed in writing as a result of changed circumstances subsequent to the Effective Date, as of Close of Escrow as follows:

11.1. To Seller's knowledge, there are no unrecorded leases which may affect title to the Real Property.



11.2. There are no outstanding or unresolved notices of violation with regard to any applicable regulation, ordinance, requirement, covenant, condition or restriction relating to the present use or occupancy of the Real Property or the Improvements from any Governmental Agency.

11.3. With the exception of Buyer's threat to condemn the Business and the Purchased Assets pursuant to Buyer's power of eminent domain, no legal action or proceeding has been undertaken or, to Seller's knowledge, threatened with respect to or in any manner affecting the Purchased Assets.

11.4. Seller's consummation of the Purchase Transaction will not in any way violate any of the Assigned Contracts or MEAs, except: (i) where Seller has obtained or will obtain prior to Close of Escrow the necessary written agreements, waivers or consents of the other parties to any Assigned Contracts or MEAs to avoid, release or waive any such violation with respect to such Assigned Contracts or MEAs; or (ii) where any such violation would not result in a material adverse effect on the business, financial position, operation or results of operation of the Business or Purchased Assets (a "Material Adverse Effect").

11.5. Subject only to the Commission's approval of the Application and entry of the Commission Order, Seller has power and authority to execute, deliver and perform under this Agreement as well as the Transfer Documents.

11.6. To Seller's knowledge, no party to any of the Assigned Contracts, or the MEAs is in default under any such Assigned Contract, or MEA.

11.7. Except for the approval of the Commission and the Council and except as may be required under the Assigned Contracts or the MEAs, no consent of any third party is required in order for Seller to enter into this Agreement and perform Seller's obligations hereunder.

11.8. All general real estate taxes, assessments and personal property taxes that have become due with respect to the Purchased Assets (including those that will be prorated at Close of Escrow in accordance with this Agreement) have been paid or will be so paid by Seller prior to Close of Escrow.

11.9. Information supplied and statements made by Seller in any financial statement (including, without limitation, balance sheets and profit and loss statements, as well as tax returns) or financial information or current budget prior to or contemporaneously with this Agreement are true and correct, to Seller's knowledge, in all material respects and do not omit to state any fact which is required to be stated therein to make such statements not misleading in any material respect.

11.10. All underground well equipment and casings shall be in good working order at Closing. If, within six (6) months of the date of Closing: (i) Buyer is reasonably required to expend an amount exceeding Twenty-Five Thousand Dollars (\$25,000) to repair any single underground facility described above (the "Underground Facility Indemnity Floor"); (ii) begins any such repairs within that six (6) month period and reasonably diligently thereafter

prosecutes the same to completion; or (iii) Buyer gives written notice to Seller (which may be by electronic means) of the necessity for and of such repairs, within ninety (90) days after the date of such notice commences same and reasonably diligently thereafter prosecutes the same to completion, then Seller shall be responsible for all (whether or not completed within such six [6] month period) such repair costs (collectively, "Excess Repair Costs") up to an aggregate amount of One Hundred Fifty Thousand Dollars (\$150,000.00) (collectively, the "Underground Facility Indemnity Cap"). For purposes of this Section 11.10, any repairs to a single underground facility that do not exceed Twenty-Five Thousand Dollars (\$25,000.00) shall be considered normal repair costs incurred in the ordinary course of business by Buyer, which shall not apply towards either the Underground Facility Indemnity Floor or the Underground Facility Indemnity Cap. Buyer shall, within thirty (30) days after completion of any repair to an underground facility that exceeds the Underground Facility Indemnity Floor, provide Seller with notice of such repair and all documentation reasonably necessary to evidence such expenditure. If, after receipt of such notice, Seller does not promptly reimburse Buyer for any such expenditures, Buyer shall have the right to offset such amounts against the next payment due under the Series 2013 Obligations.

12. BUYER'S REPRESENTATIONS AND WARRANTIES. Subject to the terms, conditions and limitations set forth in this Agreement, Buyer hereby represents and warrants to Seller as follows:

12.1. Buyer is a governmental entity and political subdivision of the State of Arizona, duly created and existing under the provisions of A.R.S. Title 9.

12.2. Subject only to receipt of Council Approval, Buyer has full power and authority to execute, deliver and perform Buyer's obligations under this Agreement as well as the Transfer Documents.

12.3. There are no actions or proceedings pending or to Buyer's knowledge, after due inquiry, threatened against Buyer which may in any manner whatsoever affect the validity or enforceability of this Agreement or any of the Transfer Documents.

12.4. The execution, delivery and performance of this Agreement and the Transfer Documents have not and will not constitute a breach or default under any other agreement, law or court order under which Buyer is a party or may be bound.

12.5. Information supplied and statements made by Buyer in any financial statement or current budget prior to or contemporaneously with this Agreement are true and correct in all material respects.

12.6. Buyer acknowledges and affirms that it: (i) has had access to the Purchased Assets and information made available by Seller pertaining to the Business; (ii) has had access to the personnel, officers, operations and records of Seller; (iii) has had access to the Real Property and the Improvements; and (iv) in making the decision to enter into this Agreement and to consummate the Purchase Transaction, has relied on the express representations, warranties, covenants and agreements of Seller set forth in this Agreement, and other than such reliance, it has relied solely on the basis of its own independent investigation, analysis and evaluation of the Business and the Purchased Assets.

13. PRE-CLOSING COVENANTS OF THE PARTIES.

13.1. After the end of the Study Period and prior to Close of Escrow or any earlier termination of this Agreement, Seller will not enter into or execute any employment, management or service contract with respect to the Business which will survive Close of Escrow without Buyer's prior written consent, which consent shall not be unreasonably withheld or delayed. Any such contract so entered by Seller with Buyer's consent shall provide that such contract can be terminated by Seller or Seller's successor, at any time without penalty, upon not more than thirty (30) days' prior written notice to the other party thereto. When any such contracts are fully executed, Seller shall contemporaneously deliver a copy thereof to Buyer.

13.2. After the end of the Study Period and prior to Close of Escrow or any earlier termination of this Agreement, Seller shall not amend, modify or terminate any Assigned Contract or MEA without Buyer's prior written consent, which consent may be withheld in Buyer's sole discretion.

13.3. Except for any item to be prorated at Close of Escrow in accordance with this Agreement, all bills or other charges, costs or expenses arising out of or in connection with or resulting from Seller's use, ownership, or operation of the Business up to Close of Escrow shall be paid in full by Seller on or before Close of Escrow. Seller's obligations under this Section 13.3 shall survive Close of Escrow.

13.4. Seller agrees that, between the end of the Study Period and Close of Escrow or any earlier termination of this Agreement, Seller, at Seller's sole cost, shall:

13.4.1. continue to operate and maintain the Business as heretofore operated by Seller subject only to the right of Buyer to approve or disapprove any Major Transaction (as defined below) pursuant to this Section 13.4;

13.4.2. maintain the Real Property and the Improvements in their current condition in accordance with historical operating practices;

13.4.3. pay, in the normal course of business, all sums due for work, materials or services furnished or otherwise incurred in the ownership, use or operation of the Purchased Assets, but in no event will the failure to pay prior to Close of Escrow relieve Seller of its obligation to deliver the Purchased Assets to Buyer free of mechanics', material suppliers' and similar liens for work, materials or services furnished with respect to the Purchased Assets prior to Close of Escrow;

13.4.4. comply, in all material respects, with all Legal Requirements applicable to the Business;

13.4.5. except in the ordinary course of Seller's Business or as required by a Governmental Agency in connection with the termination of Seller's Business: (i) not place or permit to be placed on any portion of the Real Property any new Improvements of any kind; or (ii) remove or permit any Improvements to be removed from the Real Property without the prior written consent of Buyer, which consent may be withheld at Buyer's sole discretion;

13.4.6. not restrict, rezone, file or modify any development plan or zoning plan or establish or participate in the establishment of any improvement district with respect to all or any portion of the Real Property without Buyer's prior written consent, which consent may be withheld at Buyer's sole discretion;

13.4.7. not further cause, create any easement, encumbrance, or mechanic's or materialmen's liens, and/or similar liens or encumbrances to arise or to be imposed upon the Purchased Assets or any portion thereof, that will affect title thereto subsequent to Close of Escrow, without Buyer's prior written consent, which consent may be withheld at Buyer's sole discretion; and

13.4.8. after Opening of Escrow, not, (unless the same is a Required Obligation hereunder) without Buyer's prior written consent, which consent may be withheld in Buyer's sole discretion, make any material change to the water delivery system (whether of a tangible nature, such as equipment or other real or personal property, or of an intangible nature, such as business practices, procedures, dealings, etc.) operated by Seller or to Seller's existing methods of business practice related thereto which would have a Material Adverse Effect on the value of the Property or the business conducted thereat and thereabout in the hands of Buyer (individually and collectively, a "Major Transaction").

13.5. Should Seller receive notice or knowledge of any material information regarding any of the matters set forth in Section 11 or this Section 13 after the Effective Date and prior to Close of Escrow, Seller will promptly notify Buyer of the same in writing.

13.6. Should Buyer receive notice or knowledge of any material information regarding any of the matters set forth in Section 11 (as a result of its due diligence investigation), Section 12 or this Section 13 after the Effective Date and prior to Close of Escrow, Buyer will promptly notify Seller of the same in writing.

#### 14. KNOWLEDGE OF THE PARTIES.

14.1. As used herein, "Buyer's knowledge", "knowledge of Buyer" or words of similar intent or effect mean the extent of the actual and current knowledge as of the Effective Date or as of Closing, as the case may be, of Patrick Flynn and/or Paul Gardner, without independent inquiry and excluding any imputed knowledge or matters which should have been known. Any provision of this Agreement to the contrary notwithstanding, Messrs. Flynn and Gardner shall not have any personal liability in regard to the representations and warranties in this Agreement.

14.2. As used herein, "Seller's knowledge", "knowledge of Seller" or words of similar intent or effect mean the extent of the actual and current knowledge as of the Effective Date or as of Closing, as the case may be, of Brad Schnepf or Doug Odom, without independent inquiry and excluding any imputed knowledge or matters which should have been known. Any provision of this Agreement to the contrary notwithstanding, Messrs. Odom and Schnepf shall not have any personal liability in regard to the representations and warranties in this Agreement.

15. SURVIVAL PERIODS. All representations made in this Agreement by either Party (except as specifically set forth above with regard to offset rights) shall survive the execution and delivery of this Agreement and the cancellation of this Agreement or Close of Escrow for a period of six (6) months, after which each Party's warranties and related indemnity obligations shall automatically terminate, unless, prior to the end of the six (6) month period, either Party shall have brought suit against the other (only in the Court) to enforce the other's warranties. Unless otherwise stated herein, obligations of indemnity of the Parties not articulated in Sections 11 and 12 above shall survive the Closing for a period of one (1) year unless, prior to the expiration of said one (1) year period, the Party claiming indemnity shall give written notice to the other Party of the existence of such a claim or claims of indemnity; provided, that the total liability of Seller for such indemnities ("Indemnity Limit") shall not exceed One Hundred Thousand Dollars (\$100,000.00), it being understood that said Indemnity Limit is in addition to, and does not count against or operate to reduce or be reduced by application of, the Excluded Liability Indemnity (subject to the Excluded Indemnity Liability Limit), nor the obligation to pay Excess Repair Costs (subject to the Underground Facility Indemnity Cap); provided further, that Seller's obligation to indemnify related to Tax Liabilities shall survive the Closing for a period of five (5) years and then expire.

16. POST-CLOSING MAINTENANCE OF AND ACCESS TO INFORMATION. Seller and Buyer acknowledge that after Close of Escrow, Seller or Buyer may need access to information or documents in the control or possession of the other Party for the purposes of concluding the Purchase Transaction, tax returns or audits, compliance with the government reimbursement programs and other laws and regulations, and the prosecution or defense of third party claims. Accordingly, Seller and Buyer shall keep, preserve and maintain in the ordinary course of business, and as required by law and relevant insurance carriers, all books, records, documents and other information in the possession or control of such Party and relevant to the foregoing purposes for a period of five (5) years from Close of Escrow or such longer period of time as may be required by any legal requirement.

17. SELLER'S EMPLOYEES.

17.1. No less than thirty (30) business days prior to Close of Escrow, Seller shall designate, in writing, to Buyer the active employees and positions of Seller connected with operation of the Business. On or before Close of Escrow, Buyer, at Buyer's sole option and discretion, may designate the positions within Buyer's organization that may be available following Close of Escrow and which some, or all, of Seller's employees may be eligible to apply to fill such positions.

17.2. Although Buyer is under no obligation to hire any of Seller's active employees employed by Seller as of Close of Escrow, Seller shall be entitled to give written notice to Seller's active employees that such active employees can apply for employment by Buyer after Close of Escrow by making application to Buyer in accordance with Buyer's published, written employment application requirements. Any employees of Seller who, in Buyer's sole discretion, are hired as employees of Buyer after Close of Escrow shall be employed and compensated in accordance with Buyer's then-applicable rules and regulations and Buyer's then-applicable employment terms regarding, among other things, compensation, vacation, health insurance and pension plans.

17.3. Any provision of this Agreement to the contrary notwithstanding, Seller's employees shall no longer be employed in connection with the Business (except as stated herein), and Seller, at Seller's sole cost, shall pay all of Seller's employees' unpaid wages, vacation pay, health insurance and related benefits, retirement and related benefits and all outstanding claims by such employees, if any, against Seller, it being agreed by Seller that Buyer shall have no obligations to such employees in regard to any item accrued prior to Close of Escrow even if any of such employees are subsequently employed by Buyer after Close of Escrow.

18. BROKER'S COMMISSION. The Parties represent and warrant to one another that they have not dealt with any finder, broker or realtor in connection with this Agreement. If any person shall assert a claim to a finder's fee or brokerage commission on account of alleged employment as a finder or broker in connection with the Purchase Transaction, the Party under whom the finder or broker is claiming shall indemnify and hold the other Party harmless from and against any such claim and all costs, expenses and liabilities incurred in connection with such claim or any action or proceeding brought on such claim, including, but not limited to, counsel and witness fees and court costs in defending against such claims. The provisions of this Section 18 shall survive Close of Escrow or the earlier termination of this Agreement.

19. ASSIGNMENT.

19.1. Buyer's Assignment. Except as contemplated by the Series 2013 Obligation Documents, Buyer shall not have the right or authority to assign this Agreement or any of Buyer's rights under this Agreement to any person, partnership, corporation or other entity without the prior written consent of Seller, which consent shall be in Seller's sole discretion. In the event Seller consents to such an assignment, the consent shall be conditioned upon the assignee's assumption, in writing, of Buyer's duties and obligations under this Agreement by delivering to Seller and Escrow Agent duplicate originals of an assumption agreement in form and substance acceptable to Seller, in Seller's reasonable discretion.

19.2. Seller's Assignment. Seller may not assign any or all of Seller's rights or obligations under this Agreement without the prior written consent of Buyer, which consent shall be in Buyer's sole discretion.

20. NO PREPAYMENT OPTION. Except as provided in the Series 2013 Obligation Documents, Buyer may not prepay its obligations thereunder.

21. RISK OF LOSS.

21.1. Minor Damage. In the event of loss or damage to the Purchased Assets or any portion thereof which is not "major" (as defined below) and which occurs after the Effective Date, this Agreement shall remain in full force and effect, provided Seller assigns to Buyer at Close of Escrow all of Seller's right, title and interest to any claims and proceeds Seller may have with respect to any casualty insurance policies or condemnation awards relating to the premises in question. Seller shall maintain the insurance coverages and amounts in effect at the Effective Date through Close of Escrow. Upon Close of Escrow, full risk of loss with respect to the Purchased Assets shall pass to Buyer. Seller, at no material cost to Seller, shall reasonably

cooperate with Buyer, both before and after the Closing Date, to adjust such losses and to endeavor to see to it that the insurance proceeds are paid to Buyer.

21.2. Major Damage. In the event of loss or damage to the Purchased Assets or any portion thereof which is "major", Buyer may terminate this Agreement by written notice to Seller and Escrow Agent, in which event the Original Earnest Deposit and Interest thereon shall be released to Seller and the Additional Earnest Deposit and Interest thereon shall be returned to Buyer, all as provided in Section 4.1.1. If Buyer fails to notify Seller and Escrow Agent in writing of its intent to proceed with Close of Escrow within ten (10) business days after Buyer receives written notice from Seller of the occurrence of a loss or damage to the Purchased Assets which is major, which notice shall specify whether or not insurance proceeds are available to pay for the costs of restoration, then Buyer shall be deemed to have elected to terminate this Agreement. In the event Buyer elects to proceed with Close of Escrow, the Purchase Price shall be reduced by an amount equal to the deductible amount under Seller's insurance policy. Seller's right and obligation to assign such claim hereunder shall be without regard to the adequacy of insurance proceeds. Upon Close of Escrow, full risk of loss with respect to the Purchased Assets shall pass to Buyer. Seller, at no cost to Seller, shall reasonably cooperate with Buyer respecting such insurance proceeds in the manner set forth in Section 21.1.

21.3. Definition of "Major" Loss or Damage. For purposes of this Agreement, "major" loss or damage means: (a) loss or damage to the Real Property or Improvements, or any portion thereof, such that the cost of repairing or restoring the premises in question to a condition substantially identical to that of the premises in question prior to the event of damage would be, in the opinion of an architect selected by Buyer and reasonably approved by Seller, equal to or greater than One Hundred Thousand Dollars (\$100,000.00); (b) any loss due to a condemnation which permanently and materially impairs the current ability to use the Purchased Assets; and (c) any loss to the Personal Property in the amount of Twenty-Five Thousand Dollars (\$25,000.00).

## 22. EVENTS OF DEFAULT.

22.1. Buyer's Event of Default. Buyer shall be in default under this Agreement if any of the following events shall occur:

22.1.1. Buyer shall fail to fully and timely perform any of Buyer's obligations under this Agreement and such failure shall continue past 5:00 p.m. local time on the 10th business day after Buyer's receipt of written notice from Seller specifying Buyer's non-compliance (or such longer period as is reasonably necessary to cure such non-compliance). Failure of the Commission to enter the Commission Order prior to the Closing Date or failure of any other condition precedent to Buyer's obligations to Close hereunder not caused, in whole or substantial part, by the acts or omissions of Buyer shall not constitute a Buyer's Event of Default;

22.1.2. if any representation or warranty made by Buyer in this Agreement shall be false or misleading in any material respect;

22.1.3. if Buyer shall: (i) voluntarily be adjudicated as bankrupt or insolvent; (ii) seek, consent to or not contest the appointment of a receiver or trustee for itself or

for all or any part of its property; (iii) file a petition seeking relief under the bankruptcy, arrangement, reorganization of other debtor relief laws of the United States, any state or any other competent jurisdiction; or, (iv) make a general assignment for the benefit of its creditors; or

22.1.4. if a court of competent jurisdiction enters an order, judgment or decree appointing, without the consent of Buyer, a receiver or trustee for Buyer, or for all or any part of Buyer's property.

22.2. Seller's Event of Default. Seller shall be in default under this Agreement if any of the following events shall occur:

22.2.1. Seller shall fail to fully and timely perform any of Seller's obligations under this Agreement and such failure shall continue past 5:00 p.m. local time on the 10th business day after Seller's receipt of written notice from Buyer specifying Seller's non-compliance (or such longer period as is reasonably necessary to cure such non-compliance). Failure of the Commission to enter the Commission Order prior to the Closing Date shall not constitute a Seller's Event of Default;

22.2.2. if any representation or warranty made by Seller in this Agreement shall be false or misleading in any material respect;

22.2.3. if Seller shall: (i) voluntarily be adjudicated as bankrupt or insolvent; (ii) seek, consent to or not contest the appointment of a receiver or trustee for itself or for all or any part of its property; (iii) file a petition seeking relief under the bankruptcy, arrangement, reorganization of other debtor relief laws of the United States, any state or any other competent jurisdiction; or, (iv) make a general assignment for the benefit or its creditors; or

22.2.4. if a court of competent jurisdiction enters an order, judgment or decree appointing, without the consent of Seller, a receiver or trustee for Seller, or for all or any part of Seller's property.

## 23. REMEDIES.

23.1. Seller's Breach. If a Seller Event of Default shall exist, Buyer, at Buyer's sole option, may either: (i) by written notice to Seller and Escrow Agent cancel this Agreement, obtain a refund of the Earnest Deposit and Interest in accordance with Section 4.1.1 and seek to recover its liquidated damages in accordance with Section 23.4.2 herein; (ii) seek specific enforcement against Seller, in which event Close of Escrow shall be automatically extended as necessary; or (iii) seek binding arbitration as provided in Section 23.3 as to any matter or dispute other than as provided in clause (i) or (ii) of this Section 23.1. Buyer's election to pursue the remedy set out in clause (i) of this Section 23.1 shall be exclusive of all other remedies, and shall constitute Buyer's knowing and intentional waiver of any right to seek damages or any other legal or equitable remedy against Seller in connection with this Agreement.

23.2. Buyer's Breach. Except as otherwise provided in this Agreement, if a Buyer Event of Default shall exist, Seller, at Seller's sole option, may either: (i) by written notice to Buyer and Escrow Agent cancel this Agreement and seek to recover its liquidated



damages in accordance with Section 23.4.1 herein; provided, however, that if Buyer fails to fully and timely perform Buyer's Restoration and Indemnity Obligations under this Agreement or Buyer's indemnity obligations under Section 3.3.1, Seller shall also be entitled to seek and enforce all legal and equitable remedies against Buyer in regard thereto; or (ii) seek mandatory, binding arbitration as provided in Section 23.3 as to any matter or dispute other than as provided in clause (i) of this Section 23.2. Except as provided in this Section 23.2 and in Section 23.4, Seller hereby waives any right to seek any equitable or legal remedies against Buyer in connection with this Agreement.

### 23.3. Binding Arbitration.

23.3.1. Any dispute or controversy between Seller and Buyer with respect to any issue arising under this Agreement (other than one determined by the condemnation court, or as specifically otherwise provided for elsewhere in this Agreement as a matter to be decided other than by arbitration), which is unable to be resolved by good faith negotiations among the Parties, shall be determined and resolved by binding arbitration in Phoenix, Arizona, in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") in effect on the date the arbitration is commenced. In the event of any inconsistency between such rules and the terms of this Agreement, this Agreement shall supersede the rules of the AAA. Judgment on any award rendered in the arbitration may be entered by the Court and shall be final, binding, non-appealable and conclusive. The AAA shall have jurisdiction over all Parties to this Agreement for purposes of the arbitration. The provisions of this Agreement pertaining to arbitration shall be binding upon the successors and assigns, if any, of the Parties hereto.

23.3.2. The AAA shall administer the arbitration. The arbitration panel shall consist of three independent and impartial arbitrators. Each Party shall appoint one arbitrator within thirty (30) days of any claim or demand for arbitration. If a Party fails to appoint an arbitrator within such thirty-day period, the AAA shall appoint an arbitrator on behalf of such Party within ten (10) days of the expiration of such thirty-day period. The two Party-appointed arbitrators shall, within ten (10) days of their appointment, select the third arbitrator from a list of candidates provided by the AAA. The place of the arbitration shall be Phoenix, Arizona and the substantive law governing the merits of the dispute between the Parties shall be Arizona law. Any and all submissions, materials, exhibits, testimony, decisions, awards or other material related to the arbitration process or the underlying dispute shall be treated as confidential under this Agreement.

23.3.3. The arbitration proceeding shall commence no later than forty-five (45) days from the date of the selection of the third arbitrator. All hearings shall be completed not later than ninety (90) days from the date of the selection of the third arbitrator, and the arbitrators shall issue the final award not later than thirty (30) days thereafter. The decision of a majority of the arbitrators shall be in writing and in duplicate, one counterpart thereof to be delivered to Seller and Buyer. The award of the arbitrators shall be binding, final and conclusive on Seller and Buyer, subject to the terms and conditions of the Uniform Arbitration Act (A.R.S. §§12-1501 et seq.).

23.3.4. The arbitrators are not empowered to award punitive, exemplary, or treble damages in excess of actual, direct damages and each Party hereby irrevocably waives any right to recover such damages with respect to any dispute within the scope of this clause. In the event any legal action, arbitration or other proceeding is brought to enforce this Agreement, the prevailing Party, as determined by the Court or arbitrator, shall be entitled to recover reasonable attorneys' fees and other related costs and expenses incurred, in addition to any compensation to which it may be entitled.

23.3.5. Each Party in the arbitration shall initially bear its own attorneys' fees and costs of arbitration. The non-prevailing Party in the proceeding shall be ordered to pay, and shall have ultimate responsibility for, all of the arbitrators' fees and the fees of the AAA and the attorneys' fees, expert witness fees and costs of the prevailing Party, and all such fees and costs shall be included in the judgment to be entered against the non-prevailing Party.

23.3.6. Anything to the contrary in this Section 23.3 notwithstanding, either Party may seek preliminary injunctive relief if, in its judgment, such action is necessary to avoid irreparable damage during the pendency of the arbitration procedures.

#### 23.4. Liquidated Damages.

23.4.1. If Buyer fails to proceed to Close of Escrow for any reason other than: (i) the existence of a Seller Event of Default as defined herein; (ii) the failure of any condition precedent set forth herein to the obligations of Buyer to Close hereunder so long as not caused, in whole or substantial part, by the acts or omissions of Buyer; or (iii) the existence of any uncured objection, material change or failure of condition pursuant to Section 6.1.2, Section 6.1.3, Section 6.2.1, Section 7.1, Section 10.1 or Section 21.2 of this Agreement, Buyer shall pay to Seller the sum of Five Hundred Thousand Dollars (\$500,000.00) ("Seller's Liquidated Damages"). Buyer and Seller acknowledge that it would be difficult, if not impossible, to ascertain Seller's actual damages in such circumstances and that Seller's Liquidated Damages are a reasonable forecast of just compensation to Seller for damages resulting from Buyer's breach or default. The Parties acknowledge that the payment of such liquidated damages is not intended as a forfeiture or penalty, but is intended to constitute liquidated damages to Seller. Upon Buyer's failure to proceed to Close of Escrow (except for the reasons set out in (i), (ii) or (iii) above), and upon delivery of a written notice by Seller to Buyer and Escrow Agent that Seller has elected to terminate this Agreement, Seller shall be entitled to pursue an action for Seller's Liquidated Damages as provided for in Section 23.2. The foregoing provisions for liquidated damages and limitations on Buyer's liability shall not apply to any action by Seller against Buyer for any continuing obligations or indemnities of Buyer under any provisions of this Agreement that are stated to survive Close of Escrow or termination of this Agreement, and Buyer shall have full and complete liability for such obligations and indemnities. In all other instances of breach or default, the Parties reserve the right to seek recovery of their actual damages as allowed under Section 23 of this Agreement.

23.4.2. If Seller fails to proceed to Close of Escrow for any reason other than: (i) the existence of a Buyer Event of Default as defined herein; or (ii) the existence of any uncured objection, material change or failure of condition pursuant to Section 6.1.2, Section 6.1.3, Section 6.2.1, Section 7.1, Section 10.1 or Section 21.2 of this Agreement, Seller shall pay

to Buyer the sum of Five Hundred Thousand Dollars (\$500,000.00) ("Seller's Liquidated Damages"). Seller and Buyer acknowledge that it would be difficult, if not impossible, to ascertain Buyer's actual damages in such circumstances and that Seller's Liquidated Damages are a reasonable forecast of just compensation to Buyer for damages resulting from Seller's breach or default. The Parties acknowledge that the payment of such liquidated damages is not intended as a forfeiture or penalty, but is intended to constitute liquidated damages to Buyer. Upon Seller's failure to proceed to Close of Escrow (except for the reasons set out in (i) and (ii) above), and upon delivery of a written notice by Buyer to Seller and Escrow Agent that Buyer has elected to terminate this Agreement, Buyer shall be entitled to pursue an action for Buyer's Liquidated Damages as provided for in Section 23.2. The foregoing provisions for liquidated damages and limitations on Seller's liability shall not apply to any action by Buyer against Seller for any continuing obligations or indemnities of Seller under any provisions of this Agreement that are stated to survive Close of Escrow or termination of this Agreement, and Seller shall have full and complete liability for such obligations and indemnities.

24. ATTORNEYS' FEES. Subject to the limitations set forth in this Agreement regarding litigation and remedies, if there is any litigation to enforce any provisions or rights arising herein whether in Court or in arbitration, the unsuccessful Party in such litigation, as determined by the Court or the arbitrator(s), as applicable, shall pay the successful Party, as determined by the Court, all costs and expenses, including, but not limited to, reasonable attorneys' fees incurred by the successful Party, such fees to be determined by the Court.

25. NOTICES.

25.1. Addresses. Except as otherwise required by law, any notice required or permitted hereunder shall be in writing and shall be given by personal delivery, or by deposit in the United States mail, certified or registered, return receipt requested, postage prepaid, addressed to the Parties at the addresses set forth below, or at such other address as a Party may designate in writing pursuant hereto, or tested telex, or telegram, or telecopies, or any express or overnight delivery service (e.g. Federal Express), delivery charges prepaid:

if to Seller:                   H2O, Inc  
  41502 North Schnepf Road  
  San Tan Valley, Arizona 85140  
  Attn: Brad Schnepf  
  Doug Odom  
  Telephone No.: (480) 491-6970  
  Facsimile No.: (480) 491-6739

with a copy to:                Bryan Cave LLP  
  Two North Central Ave., Suite 2200  
  Phoenix, Arizona 85004  
  Attn: Steven A. Hirsch, Esq. and Stanley Lutz, Esq.  
  Telephone No.: (602) 364-7319  
  Facsimile No.: (602) 716-8319

if to Buyer: Town of Queen Creek  
22350 South Ellsworth Road  
Queen Creek, Arizona 85242-9311  
Attn: John Kross, Town Manager  
Telephone No.: (480) 358-3000  
Facsimile No.: (480) 358-3189

with a copy to: Dickinson Wright Mariscal Weeks  
2901 N. Central Avenue, Suite 200  
Phoenix, Arizona 85012  
Attn: Fredda J. Bisman, Esq.  
Telephone No.: (602) 285-5047;  
Facsimile No.: (602) 285-5100

if to Escrow Agent: Chicago Title Insurance Company  
1959 S. Val Vista Road, Suite 115  
Mesa, Arizona 85204  
Attn: Mr. Alan Costley  
Telephone No.: (480) 539-6854  
Facsimile No.: (480) 539-6860

25.2. Effective Date of Notices. Notice shall be deemed to have been given on the date on which notice is delivered, if notice is given by personal delivery or facsimile and on the date of deposit in the mail, if mailed or deposited with the overnight carrier, if used. Notice shall be deemed to have been received on the date on which the notice is received, if notice is given by personal delivery, overnight courier or facsimile and on the second day following deposit in the mail, if notice is mailed. Following Opening of Escrow, a copy of any notice given to a Party shall also be given to Escrow Agent by regular mail or by any other method provided for herein.

26. CLOSING COSTS AND PRORATIONS. Seller and Buyer agree to pay all respective closing costs as provided in this Agreement. All prorations shall be calculated through escrow as of Close of Escrow based upon the latest available information. Any other closing costs not specifically designated as the responsibility of either Party in this Agreement shall be paid by Buyer and Seller according to the usual and customary allocation of the same by Escrow Agent in Maricopa County, Arizona. Seller agrees that all closing costs payable by Seller shall be deducted from Seller's proceeds otherwise payable to Seller at Close of Escrow. Buyer shall deposit with Escrow Agent sufficient cash to pay all of Buyer's closing costs. Except as provided in this Agreement, Seller and Buyer shall each bear their own costs in regard to the Purchase Transaction.

27. ESCROW CANCELLATION CHARGES. If escrow fails to close because of a Seller's Event of Default, Seller shall be liable for any cancellation charges of Escrow Agent. If escrow fails to close because of a Buyer's Event of Default, Buyer shall be liable for any cancellation charges of Escrow Agent. If escrow fails to close for any other reason, Seller and Buyer shall each be liable for one-half of any cancellation charges of Escrow Agent.

28. APPROVALS. Concerning all matters in this Agreement requiring the consent or approval of a Party or as a condition precedent to action by any of the Parties, the Parties agree that any such consent to each approval shall not be unreasonably withheld unless otherwise provided in this Agreement.

29. ADDITIONAL ACTS. The Parties agree to execute promptly such other documents and to perform such other acts as may be reasonably necessary to carry out the purpose and intent of this Agreement.

30. GOVERNING LAW; JURISDICTION; VENUE. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Arizona. In regard to any litigation or arbitration which may arise in regard to this Agreement, Seller and Buyer shall and do hereby submit exclusively to the jurisdiction of, and Seller and Buyer hereby agree that the proper venue shall be exclusively in, the Court, as to permitted litigation, and in Phoenix, Arizona, as to the arbitration.

31. BINDING AGREEMENT. This Agreement constitutes the binding agreement between Seller and Buyer for the sale and purchase of the Purchased Assets subject to the terms set forth in this Agreement. Subject to the limitations on assignment set forth in this Agreement, this Agreement shall bind and inure to the benefit of the Parties and their respective successors and assigns. This Agreement supersedes all other written or verbal agreements between the Parties concerning the Purchase Transaction including, but not limited to, that certain Term Sheet dated December 31, 2012, and any correspondence by or between to the Parties, whether post-dating or predating the aforesaid Term Sheet, which references any of the transactions contemplated hereby. No claim of waiver or modification concerning any provision of this Agreement shall be made against a Party unless based upon a written instrument signed by the Parties.

32. CONSTRUCTION. The terms and provisions of this Agreement represent the results of negotiations among the Parties, each of which has been or has had the opportunity to be represented by counsel of its own choosing, and neither of which has acted under any duress or compulsion, whether legal, economic or otherwise, except as noted herein. Consequently, the terms and provisions of this Agreement shall be interpreted and construed in accordance with their usual and customary meanings, and the Parties each hereby waive the application of any rule of law which would otherwise be applicable in connection with the interpretation and construction of this Agreement that ambiguous or conflicting terms or provisions contained in this Agreement shall be interpreted or construed against the Party whose attorney prepared the executed Agreement or any earlier draft of the same.

33. TIME OF ESSENCE. Time is of the essence of this Agreement. However, if this Agreement requires any act to be done or action to be taken on a date which is a Saturday, Sunday or legal holiday in the State of Arizona, such act or action shall be deemed to have been validly done or taken if done or taken on the next succeeding day which is not a Saturday, Sunday or legal holiday in the State of Arizona.

34. INTERPRETATION. If there is any specific and direct conflict between, or any ambiguity resulting from, the terms and provisions of this Agreement and the terms and

provisions of any document, instrument or other agreement executed in connection herewith or in furtherance hereof, including any Exhibits hereto, the same shall be consistently interpreted in such manner as to give effect to the general purposes and intention as expressed in this Agreement which shall be deemed to prevail and control.

35. HEADINGS AND COUNTERPARTS. The headings of this Agreement are for reference only and shall not limit or define the meaning of any provision of this Agreement. This Agreement may be executed in any number of counterparts facsimile or so-called "PDF" signature, each of which shall be an original but all of which shall constitute one and the same instrument.

36. INCORPORATION BY REFERENCE. All Exhibits to this Agreement are fully incorporated herein as though set forth at length herein.

37. SEVERABILITY. If any provision of this Agreement is determined by the Court or the arbitrator(s), as applicable, to be unenforceable, the remaining provisions shall nevertheless be kept in effect.

38. NO PARTNERSHIP OR OTHER LIABILITY. Any and all provisions, implications, or interpretations of or from this Agreement to the contrary notwithstanding, no partnership, joint venture or other relationship is created, implied or acknowledged between or among the Parties.

39. GENERAL PROVISIONS REGARDING ESCROW AGENT.

39.1. Calculation of Prorations. Escrow Agent will make all adjustments and/or prorations on the basis of the actual number of days in a month, and by credit and/or debit to the respective accounts of Seller and Buyer in the Escrow.

39.2. Close of Escrow. For purposes of the instructions to Escrow Agent and all other purposes hereunder, the expression "Close of Escrow" shall mean the date the Deed is recorded.

39.3. Disbursements. Escrow Agent shall: (i) make disbursements by wire transfer of federal funds; (ii) mail instruments to the addresses set forth in Section 25, unless Escrow Agent is instructed otherwise; and (iii) wire funds to Seller by wire transfer as directed by Seller.

39.4. Amendments to Instructions. No change of instructions shall be of any effect on the Escrow unless given in writing by Seller and Buyer. In the event conflicting demands are made or notices served upon Escrow Agent with respect to the Escrow, the Parties hereto expressly agree that Escrow Agent shall have the absolute right at Escrow Agent's election to do either or both of the following: (i) withhold and stop all further proceedings in, and performance of, the Escrow; or (ii) file a suit in interpleader and obtain an order from the Court requiring the Parties to interplead and litigate in such Court their several claims and rights among themselves. In the event such interpleader suit is brought, Escrow Agent shall ipso facto be fully released and discharged from all obligations to further perform any and all duties or obligations

imposed upon Escrow Agent in the Escrow, and the Parties jointly and severally agree to pay all reasonable costs, expenses, and reasonable attorneys' fees expended or incurred by Escrow Agent, the amount thereof to be fixed and a judgment therefor entered by the Court in such suit.

39.5. Release of Escrow Agent. Except for Escrow Agent's negligence, fraud or breach of contract, Escrow Agent shall not be held liable for the identity, authority or rights of any person executing any document deposited in the Escrow, or for Seller or Buyer's failure to comply with any of the provisions of any agreement, contract or other instrument deposited in the Escrow and Escrow Agent's duties hereunder shall be limited to the safekeeping of such money, instruments, or other documents received by Escrow Agent as escrow holder, and for the disposition of same in accordance with the written instructions accepted by Escrow Agent in the Escrow.

39.6. Escrow Transaction. It is agreed by the Parties that so far as Escrow Agent's rights and liabilities are concerned, this transaction is an escrow and not any other legal relation.

40. COVENANTS OF SELLER SUBSEQUENT TO THE CLOSE OF ESCROW. Seller, at Seller's cost, shall cause the operations of the Business to be suspended at Close of Escrow with the effect that, except as provided in this Agreement, all contractual arrangements of Seller related to the Business shall have been terminated as of Close of Escrow.

41. NO CONFLICT OF INTEREST. Seller understands and agrees that pursuant to the provisions of A.R.S. §38-511, Buyer may terminate this Agreement within three (3) years after execution of the Agreement without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of Buyer is or becomes, at any time while the Agreement or an extension of the Agreement is in effect, an employee of, or a consultant to, a Party to this Agreement with respect to the subject matter of the Agreement.

42. WAIVER OF JURY TRIAL. To the extent permitted by law, the Parties each hereby waive their right to a trial by jury.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Asset Purchase Agreement and Escrow Instructions as of the Effective Date.

SELLER:

H2O, INC., an Arizona corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

BUYER:

TOWN OF QUEEN CREEK, an Arizona municipal corporation

By: \_\_\_\_\_

Gail Barney, Mayor

ATTEST:

\_\_\_\_\_  
Jennifer Robinson, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Fredda J. Bisman, Town Attorney



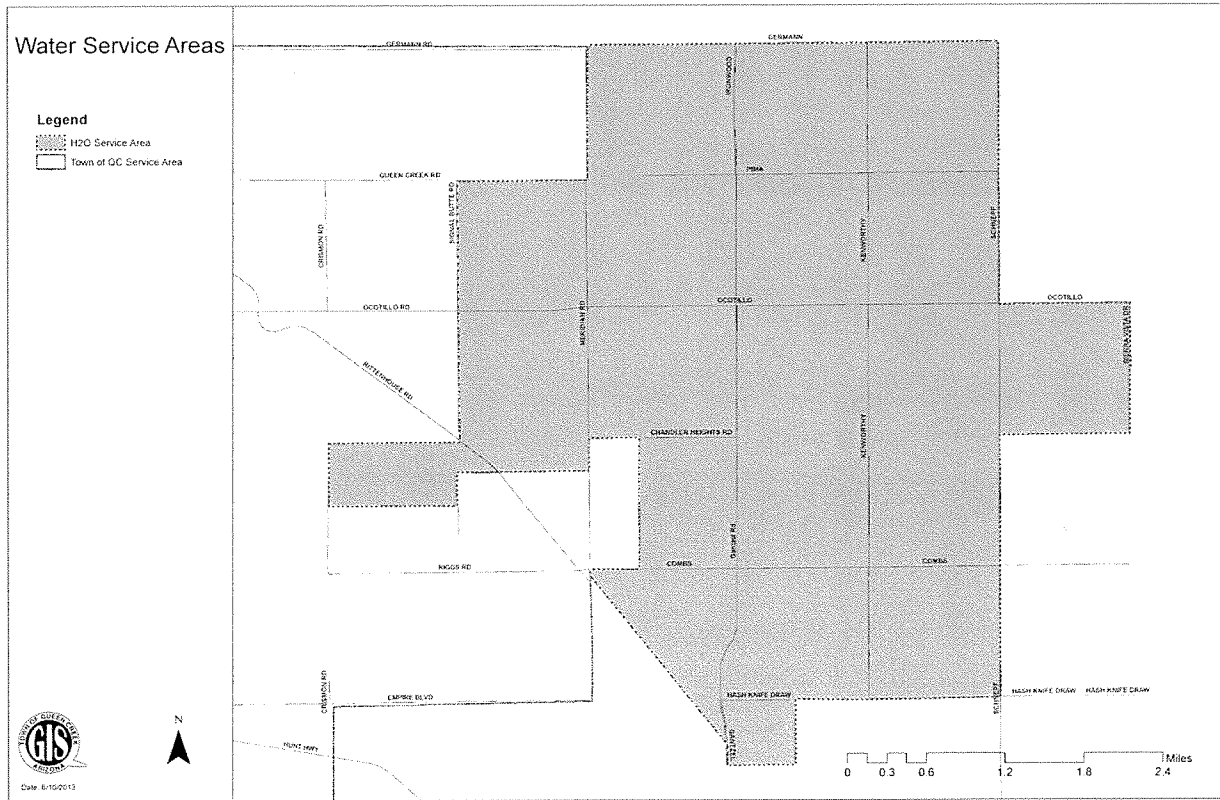
**ESCROW AGENT'S ACCEPTANCE**

The foregoing fully executed Asset Purchase Agreement and Escrow Instructions (“Agreement”) together with the Original Earnest Deposit is accepted by the undersigned this \_\_\_ day of June, 2013, which, for the purposes of this Agreement, shall be deemed to be the date of “Opening of Escrow.”

**CHICAGO TITLE INSURANCE COMPANY**

By: \_\_\_\_\_  
Alan Costley, Escrow Officer

# SELLER'S CERTIFICATED AREA



## EXHIBIT "A" TO PURCHASE AGREEMENT

**SERIES 2013 PURCHASE AGREEMENT**

**EXHIBIT "B-1" TO  
PURCHASE AGREEMENT**

**SERIES 2013 OBLIGATION INDENTURE**

**EXHIBIT "B-2" TO  
PURCHASE AGREEMENT**

**BILL OF SALE**

THIS BILL OF SALE is made as of September \_\_\_\_\_, 2013, by H2O, Inc., an Arizona corporation ("Seller"), in favor of the Town of Queen Creek, an Arizona municipal corporation ("Buyer").

**RECITALS**

A. Pursuant to an Asset Purchase Agreement and Escrow Instructions, dated as of June 19, 2013 (the "Purchase Agreement"), by and between Seller and Buyer, Seller has agreed to sell and assign to Buyer certain of the assets of Seller solely relating to the Business (as that capitalized term is defined in the Purchase Agreement), and Buyer has agreed to purchase such assets from Seller and to assume all liabilities of Seller related thereto.

B. All capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed thereto in the Purchase Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller does hereby sell, convey, assign, transfer and deliver unto Buyer, its successors and assigns, all of Seller's right, title and interest in and to all of the Personal Property listed on Exhibit "A" attached hereto,

TO HAVE AND TO HOLD unto Buyer, its successors and assigns, for its use and benefit forever.

This Bill of Sale is subject to the terms and conditions (including the representations and warranties) contained in the Purchase Agreement, and shall be governed by, and construed and enforced in accordance with, the laws of the State of Arizona, without regard to its conflicts of laws principles.

IN WITNESS WHEREOF, Seller has executed and delivered this Bill of Sale on the date first above written.

H2O, Inc.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT "C" TO  
PURCHASE AGREEMENT**

**PERSONAL PROPERTY**

**[TO BE INSERTED BY SELLER AT COE]**

**EXHIBIT "A" TO  
BILL OF SALE**

## ASSIGNMENT AND ASSUMPTION OF PERMITS

THIS ASSIGNMENT AND ASSUMPTION OF PERMITS is made as of September \_\_\_\_, 2013 by H2O, Inc., an Arizona corporation (“Assignor”), in favor of the Town of Queen Creek, an Arizona municipal corporation (“Assignee”).

### RECITALS

A. Assignor and Assignee have heretofore entered into that certain Asset Purchase Agreement and Escrow Instructions, dated as of June 19, 2013 (the “Purchase Agreement”). Concurrently with the execution and delivery of this Assignment, Assignor and Assignee are consummating the transactions contemplated by the Purchase Agreement.

B. All capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed thereto in the Purchase Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignment. Assignor hereby assigns, conveys, transfers and sets over unto Assignee, all of Assignor’s transferable right, title and interest, if any, in and to the Permits set forth on Exhibit A hereto. EXCEPT AS SET FORTH IN THE PURCHASE AGREEMENT, ASSIGNOR MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER WITH RESPECT TO THE PERMITS, WHETHER RELATED TO THEIR VALIDITY, TRANSFERABILITY OR OTHERWISE.

2. Assumption; Indemnity. Assignee hereby assumes and agrees to be bound by all of Assignor’s liabilities and obligations pursuant to the Permits and agrees to perform and observe all of the covenants and conditions contained in the Permits. Certain indemnity obligations relating to the Parties are set forth in the Purchase Agreement.

3. Binding Effect. This Assignment shall inure to the benefit of, and be binding upon, the successors, executors, administrators, legal representatives and assigns of Assignor and Assignee. In the event of any inconsistency between the terms of this Assignment and the Purchase Agreement, the terms of the Purchase Agreement shall be controlling.

4. Governing Law. This Assignment shall be governed by, and construed and enforced in accordance with, the laws of the State of Arizona, without regard to its conflicts of laws principles.

5. Counterparts. This Assignment may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

### EXHIBIT “D” TO PURCHASE AGREEMENT

6. Notices. Notices pursuant to this Assignment shall be given in the manner provided in the Purchase Agreement.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment and Assumption of Permits on the date first above written.

**ASSIGNOR:**

H2O, Inc.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

**ASSIGNEE:**

Town of Queen Creek

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_



Permits and Licenses

[TO BE INSERTED BY SELLER AT COE]

[INSERT "NONE" IF NONE]

**EXHIBIT "A" TO  
ASSIGNMENT OF PERMITS**

## ASSIGNMENT AND ASSUMPTION OF SERVICE CONTRACTS

THIS ASSIGNMENT AND ASSUMPTION OF SERVICE CONTRACTS (this "Assignment") is made and entered into as of September \_\_\_\_, 2013, by and between H2O, Inc., an Arizona corporation ("Assignor"), and the Town of Queen Creek, an Arizona municipal corporation ("Assignee").

### RECITALS

A. Pursuant to an Asset Purchase Agreement and Escrow Instructions dated as of June 19, 2013 (the "Purchase Agreement") by and between Assignor and Assignee, Assignor has agreed to sell and assign to Assignee certain of the assets of Assignor solely relating to the Business (as that capitalized term is defined in the Purchase Agreement), and Assignee has agreed to purchase such assets from Assignor and to assume all liabilities of Assignor related thereto.

B. In connection with the sale of the assets to Assignee in accordance with the Purchase Agreement, Assignor desires to assign to Assignee, and Assignee desires to assume from Assignor (without recourse, except as provided in the Purchase Agreement), and agrees to pay, discharge or perform, as appropriate, all of Assignor's duties, obligations and liabilities arising from and after the Close of Escrow, with respect to the Service Contracts listed on Exhibit "A" attached hereto (the "Service Contracts").

C. All capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed thereto in the Purchase Agreement.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and agreements set forth herein and in the Purchase Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignment. As of the date hereof, Assignor hereby assigns to Assignee, its successors and assigns, all of Assignor's right, title and interest in, to and under the Service Contracts. This Assignment is subject to all of the terms and conditions (including without limitation, the representations, warranties, covenants and indemnities) contained in the Purchase Agreement.

2. Assumption. Assignee hereby accepts the foregoing assignment and assumes the obligations, liabilities and duties of Assignor under the Service Contracts.

3. Binding Effect. This Assignment shall inure to the benefit of, and be binding upon, the successors, executors, administrators, legal representatives and assigns of Assignor and Assignee.

### EXHIBIT "E" TO PURCHASE AGREEMENT

4. Counterparts. This Assignment may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

5. Governing Law. This Assignment shall be governed by, and construed and enforced in accordance with, the laws of the State of Arizona, without regard to its conflicts of laws principles.

6. Notices. Notices pursuant to this Assignment shall be given in the manner provided in the Purchase Agreement.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment and Assumption of Service Contracts on the date first above written.

**ASSIGNOR:**

H2O, Inc.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

**ASSIGNEE:**

Town of Queen Creek

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

**LIST OF SERVICE CONTRACTS**

[TO BE INSERTED BY SELLER AT COE]

**EXHIBIT "A" TO  
ASSIGNMENT OF SERVICE CONTRACTS**

When recorded, return to:  
Chicago Title Insurance Company, Attn.: Alan Costley  
1959 S. Val Vista Road, Suite 115  
Mesa, Arizona 85204  
Escrow No.: C1300013

**EXEMPT – NO AFFIDAVIT OF VALUE NECESSARY – SEE A.R.S. §11-1134 (A)(3)**

**SPECIAL WARRANTY DEED**

For the consideration of Ten Dollars, and other valuable consideration, H2O, INC., an Arizona corporation, ("Grantor"), conveys to TOWN OF QUEEN CREEK, an Arizona municipal corporation ("Grantee"), the following described real property situated in Maricopa County, Arizona, together with all rights and privileges appurtenant thereto:

See the legal description set forth in Exhibit "A" attached and incorporated by this reference (the "Property").

SUBJECT TO all the matters of record as of the date of recording of this Special Warranty Deed in the Official Records of Maricopa County, Arizona.

And the Grantor hereby binds itself and its successors to warrant and defend the title to the Property as against the acts of Grantor, but no others, subject to the matters above set forth.

Dated to be effective as of \_\_\_\_\_, 2013.

GRANTOR: H2O, INC., an Arizona corporation

By: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF ARIZONA        )  
  ) ss.  
County of Maricopa        )

The foregoing instrument was acknowledged before me this \_\_\_ day of September, 2013, by \_\_\_\_\_, as \_\_\_\_\_ of H2O, INC., an Arizona corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public

My Commission Expires:

**EXHIBIT "F" TO  
PURCHASE AGREEMENT**

**LEGAL DESCRIPTION OF THE PROPERTY**

[TO BE INSERTED BY BUYER AT COE]

**EXHIBIT "A" TO  
SPECIAL WARRANTY DEED**

**NON-FOREIGN PERSON AFFIDAVIT**

THIS AFFIDAVIT is made this \_\_\_\_\_ day of September, 2013, by H2O, INC., an Arizona corporation ("Transferor"), for the benefit of the TOWN OF QUEEN CREEK, an Arizona municipal corporation ("Transferee").

Section 1445(a) of the Internal Revenue Code of 1986 (hereinafter referred to as the "Code") provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform the Transferee that withholding of tax is not required upon the disposition by Transferor of a U.S. real property interest, the undersigned hereby certifies the following on behalf of Transferor:

- 1. Transferor is not a foreign corporation, foreign partnership, foreign trust or foreign estate or other foreign person (as those terms are defined in the Code and Income Tax Regulations);
- 2. Transferor is not a disregarded entity as defined in 26 CFR §1-1445.2(b)(2)(iii);
- 3. Transferor's U.S. Employer Identification Number or Social Security Number, as applicable is 86-0271929; and
- 4. Transferor's office address is 41502 North Schnepf Road, San Tan Valley, Arizona 85140, Attention: Doug Odom, President.

Transferor understands that this certification may be disclosed to the Internal Revenue Service by Transferee and that any false statement contained herein could be punished by fine, imprisonment or both.

Under penalties of perjury, the undersigned declares that the undersigned has examined this certification and, to the best of the undersigned's knowledge and belief, it is true, correct and complete, and the undersigned further declares that the undersigned has authority to sign this document on behalf of Transferor.

**TRANSFEROR:**

H2O, INC.,  
an Arizona corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT "G" TO  
PURCHASE AGREEMENT**

STATE OF ARIZONA        )  
  ) ss.  
COUNTY OF MARICOPA    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of September, 2013, by \_\_\_\_\_, as \_\_\_\_\_ of H2O, INC., an Arizona corporation, on behalf of said corporation.

WITNESS my hand and official seal:

Signature \_\_\_\_\_ (Seal)  
  Notary Public

My Commission Expires: \_\_\_\_\_, \_\_\_\_\_



**ASSIGNMENT OF WARRANTIES**

THIS ASSIGNMENT OF WARRANTIES (the "Assignment"), dated to be effective as of September, 2013 (the "Effective Date"), is by and between H2O, INC., an Arizona corporation, ("Assignor"), and TOWN OF QUEEN CREEK, an Arizona municipal corporation ("Assignee").

RECITALS:

As of the Effective Date, Assignor is the holder of the interest of the person to whom certain warranties were made with respect to the operation, maintenance, repair or improvements of the Property (collectively, the "Warranties") described on Exhibit "A" attached hereto and by this reference incorporated herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as set forth below.

AGREEMENT:

1. Assignment. As of the Effective Date, Assignor hereby assigns, conveys, transfers and sets over unto Assignee all of Assignor's right, title and interest in, to and under the Warranties.

2. Binding Effect. This Assignment shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the date set forth above.

ASSIGNOR:

H2O, INC., an Arizona corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

ASSIGNEE:

TOWN OF QUEEN CREEK, an Arizona municipal corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT "H" TO  
PURCHASE AGREEMENT**

**DESCRIPTION OF WARRANTIES**

[TO BE INSERTED BY BUYER AT COE]

[INSERT "NONE" IF NONE]

**EXHIBIT "A" TO  
ASSIGNMENT OF WARRANTIES**

**When recorded, return to:**

Chicago Title Insurance Company  
1959 S. Val Vista Road, Suite 115  
Mesa, Arizona 85204  
Escrow No.: C1300013  
Attn.: Alan Costley

**COMMUNICATIONS TOWER LICENSE AGREEMENT**

**THIS TOWER LICENSE AGREEMENT** (the "**Agreement**") is made as of this \_\_\_\_ day of September, 2013 ("**Effective Date**"), by and between **F.E.L., L.L.C.**, an Arizona limited liability company ("**Licensor**"), and **TOWN OF QUEEN CREEK**, an Arizona municipal corporation ("**Licensee**").

**W I T N E S S E T H**

**WHEREAS**, concurrently herewith, an affiliate of Licensor, H2O, INC., an Arizona corporation ("**H2O**"), has conveyed to Licensee, among other parcels, that certain real property (the "**Property**") located in the County of Pinal, State of Arizona, as described on **Exhibit A** attached hereto and incorporated herein;

**WHEREAS**, Licensor is the owner of that certain real property located adjacent to and to the west of the Property (the "**Licensor Property**"), as described on **Exhibit B** attached hereto and incorporated herein. Currently located on the Licensor Property is a communications **Tower** (herein so called) which presently contains/houses certain communications **Equipment** (herein so called) being acquired by Licensee from H2O this date which is utilized in connection with the water distribution **Business** (herein so called) which is conducted on and about the Property and other real property previously owned by H2O and conveyed to Licensee concurrently herewith. Reasonably immediately adjacent to the Tower is an out-building which also contains certain Equipment. As the context of this Agreement may admit, references to the "Tower" shall also mean references to said out-building and any Equipment located therein and thereabouts. A sketch of the Tower (and associated out-building) and a listing of the material items of Equipment is attached hereto as **Exhibit C**;

**WHEREAS**, as a condition to H2O's conveyance of the Property to Licensee, Licensee requires that Licensor agrees to grant to Licensee a license for the use of the Tower (inclusive of the out-building) for the purpose of maintaining and operating the communications facilities and the Equipment located thereon during the term of this Agreement (the "**Permitted Use**"), all as hereinafter set forth in this Agreement.

**NOW, THEREFORE**, in consideration of good and valuable consideration, and the promises and covenants herein contained, Licensor and Licensee agree as follows:

**EXHIBIT "I" TO  
PURCHASE AGREEMENT**

1. **License; Certain Reserved Rights of Licensor.** Licensor hereby grants to Licensee, its successors and assigns in ownership of the Licensee Property, a license to utilize the Tower for the Permitted Use, together with all rights reasonably necessary or incident thereto, including the reasonable right of ingress and egress to and from the Tower (the "**License**"); provided, however, that Licensee shall substantially comply with all federal, state, and local laws and ordinances regarding such use. The rights granted hereunder shall include, but not be limited to, rights of Licensee and all its designees to utilize any facility serving the Tower and the Equipment including, without limitation, pedestrian and vehicular rights-of-way and utility, fiber-optic, telecommunications or other facilities supplying power, data, etc. to the Tower and the Equipment. As to third parties, the License granted hereby shall be exclusive. Licensor reserves the right of Licensor and its affiliates to otherwise utilize certain other equipment associated with the Tower (which is not being transferred to Licensee along with the Equipment) during the term hereof and to remove said equipment, if so determined by Licensor. Licensor's (and its respective affiliates') use, however, shall not interfere in any material respect with the rights of Licensee hereunder, Licensee's use of the Tower or the Equipment or the removal of said Equipment as contemplated hereby. Licensor shall indemnify and hold Licensee harmless from any claim or damage to the Equipment or the Tower arising out of Licensor's (and its respective affiliates') use hereunder and Licensor shall maintain reasonable insurance in form reasonably satisfactory to Licensee as to the foregoing.

2. **Term and License Fee.** The License granted under this Agreement shall commence on the date of this Agreement and shall terminate upon the earlier of: a) one (1) year from the Effective Date hereof; or b) at such time as Licensee no longer operates the Tower for communications purposes in connection with the Business (the "**Expiration Date**"). Upon the termination of this Agreement, Licensee shall vacate the Tower and no longer use the Tower. Additionally, at any time after the Expiration Date, Licensee hereby acknowledges and agrees that Licensor may unilaterally execute and record a termination of this Agreement with the Maricopa County Recorder's Office. During the term hereof, Licensee shall pay to Licensor the sum of \$100.00 per month (prorated for partial months) as and for a License fee hereunder

3. **Relocation of Tower Equipment and Operations.** Licensee agrees to utilize commercially reasonable efforts during the term of this Agreement to plan to cease, and conduct the orderly cessation of, operations presently conducted by and at the Tower (inclusive of the out-building) and to relocate the communications Equipment to other real property (either the Property, other real property owned or leased by Licensee, or otherwise). Licensee shall be permitted to remove any communication Equipment or other movable equipment or facilities from the Tower (inclusive of the out-building) and the Property during the terms hereof in connection with such relocation. If such relocation is consummated to Licensee's reasonable satisfaction prior to the stated outside one year expiration date hereof, this Agreement shall terminate on such earlier date. Licensee is hereby granted reasonable access to the Licensor Property to accomplish such actions. It is understood that Licensee is under no obligation to either remove the Tower itself (inclusive of the out-building) or to otherwise sever and remove any appurtenances to the Tower including, without limitation, fiber-optic, electrical or other service facilities.

4. **Licensee Maintenance.** Licensee shall keep, maintain and operate the Tower in good condition and repair, and in accordance with all applicable laws, ordinances, regulations and codes. Licensee agrees to repair any damage caused to the Property (including, without limitation, the Tower and the out-building) that is a result of any acts of negligence or intentional misconduct of Licensee or its respective contractors, officers, agents, employees, representatives, or invitees in installing, operating, maintaining or repairing the Tower.

5. **Recording.** This Agreement shall be recorded promptly following full execution by the parties hereto.

6. **No Dedication.** No dedication to the public arises from this License. No third party shall benefit from this Agreement.

7. **Indemnity.** To induce Licensor to grant to Licensee this License, Licensee hereby agrees to forever defend, indemnify and hold harmless the Licensor, its board, officers and members for, from and against any and all claims, losses, demands, costs, damages, liabilities and causes of action (including without limitation personal injury or property damage and further including attorneys' fees and costs) arising out of or related to the terms and provisions of this Agreement, the License granted herein or the exercise of any rights by Licensee. Licensee shall maintain its own commercial general liability insurance, as primary insurance, for loss of at least \$1,000,000 and name Licensor as an additional insured. Delivery of an insurance certificate evidencing the same shall be a condition to Licensee's right to use this License.

[SIGNATURES AND ACKNOWLEDGEMENTS APPEAR ON PAGES FOLLOWING]

**IN WITNESS WHEREOF**, Licensor and Licensee have duly executed this Tower License Agreement as of the day and year first above written.

**LICENSOR:**

F.E.L., L.L.C., an Arizona limited liability company

By: \_\_\_\_\_  
Donald Schnepf, Manager

**LICENSEE:**

TOWN OF QUEEN CREEK, an Arizona municipal corporation

By: \_\_\_\_\_  
Gail Barney, Mayor

**ATTEST:**

\_\_\_\_\_  
Jennifer Robinson, Town Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Fredda J. Bisman, Town Attorney

STATE OF ARIZONA        )  
                                  ) ss.  
County of Maricopa        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of September, 2013, by Donald Schnepf, the duly authorized Manager of F.E.L., L.L.C., an Arizona limited liability company, on behalf of the company.

\_\_\_\_\_  
Notary Public

STATE OF ARIZONA        )  
  ) ss.  
County of Maricopa        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of September, 2013, by \_\_\_\_\_, the \_\_\_\_\_ of the Town of Queen Creek, an Arizona municipal corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public

**EXHIBIT A**

(Legal Description of Property)

**EXHIBIT "A" TO  
COMMUNICATIONS TOWER LICENSE AGREEMENT**



**EXHIBIT B**

(Legal Description of Licensor Property)

**EXHIBIT "B" TO  
COMMUNICATIONS TOWER LICENSE AGREEMENT**

**EXHIBIT C**

(Sketch of Tower [and associated out-building] and List of Material Items of Equipment)

**EXHIBIT "C" TO  
COMMUNICATIONS TOWER LICENSE AGREEMENT**

**OPINIONS OF BOND COUNSEL**

DRAFT

[LETTERHEAD OF GREENBERG TRAURIG, LLP]

\_\_\_\_\_, 2013

[Trustee]

Re: Water System Revenue Obligation, Series 2013, Evidencing Proportionate Interests of the Holders Thereof in Installment Payments of the Purchase Price To Be Paid by the Town of Queen Creek, Arizona, Pursuant to a Series 2013 Purchase Agreement, Dated as of \_\_\_\_\_ 1, 2013

We hereby certify that we have examined a transcript of the proceedings relating to the initial execution and delivery of the above-referenced Obligation (the "*Obligation*") in the principal amount of \$\_\_\_\_\_,000 and fully registered form, dated the date of its initial execution and delivery. The Obligation is being executed and delivered to acquire \_\_\_\_\_ comprising part of the water utility system (the "*System*") serving the Town of Queen Creek, Arizona (the "*Town*").

We have examined the law and such documents and matters as we have deemed necessary to render this opinion. As to questions of fact material to the opinions expressed herein, we have relied upon, and have assumed due compliance with the provisions of, such documents and have relied upon certifications and representations furnished to us without undertaking to verify the same by independent investigation, including, without limitation, the use to be made of the proceeds of the Obligation. Reference is made to certifications of, and opinions of counsel to, parties with respect to the existence and powers of such parties to enter into and perform the instruments referred to, the authorization, execution and delivery of such instruments by such parties and such instruments being binding upon and enforceable against such parties; we express no opinion as to such matters.

**EXHIBIT "J" TO  
PURCHASE AGREEMENT**

The Obligation is being executed and delivered pursuant to the Series 2013 Obligation Indenture, dated as of \_\_\_\_\_ 1, 2013 (the "*Indenture*"), by and between the Town and \_\_\_\_\_, in its capacity as trustee (the "*Trustee*"). The Obligation represents the interest in certain obligations of the Town pursuant to the Series 2013 Purchase Agreement, dated as of \_\_\_\_\_ 1, 2013 (the "*Purchase Agreement*"), by and between the Trustee, in its separate capacity as seller (the "*Seller*"), and the Town, as purchaser, pursuant to which the Town has agreed to make certain installment purchase payments to the Trustee. The Obligation is payable solely, as to both principal and interest, from such installment purchase payments made by the Town pursuant to the Purchase Agreement. The Town and the Seller have assigned certain of their rights in and benefits from, and of their obligations pursuant to, the Purchase Agreement to the Trustee pursuant to the Indenture.

Based upon the foregoing, we are of the opinion as of this date, which is the date of initial execution and delivery of the Obligation against payment therefor, that:

1. The Indenture, the Purchase Agreement and the Obligation are valid and binding and enforceable in accordance with their terms. The rights of the owner of the Obligation and the enforceability of those rights pursuant to the Obligation as well as the Indenture and the Purchase Agreement may, however, be subject to bankruptcy, insolvency, reorganization, moratorium and similar laws affecting creditors' rights, and the enforcement of those rights may also be subject to the exercise of judicial discretion in accordance with general principles of equity.

2. The obligation of the Town for the payment of the installment purchase payments required to be paid by the Town pursuant to the provisions of the Purchase Agreement constitute a valid and binding limited, special obligation of the Town, payable together with any other obligations issued on parity therewith, solely from and secured solely by a pledge of, a lien on and a security interest in the Pledged Revenues (as defined in the Purchase Agreement), consisting generally of revenues derived by the Town from the operation of the System after sufficient funds have been provided for the operation and maintenance expenses of the System and for payment of certain senior lien obligations and amounts related thereto. Such payments are not secured by an obligation or pledge of any moneys raised by taxation; the Obligation does not represent or constitute a debt or pledge of the general credit of the Town or the State of Arizona and the Purchase Agreement, including the obligation of the Town to make the payments required thereunder, does not represent or constitute a debt or pledge of the general credit of the Town.

3. The portion of each installment purchase payment made by the Town pursuant to the Purchase Agreement, denominated as and comprising interest pursuant to the Purchase Agreement and received by the owner of the Obligation (the "*Interest Portion*"), is excludable from gross income for federal income tax purposes under Section 103(a) of the Internal Revenue Code of 1986, as amended (the "*Code*"), and is not treated as an item of tax preference under Section 57 of the Code for purposes of the alternative minimum tax imposed on individuals and corporations. The Interest Portion is also exempt from income taxation under the laws of the State of Arizona so long as the Interest Portion is excluded from gross income for federal income tax purposes. Pursuant to the Code, however, portions of the Interest Portion

**EXHIBIT "K" TO  
PURCHASE AGREEMENT**

earned by certain corporations (as defined for federal income tax purposes) may be taken into account in determining adjusted current earnings for purposes of computing alternative minimum tax imposed on such corporations and may be subject to a branch profits tax imposed on certain of such corporations which are foreign corporations doing business in the United States and to a tax imposed on excess net passive income of such corporations which are S corporations. (We express no opinion regarding other federal or State tax consequences resulting from the ownership of, receipt or accrual of interest on or disposition of the Obligation.)

In rendering the opinion expressed in the third numbered paragraph hereof, we have assumed continuing compliance with certain tax covenants provided in connection with the original execution and delivery of the Obligation in order that the Interest Portion not be included in gross income for federal tax purposes. The failure of the Town to meet certain requirements of the Code with respect to the matters described in the third numbered paragraph hereof may cause the Interest Portion to be included in gross income for federal income tax purposes retroactive to the date of initial execution and delivery of the Obligation. The Town has covenanted to take the actions required by the Code in order to maintain the exclusion from gross income for federal income tax purposes of the Interest Portion. (Subject to the same limitations in the last sentence of the first numbered paragraph hereof as they would relate to such covenants, the Town has full legal power and authority to comply with such covenants.)

This opinion represents our legal judgment based upon our review of the law and the facts we deem relevant to render such opinion and is not a guarantee of a result. This opinion is given as of the date hereof, and we assume no obligation to review or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

Respectfully submitted,

**EXHIBIT "K" TO  
PURCHASE AGREEMENT**

DRAFT

[LETTERHEAD OF GREENBERG TRAURIG, LLP]

\_\_\_\_\_, 2013

[H2O Water]

Re: Water System Revenue Obligation, Series 2013, Evidencing Proportionate Interests of the Holders Thereof in Installment Payments of the Purchase Price To Be Paid by the Town of Queen Creek, Arizona, Pursuant to a Series 2013 Purchase Agreement, Dated as of \_\_\_\_\_ 1, 2013

We have delivered to you our approving opinion of even date herewith relating to the above-referenced Obligation (the "*Obligation*"). You may rely on such opinion as if such opinion were also addressed to you.

With the same exceptions, reliances and assumptions provided in such approving opinion as to matters addressed therein, we hereby supplement the aforesaid approving opinion and further advise you that the offer and sale of the Obligation is exempt from registration pursuant to the Securities Act of 1933, as amended, and will not result in the Indenture (as such term is defined in such approving opinion) being subject to qualification pursuant to the Trust Indenture Act of 1939, as amended.

Respectfully submitted,

**EXHIBIT "K" TO  
PURCHASE AGREEMENT**

**OPINION OF BUYER'S COUNSEL**

**DICKINSON WRIGHT**  
MARISCAL WEEKS

2901 NORTH CENTRAL AVENUE, SUITE 200  
PHOENIX, AZ 85012-2705  
TELEPHONE: (602) 285-5000  
FACSIMILE: (602) 285-5100  
<http://www.dickinsonwright.com>

[Closing Date]

H2O, Inc.  
41502 North Schnepf Road  
San Tan Valley, Arizona 85140  
Attn: Messrs. Brad Schnepf and Doug Odom

Greenberg Traurig, LLP  
2375 Camelback Road, Suite 700  
Phoenix, AZ 85016  
Attn: Michael Cafiso, Esq.

**Re:** Asset Purchase Agreement and Escrow Instructions ("**Purchase Agreement**"), dated as of June 19, 2013, by and between Town of Queen Creek and H2O, Inc., an Arizona corporation ("**Seller**") – Execution and Delivery by Town of Queen Creek of Series 2013 Purchase Agreement ("**Series 2013 Purchase Agreement**") and Series 2013 Indenture ("**Indenture**"; collectively, with the Series 2013 Purchase Agreement, the "**Series 2013 Obligation Documents**")

Ladies and Gentlemen:

We have acted as counsel to Town of Queen Creek, an Arizona municipal corporation (the "**Town**"), in connection with execution and delivery of the Purchase Agreement and the Series 2013 Obligations (collectively, the "**Transaction Documents**") as contemplated thereby. Capitalized terms used but not defined herein shall have the respective meanings assigned thereto in the Purchase Agreement.

In connection with our opinions expressed below, we have examined executed versions of the Transaction Documents and we have also reviewed copies of the following documents and relied on the following information:

**EXHIBIT "K" TO  
PURCHASE AGREEMENT**

i. Petition for Incorporation or for election for the incorporation of the Community of Queen Creek, Arizona;

ii. Resolution No. 6129, passed and adopted by the City Council of the City of Mesa, Arizona on May 15, 1989, approving the incorporation of the Town;

iii. Resolution No. 901, passed and adopted by the Mayor and Town Council of the Town of Gilbert, Arizona on April 12, 1988, approving the incorporation of the Town;

iv. Certified copies of an extract from the minutes of a Maricopa County, Arizona Board of Supervisors' meeting held September 5, 1989, evidencing the approval of an **Incorporation Resolution** (herein so called) finding that the statutory incorporation requirements had been satisfied and declaring the incorporation of the Town;

v. Certification of Robert K. Corbin, Attorney General of the State of Arizona ("**State**"), that the incorporation of the Town was accomplished in accordance with state law, as evidenced by, and based upon, the Incorporation Resolution;

vi. Certification of action by the Town Council (as herein defined) held on June 5, 2013, canvassing the results of an election held on May 21, 2013, relating to, among other things, consummation of the transactions contemplated by the Purchase Agreement and execution and delivery of the Series 2013 Obligation Documents;

vii. Staff Report of Patrick Flynn, dated June 19, 2013, relating to the Transaction Documents, the ratification of the previous execution of the Transaction Documents by the Town Mayor, and the authorization of the Town Mayor to execute the same; and

viii. A certified copy of the public postings relating to, and the agenda and minutes of, a meeting ("**Town Meeting**") of the Common Council of the Town ("**Town Council**") held on June 19, 2013, at which the Council, by its **Obligation Ordinance** (herein so called), as of June 19, 2013, ratified the previous execution of the Purchase Agreement by the Town Manager and authorized the Town Manager to execute the Series 2013 Obligation Documents on behalf of the Town (collectively, "**Town Council Meeting Documents**").

We have also examined such other records, documents, certificates and instruments, including, without limitation, the Certificate, of even date ("**Officer's Certificate**") of \_\_\_\_\_, \_\_\_\_\_ of the Town, and have made such investigations, as in our judgment are necessary to enable us to render the opinions expressed below.

For purposes of this opinion letter, we have, with your permission, assumed, without investigation, verification or inquiry, the following:

(a) the legal capacity of all natural persons; the genuineness of all signatures; the authenticity and completeness of all documents submitted to us as originals; the conformity to original documents of all documents submitted to us as copies; the authenticity and completeness of the originals of such copies; and the absence of any understandings, waivers or amendments



which would vary the terms of any of the documents which we have examined or which would have an effect on the opinions rendered herein;

(b) all parties to the Transaction Documents are duly organized, validly existing and in good standing under the laws of their respective jurisdictions of incorporation or formation, except to the extent we express an opinion in Paragraph 1 below regarding the valid existence and good standing of the Town;

(c) the execution and delivery of, and performance of its obligations under, each of the Transaction Documents in the forms which we have reviewed are within the powers of, and have been duly authorized by, each of the parties thereto, except to the extent we express an opinion in Paragraph 2 below regarding the corporate power and authority of the Town;

(d) each of the parties to each of the Transaction Documents has complied or will comply with all laws, regulations and orders applicable to it in connection with the consummation of the transactions contemplated thereby;

(e) the execution, delivery and performance of the documents by all parties thereto will be free of intentional or unintentional mistake, fraud, undue influence, duress or criminal activity;

(f) each of the Transaction Documents is a legal, valid and binding obligation of, and is enforceable in accordance with its respective terms against, each of the parties thereto, except to the extent we express an opinion in Paragraph 5 below regarding the enforceability against the Town of the Transaction Documents; and

(g) the value received by the Town under the Purchase Agreement was not grossly disproportionate to the Purchase Price (inclusive of the execution and delivery of the Series 2013 Obligation Documents) paid by the Town thereunder.

As to questions of fact relevant to this opinion letter, we have relied upon certificates and/or representations and warranties of officers and representatives of the Town or of public officials, including, without limitation, the representations and warranties of the Town contained in the Officer's Certificate and the Transaction Documents. We have assumed the truth and accuracy of the representations and warranties of the Town in the Officer's Certificate and the Transaction Documents. We have not undertaken any independent investigation or verification as to such matters, and we have assumed without investigation that there has been no relevant change or development with respect to such information since the date of such certificates, representations and warranties.

Based upon the foregoing and subject to the qualifications stated herein, it is our opinion that:

1. The Town is a municipal corporation, validly existing under the laws of the State of Arizona.

2. The Town has all requisite corporate power under Arizona law to execute and deliver, and to perform its obligations under, the Transaction Documents.

3. The execution, delivery and performance by the Town of the Transaction Documents have been duly authorized by all necessary corporate action by the Town and do not violate any law, rule or regulation of the State of Arizona.

4. The Town has duly executed and delivered the Transaction Documents.

5. The execution and delivery by the Town of the Transaction Documents do not violate, and performance by the Town of its obligations thereunder will not violate, the terms of: (i) to the best to our knowledge, judgments, decrees, writs, injunctions, orders or awards of any arbitrator, court or governmental authority; or (ii) any contract or undertaking listed in Schedule 1 attached to the Officer's Certificate.

6. Based solely on the Town Council Meeting Documents, we have no knowledge that the Council and the Town did not comply with all applicable open meeting and notice laws and requirements with respect to the Meeting.

7. No consent, approval or authorization of, or declaration, registration or filing with, any Arizona governmental authority is required on the part of the Town in connection with the execution, delivery and performance of the Transaction Documents or as a condition to the legality or validity of the Transaction Documents, except as contemplated by the Transaction Documents.

8. Based solely upon the Officer's Certificate, no litigation is pending to which the Town is a named and served party or, to our knowledge, threatened against the Town, in Maricopa County Superior Court or in the Federal District Court for the District of Arizona in any way affecting the titles of the officials of the Town to their respective positions, or seeking to restrain or to enjoin the issuance, sale or delivery of the Transaction Documents, or the collection of revenues pledged or to be pledged to pay the principal of and interest on the Transaction Documents, or in any way contesting or affecting the validity or enforceability of the Obligation Ordinance or the Transaction Documents, or contesting the powers of the Town or its authority with respect to the Obligation Ordinance or the Transaction Documents.

The opinions herein expressed are subject to the following limitations and qualifications:

(a) No opinion is expressed with respect to any document incorporated by reference into the Transaction Documents; and

(b) We have not reviewed for purposes of our opinions, and nothing herein shall be construed as an opinion by us as to compliance with: any federal, state or local environmental, zoning, health, safety, building, land use or subdivision laws, ordinances, codes, rules or regulations; any federal, state or local taxation laws, rules, or regulations; any federal or state banking, securities or so-called "blue sky" laws, rules or regulations; any federal or state labor, ERISA or other employee benefit laws, rules or regulations; any Federal or state antitrust or unfair competition laws, rules or regulations; any laws relating to fiduciary duties; any so-called "know your customer" or anti-money laundering laws, rules or regulations or any other federal

or state law, rule, or regulation concerning terrorist activities, including, without limitation, the USA PATRIOT Act of 2001, as amended, or the foreign assets control regulations of the United States Department of the Treasury; any federal or state laws, rules, or regulations concerning transfers or assignments of claims against or amounts due from federal or state governments or their departments, agencies, or subdivisions, including without limitation the federal Anti-Claims Act (31 U.S.C. § 3727) and the federal Anti-Assignment Act (41 U.S.C. § 6305); any federal or state laws, rules, regulations or policies concerning criminal and civil forfeiture laws; any federal or state racketeering or other law providing for criminal prosecution; or any federal or state patent, trademark, copyright or other federal or state intellectual property laws, rules and regulations.

Whenever our opinion, with respect to the existence or absence of facts, is qualified by the phrase "**to the best of our knowledge**" or a phrase of similar import, it is intended to indicate that during the course of our representation in connection with the Transaction Documents, the lawyers in our Firm who have been principally involved in representing the Town in connection with the execution and delivery of the Transaction Documents have not obtained actual knowledge of the existence or absence of such facts, as the case may be, without the implication that we have made any investigation or inquiry to determine the existence or absence of such facts, except as expressly stated herein.

This opinion letter is limited in all respects to matters arising under the law of the State of Arizona. This opinion letter is predicated solely upon laws and regulations in existence as of the current date, and as they currently apply, and to the facts as they currently exist. We assume no obligation to revise or supplement this opinion letter should such matters change by legislative action, judicial decision or otherwise.

This opinion letter incorporates by reference, and is to be interpreted in accordance with, the First Amended and Restated Report of the State Bar of Arizona Business Law Section Committee on Rendering Legal Opinions in Business Transactions, dated October 20, 2004.

This opinion letter is limited to the matters set forth herein and no opinion is intended to be implied or may be inferred beyond those expressly stated herein.

This opinion letter is rendered solely for Seller's benefit in connection with the Transaction Documents and may not be relied upon by Seller for any other purpose, or relied upon by, or distributed to, any other person without our prior written consent. This opinion letter further may not be quoted or reproduced, in whole or in part, in any other document, or filed with any government agency, without our prior written consent. Bond Counsel, Greenberg Traurig, LLP, may rely upon this opinion in rendering its opinions, of even date, with regard to the enforceability of the Series 2013 Obligation Documents, opinions in connection with the tax-exempt status of certain sums to be received thereunder and certain securities law issues related thereto.

FCF:DIT

## PERSONAL PROPERTY

**Vehicles/Trailers/Operating Equipment – See list below**

### **Auto Vehicles**

<b>Truck ID#</b>	<b>VIN</b>	<b>LICENSE</b>	<b>Description</b>
TK-0202	1FDAF56F32EA31594	CB-91995	2002 F-550, Diesel, 8 cylinder, Automatic, 7.3L
TK-0602	1FDWX37P56EB00418	CD-97994	2006 F-350 Super Duty, Diesel, Automatic, 8 cylinder
TK-0601	1FTSW21Y36EA83538	CD-97786	2006 F-250 Crew, 4RD, Automatic, 10 cylinder, 6.8L
TK-0504	1FDAF56P34EC35906	CC-91040	2004 F-550, Diesel, 8 cylinder, Automatic, 6.0L
TK-1003	1FTMF1CW9AKE55439	CG-49228	2010 F-150 XL, Unleaded, Automatic, V-8, 4.6L
TK-1004	1FTMF1CWAKB98372	CG-49224	2010 F-150 XL, Unleaded, Automatic, V-8, 4.6L
TK-1201	1FTMF1CM5CKD52312	C-61287	2012 F-150, Unleaded, Automatic, 3.7 L 6 Cyl. 2012,

### **Trailers**

<b>ID Number</b>	<b>VIN #</b>	<b>Plate #</b>	<b>Year Aquired</b>	<b>Make Style</b>	<b>Model</b>
TR-0109	16VDX122572346100	S 53109	2007	BigTex	Utility Trlr - Dump Trailer
TR-0110	1F9LS322761025017	R-47965	2006	Fleming	FBTL - Tilt Trailer
TR-0111	1TKC024222M019979	Y-51620	2011	Trail King	2002 Flatbed Trailer 24'
TR-0112	1F9FS2225S1025877	Y-51621	2011	Fleming	1995 Flatbed Utility Trailer 20'
TR-0118	1V9PT13185C112048	R-40827	2005	Vac Tex	Wachs Valve Exerciser
TR-0120	16VPX162562H38468	S-52988	2006	BigTex	Utility Trlr - Water Wagon
TR-0117	16VAX081961A08010	N/A	2006	BigTex	1-Axle 5x8' Spray Rig 200gal

### **Operating Equipment**

<b>ID #</b>	<b>VIN# - S/N</b>	<b>TYPE</b>	<b>MODEL</b>
VEQ-5011	4475004054 - s/n90892	J. Deer BkHo, 2-stk 16Klbs	MS-2025, 310E - no bucket or acc.
VEQ-5013	64919	Toyota Forklift -xtra forks	7FGU32

**Misc. Hand Tools** – Miscellaneous hand tools and tool boxes, equipment consisting of items such as shovels, wrenches, and hand sprayers.

**Software** – SCADA RSView - Rockwell, Plant Camera Video, AutoRead -Sensus

**Inventory** – Various Well motors, pipe fittings, pipe, valves and miscellaneous water infrastructure accessories.

## **SCHEDULE 2.1.1 TO PURCHASE AGREEMENT**

## **ASSIGNED CONTRACTS**

- 1) CAP – Payment Agreement, as extended.
- 2) Queen Creek Irrigation District Fee Agreement, as extended.
- 3) Maricopa County Franchise Agreement – June, 2001.
- 4) Pinal County Franchise Agreement – March, 1999.

## **SCHEDULE 2.1.2 TO PURCHASE AGREEMENT**

## MAINLINE EXTENSION AGREEMENTS – MASTER UTILITY AGREEMENTS

### Current Active Main Line Extension Agreements

Development Name	Route		Balance
	Seq.	Expiration	
Vineyard Estates	241	6/30/2016	245,330
Wayne Ranch	243	6/30/2014	400,736
Ocotillo Crossing Comm	280	6/30/2021	318,502
J.O. Combs Edu Campus	311	6/30/2019	754,917
Cimarron Tr MHP	330	6/30/2020	126,898
Taylor Ranch	340	6/30/2018	693,898
Ocotillo Trails-Maracay	350	6/30/2017	151,281
Ocotillo Trails Marketplace	351	6/30/2018	325,359
Castlegate Units 1-4 7,8	401.23478	6/30/2021	1,265,008
PCS Unit 1	511	6/30/2018	495,024
PCS Unit 2	512	6/30/2018	475,183
PCS Unit 3	513	6/30/2018	378,479
PCS Unit 4	514	6/30/2018	479,817
PCS Unit 5	515	6/30/2018	726,539
PCS Unit 6	516	6/30/2018	508,988
Banner Hospital On/Off Site	540	6/30/2021	390,787
Barclay Comm (Frys)	550	6/30/2020	112,322
Encanterra Neighbohood 1	560	6/30/2019	458,400
Encanterra Neighbohood 2	561	6/30/2022	251,961
Encanterra Neighborhood 7b	567	6/30/2022	97,351
Morningside LDS	570	6/30/2019	176,861
Ironwood Crossing Unt 1	601	6/30/2019	1,810,184
Villages II @ QC	805	6/30/2015	221,416
Ironwood Commercial (Circle K)	860	6/30/2022	166,426
Encanterra Neighborhood 3	562	6/30/2023	420,180
Encanterra Neighborhood 7a	566	6/30/2023	131,290
Ironwood Crossing Unt 3 a,b,c	603	6/30/2023	1,300,980

### Master Utility Agreements

Maracay Parks, L.L.C.; Banner Health: ABCDW, L.L.C.; Barclay Holdings XXXIV, L.L.C.	Sep 15, 2006
Fulton Homes Corporation	Jun 22, 2007
CHI Construction	Dec 16, 2005
Shea Homes Inc.	Dec 30, 2005

### SCHEDULE 2.1.3 TO PURCHASE AGREEMENT

## WATER INFRASTRUCTURE

For a listing of equipment located at each production/distribution plant refer to Schedule 2.1.6 Improvements.

<b>PIPE – approx. as of 12/31/2012</b>			
<b>DIA (In)</b>	<b>Type</b>	<b>Class</b>	<b>Total LF</b>
15	PVC	100	689
15	PVC	150	0
15	PVC	200	0
12	PVC	150	52,775
12	PVC	200	91,710
10	PVC	150	3,294
10	PVC	200	8,159
8	PVC	150	113,615
8	PVC	200	215,180
6	PVC	150	165,234
6	PVC	200	98,875
4	PVC	150	7,663
4	PVC	200	0
12	DIP	150	0
12	DIP	200	92
12	DIP	350	720
10	DIP	150	0
10	DIP	200	0
10	DIP	350	82
8	DIP	150	78
8	DIP	200	48
8	DIP	350	203
6	DIP	150	24,814
6	DIP	200	256
6	DIP	350	115
4	DIP	150	4,403
4	DIP	200	0
4	DIP	350	0
12	DHPE	DRII	1,509
<b>TOTAL</b>			<b>789,514</b>

<b>VALVES</b> approx. as of 12/31/2013	
12"	313
10"	9
8"	866
6"	606
4"	11
<b>TOTAL</b>	<b>1,805</b>

**Total Fire Hydrants 846**

<b>Meters</b> approx. as of April 30, 2013	
5/8"	240
3/4"	8883
1"	278
1.5"	51
2"	136
<b>TOTAL</b>	<b>9588</b>

### SCHEDULE 2.1.4 TO PURCHASE AGREEMENT

## REAL PROPERTY

### DEEDS

<u>DATE</u>	<u>(ACRE)</u>	<u>APN</u>
6/2/2010	1.47	109-52-239
10/24/2007	0.16	104-22-013M
8/30/2007	0.11	109-18-662A
8/30/2007	1.34	109-18-664
4/9/2010	0.09	109-18-662D
11/16/2006	1.68	104-22-012M
3/13/2006	2.14	104-28-007H
3/21/2005	0.99	104-22-008S
1/9/2004	0.92	109-29-TrD
10/17/2003	1.10	104-69-001F
5/31/2001	1.13	104-22-038B
10/29/1974	0.11	104-26-139
8/27/1973	0.14	104-46-061B
8/27/1973	0.23	104-47-038B
8/27/1973	<u>0.92</u>	104-46-095B

### 12.53

See easements on next page.

## SCHEDULE 2.1.5 TO PURCHASE AGREEMENT



**PAGE 2 OF SCHEDULE 2.1.5**  
**REAL PROPERTY EASEMENTS**

DATE	FEE #	COUNTY	GRANTOR	REF/DESCRIPTION
12/21/2011	2011-102182	Pinal	Ironwood Commercial	NW Corner Ironwood/Ocotillo - commercial
2/18/2011	2011-014365	Pinal	Queen Creek XVIII LLC	Ocotillo Crossings Off-Site
11/4/2010	2010-103639	Pinal	Prim A Investments LLC	Ocotillo Crossings On-Site
7/27/2010	2010-070260	Pinal	Prim A Investments LLC	Pt Ocotillo Crossings On-Site
8/21/2009	2009-0780176	Maricopa	Mark Schnepf	Via de Arboles St.
8/28/2008	2008-082463	Pinal	Vowll Family Tr	Ocotillo Rd frontage 104-25-003D
5/6/2008	2008-042903	Pinal	Circle Cross Ranch LLC	Gantzel Road Frontage S of Plant
1/24/2008	2008-006868	Pinal	Banner Health	Gantzel Road Frontage
5/18/2006	2006-071810	Pinal	Fulton Homes Corp	Well Access Barnes N Plant Site
1/11/2006	2006-005106	Pinal	CHI Construction Co	Well Access PCS Plant for construction
12/21/2005	2005-178646	Pinal	Circle Cross Ranch LLC	Raw waterline Pinal Proff Village E side
6/29/2004	2004-0740962	Maricopa	Eagle Southwest Const.	Waterline for DEES
6/15/2004	2004-0675090	Maricopa	Chuparosa Associates LLC	Villages II at Queen Creek
4/17/2002	2002-019714	Pinal	Matt Sherwood	Pt N2,N2,SE4,NE4, Sec 20 T2S, R8E
9/14/2001	2001-042092	Pinal	Steve Savedra	Pt SW4, Sec 18 T2S, R8E
9/14/2001	2001-042093	Pinal	Era Mae Barnes	10' over Lot 9 Sec 18 T2S, R8E
11/27/2000	2000-048950	Pinal	Donohue Ptshp II LLC	10' over Pt NW4,NW4, Sec 8 T2S, R8E
8/4/1999	1999-035337	Pinal	Wayne L Smith (ARIES Cont.)	10' over Pt NW4, SW4, Sec 21, T2S R8E
1/5/1999	1999-003213	Pinal	Stanley/Suzanne Ford	10' over Pt SE4, Sec 21, T2S, R8E
8/12/1998	1998-032000	Pinal	ALC Builders Inc.	Pt of Parcel 9 SVF Unit VII, Sec 21, T2S,R8E
11/17/1997	1997-039643	Pinal	Michael Gantzel/Gantzel Fam Tr	Pt of Parcel 9 SVF Unit VII, Sec 21, T2S,R8E
5/9/1977	565012	Pinal	Barbara Johnson	S 40' E2,W2,SE4,NW4, Sec 8 T2S R8E
3/28/1997	97-0202962	Maricopa	Maricopa Stake LDS	Church Farm (Morman Camp)
8/13/1996	1996-027327	Pinal	Carl A Luedeman	Water Service Lines
6/29/1994	123233	Pinal	Desert Growers, Inc.	10' over TR-6 Sec 16, T2S, R8E
4/5/1988	905077	Pinal	Margaret A Schnepf	E 10' W 50' NW4, Sec 21, T2S, R8E
2/16/1984	756409	Pinal	Elmer/Ethel Holzinger	S 40', W2,W2,SE4,NW4, Sec 8 T2S, R8E (104-23-100)
2/20/1979	613379	Pinal	Richard Tabor	E 30', N2,SW4,NW4, Sec 8 T2S, R8E (104-23-098)
2/22/1978	613378	Pinal	Deborah/Jacky Ray	E 30' SE4,SW4,NW4, Sec 8 T2S, R8E (104-23-004A)
5/8/1977	566909	Pinal	Daniel/Shirley Inman	S 40' W2,W2,SW4 NE4, Sec 8 T2S, R8E (104-23-108)
6/21/1976	541772	Pinal	Bill Wagner	S 40' E2, E2, SW4, NE4, Sec 8 T2S, R8E
6/21/1976	541773	Pinal	James E Scroggins	S 40' W2, E2, SW4, NE4, Sec 8 T2S, R8E
6/3/1974	493157	Pinal	Jesus Aldecoa	N 10' Lot 129 CMF Book 17 page 34 PCR
4/11/1974	565011	Pinal	Orville Crom	Irr Ditch across SE cor Lot 10 B4 QCR
12/11/1972	455908	Pinal	Donald/Margaret Ellsworth	S 20' of N 50' Sec 17 T2S, R8E
1/25/1972	435519	Pinal	Beverly/Melba Neely	Irr Ditch over S 10' B11, Lot 5 QCR
6/8/2007	2007-067180	Pinal	Trilogy Encanterra Construction	SE Qtr, Sec 32, Twn2S, R8E

## IMPROVEMENTS

### MAIN EPDS-001

#### SOURCE STORAGE & PUMPING PLANT

Schedule	SITE
2.1.5	200 x 200 foot land parcel 0.918 acres
2.1.5	Pinal County APN <del>104-46-095B</del>
2.1.6	8-foot security wall 2-sides w/1-Roll & 2-Man Gates
2.1.6	6-foot security chain link fence 2 sides w/1-Roll & 2-Man Gates
<b>ON-SITE WELL &amp; PUMP</b>	
2.1.4	<u>ADWR Well No. 55-605835</u>
2.1.4	Well Drilled & Cased 20x16-inch 1,205 feet
2.1.4	8" Line Shaft Turbine Pump Assembly set at 600 feet
2.1.4	1-200 HP Electric Motor
2.1.4	1-300 HP Reduced Voltage Starter Motor Control
2.1.4	Manual Transfer Switch for Auxiliary Electric Power
<b>OFF-SITE WELL #4 &amp; PUMP SITE--</b>	
2.1.5	100 x 60 foot land parcel 0.1377 acres
2.1.5	Pinal County <u>APN 104-46-095B</u>
2.1.6	8 - foot security wall 4 - sides w/ 1 roll & 1 - Man Gate
2.1.4	<u>ADWR Well No. 55-605834</u>
2.1.4	Well Drilled & Cased w/20x16-inch 1,200 feet
2.1.4	10-inch Line Shaft Turbine Pump Assembly set at 600 feet
2.1.4	1-300 HP Electric Motor
2.1.4	1-400 HP Reduced Voltage Starter Motor Control
2.1.4	Timed Waste Valve to Irrigation ditch on pump start-up
<b>ELECTRICAL EQUIPMENT</b>	
2.1.4	Cat 3406 360 KV Diesel Generator
2.1.4	Auto Transfer Switch for Booster pumps
2.1.4	4-15 HP Mag Starters
2.1.4	1-60 HP Soft Starter
2.1.4	2-50 HP VFD's
2.1.4	1-50 HP Soft Starter
2.1.4	SCADA Panel View
<b>RESERVOIR</b>	
2.1.4	1-815,000 Gallon built 2010
2.1.4	1-500,000 Gallon built 1999
2.1.4	Alternate fill from system SCADA controllable
<b>BOOSTER PUMPS</b>	
2.1.4	4-15 HP end suction pumps 1975
2.1.4	4-50 HP Vertical inline pumps 2000
2.1.4	1-60 HP Vertical inline pump 2000
<b>HYDROPNEUMATIC TANK</b>	
2.1.4	1-5,000 gallon Hydro Tank
2.1.4	1-Air Compressor
<b>STRUCTURES</b>	
2.1.6	1-20 x 30 ft steel shade over Booster Pumps & Electrical Equipment
2.1.6	1-8 x 8 ft Wood Frame Building housing Chlorine Equipment
2.1.4	Under ground & Above ground 12-inch, 10-inch, 8-inch and 6-inch piping to connect Source Wells to Storage Tanks, Storage Tanks to Booster Pumps, Booster Pumps to Hydro Tanks, Hydro Tanks to Main Distribution Mains
<b>SECURITY</b>	
2.1.1	6-Surveillance Cameras w/wireless 2-Microwave Antenna connection to recording system

### CASTLEGATE EPDS-002

#### SOURCE STORAGE & PUMPING PLANT

Schedule	SITE
2.1.5	208 x 200 foot land parcel plus access road - 1.096 acres
2.1.5	Pinal County <u>APN 104-69-001F</u>
2.1.6	8-foot security wall 4-sides w/1-Roll & 2-Man Gates
<b>ON-SITE WELL &amp; PUMP</b>	
2.1.4	<u>ADWR Well No. 55-625006</u>
2.1.4	Well Drilled & Cased 16-inch 850 feet
2.1.4	Concrete Surface Seal per ADWR/ADEQ specifications.
2.1.4	10" Line Shaft Turbine Pump Assembly set at 600 feet
2.1.4	1-300 HP Electric Motor
2.1.4	1-300 HP Reduced Voltage Starter Motor Control
2.1.4	Auto Transfer Switch for Auxiliary Power to Well Pump
<b>ELECTRICAL EQUIPMENT</b>	
2.1.4	Cat Model 3412, 550 KV Diesel Generator
2.1.4	Auto Transfer Switch for Booster pumps
2.1.4	300 HP Reduced Voltage Motor Control & SES
2.1.4	3-50 HP VFD drives
2.1.4	3-60 HP Soft Starters
2.1.4	SCADA Panel View
2.1.4	SCADA PLC w/wireless radio & antenna
<b>RESERVOIR</b>	
2.1.4	1-869,340 Gallon w/Cathodic Protection built 2003
2.1.4	1-869,340 Gallon w/Cathodic Protection built 2003
2.1.4	Alternate fill from system SCADA controllable
<b>BOOSTER PUMPS</b>	
2.1.4	6-50 HP Vertical inline pumps 2003
<b>HYDROPNEUMATIC TANK</b>	
2.1.4	2-5,000 gallon Hydro Tank
2.1.4	2-Air Compressor
<b>STRUCTURES</b>	
2.1.6	1-30 x 48 ft steel shade over Booster Pumps & Electrical Equipment
2.1.6	1-8 x 8 ft Wood Frame Building housing Chlorine Equipment
2.1.4	Under ground & Above ground 12-inch, 10-inch, 8-inch and 6-inch piping to connect Source Wells to Storage Tanks, Storage Tanks to Booster Pumps, Booster Pumps to Hydro Tanks, Hydro Tanks to Main Distribution Mains
<b>SECURITY</b>	
2.1.1	8-Surveillance Cameras w/wireless 2-Microwave Antenna connection to recording system

## SCHEDULE 2.1.6 TO PURCHASE AGREEMENT

**PAGE 2 OF SCHEDULE 2.1.6**

**PECAN CREEK NORTH EPDS-003**  
**SOURCE STORAGE & PUMPING PLANT**

Schedule	SITE
2.1.5	200 x 200 foot land parcel <b>0.918 acres</b>
2.1.5	Pinal County <u>APN 109-29-Tract D</u>
2.1.6	8-foot security wall 4-sides w/2-Roll & 2-Man Gates
 <b>ON-SITE WELL &amp; PUMP</b>	
2.1.4	<u>ADWR Source Well No. 55-609158</u>
2.1.4	Well Drilled & Cased 16-inch to 710' 14" Cased 710' to 781'
2.1.4	Concrete Surface Seal per ADWR/ADEQ specifications.
2.1.4	10" Line Shaft Turbine Pump Assembly set at 560 feet
2.1.4	1-300 HP Electric Motor
2.1.4	1-300 HP Reduced Voltage Starter Motor Control
2.1.4	Auto Transfer Switch for Auxiliary Power to Well Pump
 <b>ELECTRICAL EQUIPMENT</b>	
2.1.4	Cat Model 3406, 350 KV Diesel Generator
2.1.4	Auto Transfer Switch for Booster pumps
2.1.4	300 HP Reduced Voltage Motor Control & SES
2.1.4	3-50 HP VFD drives
2.1.4	3-50 HP VFD drives
2.1.4	SCADA Panel View
2.1.4	SCADA PLC w/wireless radio & antenna
<b>RESERVOIR</b>	
2.1.4	1-869,340 Gallon w/Cathodic Protection built 2005
2.1.4	1-869,340 Gallon w/Cathodic Protection built 2005
2.1.4	Alternate fill from system SCADA controllable
<b>BOOSTER PUMPS</b>	
2.1.4	6-50 HP Vertical inline pumps 2005
 <b>HYDROPNEUMATIC TANK</b>	
2.1.4	2-5,000 gallon Hydro Tank
2.1.4	2-Air Compressor
<b>STRUCTURES</b>	
2.1.6	1-30 x 48 ft steel shade over Booster Pumps & Electrical Equipment
2.1.6	1-6 x 8 ft Wood Frame Building housing Chlorine Equipment Under ground & Above ground 12-inch, 10-inch, 8-inch and 6-inch piping to connect Source Wells to Storage Tanks, Storage Tanks to Booster Pumps, Booster Pumps to Hydro Tanks, Hydro Tanks to Main Distribution Mains
2.1.4	to Main Distribution Mains
<b>SECURITY</b>	
2.1.1	11-Surveillance Cameras w/wireless 2-Microwave Antenna connection to recording system

**PECAN CREEK SOUTH EPDS-004**  
**SOURCE STORAGE & PUMPING PLANT**

Schedule	SITE
2.1.5	Appx. 140' x 307' foot land parcel <b>0.994 acres</b>
2.1.5	Pinal County <u>APN 104-22-008S</u>
2.1.6	8-foot security wall 4-sides w/2-Roll & 2-Man Gates
 <b>ON-SITE WELL &amp; PUMP</b>	
2.1.4	<u>ADWR SOURCE WELL FILE No.55-609159</u>
2.1.4	Well Drilled & Cased 20-inch to 585' 1946, new steel liner installed 2007 16" to 580' reduced to 12" 585' to 910'
2.1.4	Concrete Surface Seal per ADWR/ADEQ specifications.
2.1.4	10" Line Shaft Turbine Pump Assembly set at 600 feet
2.1.4	1-400 HP Electric Motor
2.1.4	1-400 HP Reduced Voltage Starter Motor Control
2.1.4	Auto Transfer Switch for Auxiliary Power to Well Pump
 <b>ELECTRICAL EQUIPMENT</b>	
2.1.4	Cat. Powered Onan spec 68042J 500DFFB/KTTA19G Diesel
2.1.4	Auto Transfer Switch for Booster pumps
2.1.4	400 HP Reduced Voltage Motor Control & SES
2.1.4	3-50 HP VFD drives
2.1.4	3-100 HP VFD drives
2.1.4	SCADA Panel View
2.1.4	SCADA PLC w/wireless radio & antenna
<b>RESERVOIR</b>	
2.1.4	2-857,871 Gallon w/Cathodic Protection built 2007
2.1.4	Alternate fill from system SCADA controllable
 <b>BOOSTER PUMPS</b>	
2.1.4	3-50 HP Vertical inline pumps 2007
2.1.4	3-100 HP Vertical inline pumps 2007
 <b>HYDROPNEUMATIC TANK</b>	
2.1.4	1-5,000 gallon Hydro Tank
2.1.4	1-Air Compressor
<b>STRUCTURES</b>	
2.1.6	1-30 x 48 ft steel shade over Booster Pumps & Electrical Equipment
2.1.6	1-6 x 8 ft Wood Frame Building housing Chlorine Equipment Under ground & Above ground 12-inch, 10-inch, 8-inch and 6-inch piping to connect Source Wells to Storage Tanks, Storage Tanks to Booster Pumps, Booster Pumps to Hydro Tanks, Hydro Tanks to Main Distribution Mains
2.1.4	Hydro Tanks to Main Distribution Mains
<b>SECURITY</b>	
2.1.1	7-Surveillance Cameras w/wireless 2-Microwave Antenna connection to recording system

**PAGE 3 OF SCHEDULE 2.1.6**

**SHEA (ENCANTERRA) EPDS-005**  
**SOURCE STORAGE & PUMPING PLANT**

Schedule	SITE
2.1.5	300 x 310 foot land parcel 2.135 acres
2.1.5	Pinal County <u>APN 104-28-007H</u>
2.1.6	8-foot security wall 4-sides w/1-Roll & 2-Man Gates
<b>ON-SITE WELL &amp; PUMP</b>	
2.1.4	<u>ADWR Source Well No. 55-086441</u>
2.1.4	Well Drilled & Cased 18-inch to 1200'
2.1.4	Concrete Surface Seal per ADWR/ADEQ specifications.
2.1.4	10" Line Shaft Turbine Pump Assembly set at 600 feet
2.1.4	1-400 HP Electric Motor
2.1.4	1-400 HP Reduced Voltage Starter Motor Control
2.1.4	Auto Transfer Switch for Auxiliary Power to Well Pump
<b>OFF-SITE ALTERNATE SOURCE WELL</b>	
2.1.4	<u>ADWR Well No. 55-802278 (NOT CONNECTED OR IN SERVICE)</u>
2.1.5	Pinal County <u>APN 109-52-239</u>
2.1.5	80 x 80 foot land parcel .1466 acres
2.1.6	8-foot security wall 4 side with 2 - 10' swing gates
<b>ELECTRICAL EQUIPMENT</b>	
2.1.4	Onan 440DFCE Diesel Gen Set for emergency utility power outages
2.1.4	Auto Transfer Switch for Booster pumps
2.1.4	400 HP Reduced Voltage Motor Control & SES
2.1.4	3-50 HP VFD drives
2.1.4	3-100 HP VFD drives
2.1.4	SCADA Panel View
2.1.4	SCADA PLC w/wireless radio & antenna
<b>RESERVOIR</b>	
2.1.4	1-2,200,000 Gallon w/Cathodic Protection built 2007
2.1.4	Alternate fill from system SCADA controllable
<b>BOOSTER PUMPS</b>	
2.1.4	3-50 HP Vertical inline pumps 2007
2.1.4	3-100 HP Vertical inline pumps 2007
<b>HYDROPNEUMATIC TANK</b>	
2.1.4	1-5,000 gallon Hydro Tank
2.1.4	1-Air Compressor
<b>STRUCTURES</b>	
2.1.6	1-30 x 48 ft steel shade over Booster Pumps & Electrical Equipment
2.1.6	1-6 x 8 ft Wood Frame Building housing Chlorine Equipment Under ground & Above ground 12-inch, 10-inch, 8-inch and 6-inch piping to connect Source Wells to Storage Tanks, Storage Tanks to Booster Pumps, Booster Pumps to Hydro Tanks, Hydro Tanks to Main Distribution Mains
2.1.4	Main Distribution Mains
<b>SECURITY</b>	
2.1.1	7-Surveillance Cameras w/wireless 2-Microwave Antenna connection to recording system in main office

**GANTZEL (BANNER) EPDS-006**  
**SOURCE STORAGE & PUMPING PLANT**

Schedule	SITE
2.1.5	300' x 257' apox. foot land parcel 1.681 acres
2.1.5	Pinal County <u>APN 104-22-012M</u>
2.1.6	8-foot security wall 4-sides w/1-Roll & 2-Man Gates
<b>ON-SITE WELL &amp; PUMP</b>	
2.1.4	<u>ADWR Source Well No. 55-618025</u>
2.1.4	Well Drilled & Cased 18-inch to 1200'
2.1.4	Concrete Surface Seal per ADWR/ADEQ specifications.
2.1.4	10" Line Shaft Turbine Pump Assembly set at 600 feet
2.1.4	1-300 HP Electric Motor
2.1.4	1-300 HP Reduced Voltage Starter Motor Control
2.1.4	Auto Transfer Switch for Auxiliary Power to Well Pump
<b>OFF-SITE ALTERNATE SOURCE WELL</b>	
2.1.4	<u>ADWR Well No. 55-625918 (NOT CONNECTED OR IN SERVICE)</u>
2.1.5	100 x 85 foot land parcel .164 acres
2.1.5	Pinal County <u>APN 104-22-013M</u>
2.1.6	8-foot security wall 4 sides w 2 - 10' swing gates
<b>ELECTRICAL EQUIPMENT</b>	
2.1.4	Onan 440DFCE Diesel Gen Set for emergency utility power
2.1.4	Auto Transfer Switch for Booster pumps
2.1.4	300 HP Reduced Voltage Motor Control & SES
2.1.4	2-50 HP VFD drives
2.1.4	4-100 HP VFD drives
2.1.4	SCADA Panel View
2.1.4	SCADA PLC w/wireless radio & antenna
<b>RESERVOIR</b>	
2.1.4	1-2,200,000 Gallon w/Cathodic Protection built 2009
2.1.4	Alternate fill from system SCADA controllable
<b>BOOSTER PUMPS</b>	
2.1.4	2-50 HP Vertical inline pumps 2009
2.1.4	4-100 HP Vertical inline pumps 2009
<b>HYDROPNEUMATIC TANK</b>	
2.1.4	1-5,000 gallon Hydro Tank
2.1.4	1-Air Compressor
<b>STRUCTURES</b>	
2.1.6	1-30 x 48 ft steel shade over Booster Pumps & Electrical Equipment
2.1.6	1-6 x 8 ft Wood Frame Building housing Chlorine Equipment Under ground & Above ground 12-inch, 10-inch, 8-inch and 6-inch piping to connect Source Wells to Storage Tanks, Storage Tanks to Booster Pumps, Booster Pumps to Hydro Tanks, Hydro Tanks to Main Distribution Mains
2.1.4	Tanks to Main Distribution Mains
<b>SECURITY</b>	
2.1.1	7-Surveillance Cameras w/wireless 2-Microwave Antenna connection to recording system in main office

**BARNES (FULTON) EPDS-007**  
**SOURCE STORAGE & PUMPING PLANT**

Schedule	SITE
2.1.5	294' x 228' appx. foot land parcel 1.3352 acres
2.1.5	Pinal County <u>APN 109-18-664</u>
2.1.6	8-foot security wall 4-sides w/1-Roll & 2-Man Gates
	<b>DRY WELL</b>
2.1.5	90 x 45 foot land parcel .0925 acres
2.1.5	Pinal County APN 109-18-662D
	8-foot security wall 4-sides w 2-10' swing gates
2.1.6	
2.1.5	1-maxwell type IV dry well 100' deep
	<b>ON-SITE WELL &amp; PUMP</b>
2.1.4	<u>ADWR Source Well No. 55-214521</u>
2.1.4	Well Drilled & Cased 18-inch to 970'
2.1.4	Concrete Surface Seal per ADWR/ADEQ specifications.
2.1.4	10" Line Shaft Turbine Pump Assembly set at 675 feet
2.1.4	1-300 HP Electric Motor - VFD Drive
2.1.4	1-300 HP Reduced Voltage Starter Motor Control
2.1.4	Auto Transfer Switch for Auxiliary Power to Well Pump
	<b>OFF-SITE ALTERNATE SOURCE WELL</b>
	<u>ADWR Well No. 55-630352 (NOT CONNECTED OR IN SERVICE)</u>
2.1.4	
2.1.5	140 x 36 foot land parcel .1107 acres
2.1.5	Pinal County <u>APN 109-18-662A</u>
2.1.6	8-foot security wall 4 sides w 1-roll & 1 man Gate
	<b>ELECTRICAL EQUIPMENT</b>
2.1.4	Onan 440DFCE Diesel Generator for emergency power
2.1.4	Auto Transfer Switch for Booster pumps
2.1.4	300 HP Reduced Voltage Motor Control & SES
2.1.4	3-50 HP VFD drives
2.1.4	3-100 HP VFD drives
2.1.4	SCADA Panel View
2.1.4	SCADA PLC w/wireless radio & antenna
	<b>RESERVOIR</b>
2.1.4	1-2,200,000 Gallon w/Cathodic Protection built 2009
2.1.4	Alternate fill from system SCADA controllable
	<b>BOOSTER PUMPS</b>
2.1.4	3-50 HP Vertical inline pumps 2009
2.1.4	3-100 HP Vertical inline pumps 2009
	<b>HYDROPNEUMATIC TANK</b>
2.1.4	1-5,000 gallon Hydro Tank
2.1.4	1-Air Compressor
	<b>STRUCTURES</b>
	1-30 x 48 ft steel shade over Booster Pumps & Electrical
2.1.6	Equipment
2.1.6	1-6 x 8 ft Wood Frame Building housing Chlorine Equipment
	Under ground & Above ground 12-inch, 10-inch, 8-inch and 6-inch piping to connect Source Wells to Storage Tanks, Storage Tanks to Booster Pumps, Booster Pumps to Hydro Tanks, Hydro
2.1.4	Tanks to Main Distribution Mains
	<b>SECURITY</b>
	12-Surveillance Cameras w/wireless 2-Microwave Antenna
2.1.1	connection to recording system in main office

**LINKS PLANT**  
**STORAGE & PUMPING**  
**(FILLS FROM SYSTEM AS NEEDED)**

Schedule	SITE
2.1.5	200' x 247' appx foot land parcel = 1.134 acres
2.1.5	Pinal County <u>APN 104-22-038B</u>
2.1.6	8-foot security wall w/2-Roll & 1-Man Gates
	<b>ELECTRICAL EQUIPMENT</b>
2.1.4	Generact Model 2000 320 KV Diesel Generator
2.1.4	Auto Transfer Switch for Booster pumps
2.1.4	2-15 HP Soft Starters
2.1.4	2-20 HP Soft Starters
2.1.4	1-15 HP VFD drive
2.1.4	1-20 HP VFD drive
2.1.4	1-100 HP Fire Troll
2.1.4	SCADA Panel View
2.1.4	SCADA PLC w/radio & antenna
	<b>RESERVOIR</b>
2.1.4	1-300,000 Gallon built 1999
2.1.4	1-500,000 Gallon built 2000
	<b>BOOSTER PUMPS</b>
2.1.4	3-15 HP end suction pumps
2.1.4	3-20 HP end suction pumps
2.1.4	1-100 HP Centrifugal inline fire pump
	<b>HYDROPNEUMATIC TANK</b>
2.1.4	2-5,000 gallon Hydro Tank
2.1.4	2-Air Compressor
	<b>STRUCTURES</b>
	1-20 x 30 ft steel shade over Booster Pumps & Electrical
2.1.6	Equipment
2.1.6	1-8 x 8 ft Composite Building housing Chlorine Equipment
	Under ground & Above ground 12-inch, 10-inch, 8-inch and 6-inch piping to connect Distribution System to Storage Tanks, Storage Tanks to Booster Pumps, Booster Pumps to
2.1.4	Hydro Tanks, Hydro Tanks to Main Distribution Mains
	<b>SECURITY</b>
	5-Surveillance Cameras w/wireless 2-Microwave Antenna
2.1.1	connection to recording system in main office

**EXCLUDED ASSETS**

In addition to office furniture located at Seller's principal offices located at 41502 N. Schnepf Road, San Tan Valley 85140 ("Seller's Offices"), phone system located at Seller's Offices, computers located at Seller's Offices, servers located at Seller's Offices, office equipment (copiers, printers, scanners etc.) located at Seller's Offices, office supplies located at Seller's Offices, non-system related software and cash on-hand:

<b>Auto Vehicles</b>				
<b>Truck ID#</b>	<b>VIN</b>	<b>EXPIRE</b>	<b>Description</b>	
1001	1FTFW1EV4AFC01398	Apr-14	2010 F-150 Platinum 4x4	
1002	1FMJK1H51AEB51286	Apr-14	2010 F-Expedition XL	
1301	1FTFW1ET9DFB22182	Apr-14	2013 F-150 Platinum 4x4	
<b>Trailers</b>				
<b>ID</b>	<b>VIN #</b>	<b>Plate #</b>	<b>Make Style</b>	<b>Model</b>
TR-0115	MVD-109205	G-25453	Homemade	Long Pipe Trlr
TR-0116	MVD-122402	G-25307	Homemade	3-Axle truck bed TRL
TR-0117	MVD-130250	N-65113	Homemade	Box Wood Trlr - Green
TR-0101	16VNX1625X1010480	K-70034	BigTex	16' w/Top Rack
TR-0102	Z186928	T-81707	Ziema	Light Equipment Trailer (Rick)
TR-0106	1W4200E2357011908	P-49232	Wells Cago	6x12' Box Trailer
TR-0121	2308934	NA	EZGO	Golf Cart
TR-0122	AZ95806	4T-6449	Homemade	Tool Box Trlr
TR-0113			Homemade	1-Axle 10" Blue (JES)
TR-0114			Homemade	1-Axle 8' Cement Trailor
TR-0115	AC 03023	N/A	Atlas Copco - 56 Hrs	1-Axle Air Comperssor
TR-0116	312005042	N/A	Stone	Model 95cm cement mixer
TR-0119	Tank UL#604642	N/A	Homemade	1,000 Gal Fuel Tender
TR-0123			Homemade	Covered Truck Bed Trailer
	MVD-112495	T-96158	Homemade	Trenching Trlr
	AZ37826	T 73545	Homemade	Box Trailr - Red
	AZ38945	T 73572	Homemade	6 Wheel Trlr
<b>Field Equipment</b>				
<b>ID #</b>	<b>VIN# - S/N</b>	<b>TYPE</b>	<b>MODEL</b>	<b>ENGINE</b>
VEQ-5010	LV4720H270346	John Deer Grader	4720	Diesel
VEQ-5012		BobCat		Diesel

**SCHEDULE 2.3  
TO PURCHASE AGREEMENT**

**ASSUMED LIABILITIES**

Meter Deposits

Main Line Extension Agreements

Master Utility Agreements

Customer Security Deposits

**SCHEDULE 2.4  
TO PURCHASE AGREEMENT**

**METER DEPOSIT REFUNDS**

**Meter Deposits as of 12/31/2012**

<b>Deposit Year</b>	<b>Org Dep Amount</b>	<b>Quantity</b>
1994	300	2
1995	510	1
1996	1,000	3
1997	1,260	4
1998	1,960	6
1999	680	2
2000	1,685	6
2001	5,330	18
2002	54,320	173
2003	275,635	854
2004	630,994	1,974
2005	472,980	1,471
2006	296,134	909
2007	455,760	1,371
2008	142,180	395
2009	130,205	380
2010	56,335	209
2011	41,642	199
2012	101,560	449
<b>Grand Total</b>	<b><u>2,670,470</u></b>	<b><u>8,426</u></b>

**SCHEDULE 2.5  
TO PURCHASE AGREEMENT**





Requesting Department:

Economic  
Development/Development  
Services

TAB I

**TO: HONORABLE MAYOR AND TOWN COUNCIL**

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

**FROM: DOREEN COTT  
ECONOMIC DEVELOPMENT DIRECTOR**

**CHRIS ANARADIAN  
DEVELOPMENT SERVICES DIRECTOR**

**RE: DISCUSSION ON THE TOWN'S TEMPORARY SIGN PROGRAM**

**DATE: JUNE 19, 2013**

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**Discussion:**

This item is on the Council agenda to garner discussion on the Town's temporary sign program. Staff has recently received requests from the business community to evaluate the program and to look at opportunities to increase the flexibility and options for temporary signs.

Staff would like to gather ideas and input from the Council in light of the upcoming code modernization effort.

Staff will provide a brief oral presentation on the night of the meeting.

**Fiscal Impact:** N/A

**Alternatives:**

Council could decide to delay the discussion until the code modernization is underway or ask staff come back at a future meeting with a revised temporary sign program for consideration.