



## AMENDED AGENDA

**Queen Creek Town Council Regular Session**  
Community Chambers, 20727 E Civic Parkway  
September 6, 2023 | 6:30 PM

*Pursuant to A.R.S. §§ 38-431.02 and 38-431.03, notice is hereby given to the members of the Town Council and the general public that, at this Regular Meeting, the Town Council may vote at any time during the Council Meeting to go into Executive Session, which will not be open to the public, for legal advice and discussion with the Town Attorney(s) for legal advice on any item listed on the following agenda, pursuant to A.R.S. § 38-431.03(A)(3).*

*The public can continue to watch the meeting live streamed at [QueenCreek.org/WatchMeetings](https://www.queen-creek.org/WatchMeetings) by selecting "video" next to the applicable meeting (once the meeting begins) or by visiting the Town's Ustream account at <https://video.ibm.com/councilmeeting>.*

*In addition to attending in-person, residents may submit public comment for this Town Council meeting by submitting their comments via email to [PublicComment@QueenCreekAZ.gov](mailto:PublicComment@QueenCreekAZ.gov). Every email, if received by the deadline of 5:00 p.m., the day of the meeting will be entered into the official record. Please include your name, address, comment and note if your comment is for call to the public. Comments without identifying name and address will not become part of the written record.*

*The Mayor or other presiding officer at the meeting may change the order of Agenda Items and/or take items on the Agenda in an order they determine is appropriate. Some members of the Town Council and staff may attend electronically.*

- 1. Call to Order:**
- 2. Roll Call:** *(Members of the Town Council may attend electronically and/or telephonically)*
- 3. Pledge of Allegiance:**
- 4. Invocation/Moment of Silence:** Dr. Vernet Joseph, Executive Pastor of Operations, Mountain View Church
- 5. Ceremonial Matters (Presentations, Proclamations, Awards, Guest Introductions and Announcements):**
  - A. Recognition of State Representative Michael Carbone for his efforts in the passing of House Bill 2809; providing public infrastructure reimbursement for advanced manufacturing.
  - B. Proclamation: Constitution Week
  - C. Proclamation: QC Neighborly Week
  - D. Proclamation: Suicide Prevention Awareness Month
- 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. Committee and outside agency reports (only as scheduled):

1. Economic Development Commission (August 23, 2023)
2. Annual QC Chamber of Commerce Report FY23

**7. Public Comments:** *Members of the public may address the Town Council on items not on the printed agenda and during Public Hearings. Please address the Town Council by completing a Request to Speak Card and returning it to the Town Clerk (limited to three (3) minutes each), or by emailing your comment for this Town Council meeting to [PublicComment@QueenCreekAZ.gov](mailto:PublicComment@QueenCreekAZ.gov) (limited to 500 words). Every email, if received by the deadline of 5:00 p.m., the day of the meeting, will be entered into the official record. Only one comment per person, per Agenda Item will be allowed. Comments without identifying name and address will not be entered into the official record. The Town Council may not discuss or take action on any issue raised during public comment until a later meeting.*

**8. Consent Agenda:** *Matters listed under the Consent Agenda are considered to be routine and will be enacted by one motion and one vote. Members of the Town Council and/or staff may comment on any item without removing it from the Consent Agenda or remove any item for separate discussion and consideration.*

A. Consideration and possible approval of the August 16, 2023 Regular Session minutes.

B. Consideration and possible approval of Expenditures \$25,000 and over, pursuant to Town Purchasing Policy. (FY 23/24 Budget Items)

1. Stryker – Medical Equipment for Patient Transport (MTS Power Load System & Video Laryngoscopes): \$77,712 (Fire & Medical)
2. Sierra Auction – 2008 Pierce Quantum Ladder Truck: \$55,784 (Fire & Medical)

C. Consideration and possible approval of the reappointment of Alex Matheson and Troy Young to the Planning Commission.

D. Consideration and possible approval of the reappointment of Dru Alberti to the Parks and Recreation Advisory Committee (PRAC).

E. Consideration and possible approval of an On-Call Project Order with Sunrise Engineering, Contract 2023-006 in an amount not to exceed \$786,627 for engineering services for the Wales Gravel Pit Project WW103 and Wales Ranch Ridge Site Tank and Booster Project WA030 (FY 24 Budgeted Item to be reimbursed by Pinal County).

F. Consideration and possible approval of Job Order 01 with MGC Contractors, Inc., Contract 2023-084 in an amount not to exceed \$152,533 for the completion of the Laredo Ranch Well Site Generator Installation Maintenance Project WA017. (FY 23/24 Budgeted Item)

G. Consideration and possible approval of a Cooperative Purchase Agreement with Toter, LLC using the City of Tucson contract #226024-02 for the first year of purchase of residential trash and recycling carts in an amount not to exceed \$350,000 annually. (FY 23/24 Budgeted Item)

H. Consideration and possible approval of FY 2023-24 budget amendments totaling \$392,800 in expenditure reallocations from contingency to accommodate advance orders of vehicles and equipment due to long-lead order times and supply chain issues, and to allow the Town Manager to sign all necessary contracts and agreements.

- I. Consideration and possible approval of FY 23-24 carry-forward budget reallocations of \$145,013,115 for contracts and purchase orders that have been issued but are not yet complete, and \$114,118,108 of remaining project budgets that have received previous budget authorization but are not yet committed or under contract, for a total carry-forward reallocation request of \$259,131,223.
- J. Consideration and possible approval of Annexation Ordinance 816-23 extending and increasing the corporate limits of the Town of Queen Creek, Maricopa County, State of Arizona, pursuant to the provisions of A.R.S. section 9-471.02 by annexing certain County right-of-way contiguous to the existing Town limits, generally described as a portion of Chandler Heights Road right-of-way from Recker Road to Six Hundred (600) feet west of Power Road, located in Section 19, Township 2 South, Range 7 East, Maricopa County.

**9. Public Hearing Consent Agenda:** *Matters listed under the Public Hearing Consent Agenda are considered to be routine and will be enacted by one motion and one vote. Please address the Town Council by completing a Request to Speak Card and returning it to the Town Clerk (limited to three (3) minutes each), or by emailing your comment for this Town Council meeting to [PublicComment@QueenCreekAZ.gov](mailto:PublicComment@QueenCreekAZ.gov) (limited to 500 words). Every email, if received by the deadline of 5:00 p.m., the day of the meeting, will be entered into the official record. Only one comment per person, per Agenda Item will be allowed. Comments without identifying name and address will not be entered into the official record.*

- A. Consideration and possible recommendation of approval on a new Series 012 Restaurant Liquor License application submitted by Jared Michael Repinski on behalf of Badlands Bar & Grill located at 22002 S Ellsworth Road, Queen Creek.
- B. Consideration and possible recommendation of approval on a new Series 012 Restaurant Liquor License application submitted by Jeffrey Craig Miller on behalf of Skippy's Grille & Cantina located at 23858 S Power Road, Ste 101 in Queen Creek.
- C. Consideration and possible recommendation of approval on a new Series 012 Restaurant Liquor License application submitted by Andrea Dahlman Lewkowitz on behalf of Mici Handcrafted Italian located at 24750 S Ellsworth Rd, Ste 101 in Queen Creek.

**10. Public Hearings:** *If you wish to speak to the Town Council on any of the items listed as a Public Hearing, please address the Town Council by completing a Request to Speak Card and returning it to the Town Clerk (limited to three (3) minutes each), or by emailing your comment for this Town Council meeting to [PublicComment@QueenCreekAZ.gov](mailto:PublicComment@QueenCreekAZ.gov) (limited to 500 words). Every email, if received by the deadline of 5:00 p.m., the day of the meeting, will be entered into the official record. Only one comment per person, per Agenda Item will be allowed. Comments without identifying name and address will not be entered into the official record.*

- 1. None.

**11. Items for Discussion:** *These items are for Town Council discussion only and no action will be taken. In general, no public comment will be taken.*

- A. Presentation and update on the Town's Capital Improvement Projects.
- B. Presentation and discussion regarding options for updates to the Town Code, infrastructure improvements, and enforcement for the use of micromobility and other self-propelled devices on town-owned trails, parks, sidewalks, streets, and other designated public areas.

**12. Final Action:** *If you wish to speak to the Town Council on any of the items listed under Final Action, please address the Town Council by completing a Request to Speak Card and returning it to the Town Clerk (limited to three (3) minutes each), or by emailing your comment for this Town Council meeting to [PublicComment@QueenCreekAZ.gov](mailto:PublicComment@QueenCreekAZ.gov) (limited to 500 words). Every email, if received by the deadline of 5:00 p.m., the day of the meeting, will be entered into the official record. Only one comment per person, per Agenda Item will be allowed. Comments without identifying name and address will not be entered into the official record.*

- A. Consideration and possible approval of Resolution No. 1536-23 authorizing interfund loans to the Drainage and Transportation CIP, Water CIP, and Wastewater CIP funds to internally and temporarily finance the construction of infrastructure required by the Town as identified in the LG Energy Solution Development Agreement.
- B. Consideration and possible approval of Resolution No. 1535-23 authorizing the execution and delivery of a Purchase Agreement and a Trust Agreement, as well as agreements with a financial advisor and special counsel; approving the sale and execution and delivery of Subordinate Lien Excise Tax and State Shared Revenue Obligations, Series 2023, evidencing a proportionate interest of the owners thereof in such Purchase Agreement; delegating the determination of certain terms of such Obligations and matters related thereto to the Manager and Chief Financial Officer of the Town; declaring, for purposes of Section 1.150-2 of the Federal Treasury Regulations, official intent to be reimbursed in connection with certain capital expenditures; and authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by this resolution.

**13. Adjournment:**

I, Maria Gonzalez, do hereby certify that I caused to be posted this 5th day of September, the Amended Agenda for the September 6, 2023 Regular and Possible Executive Session of the Queen Creek Town Council at Town Hall and on the Town's website at [www.QueenCreekAZ.gov](http://www.QueenCreekAZ.gov).

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Maria E. Gonzalez, MMC  
Town Clerk

The Town of Queen Creek encourages the participation of disabled individuals in the services, activities, and programs provided by the Town. Individuals with disabilities who require reasonable accommodations in order to participate should contact the Town Clerk's office at (480) 358-3000.



## Council Committee Reports

- 07/18 – Meeting with County Assessor Eddie Cook (Oliphant)
- 8/17 – Queen Creek Unified School District Business Partner Breakfast (Oliphant)
- 8/17 – Valley Metro Board of Directors Meeting (Brown)
- 8/18 – Sprouts Grand Opening (Wheatley, Brown)
- 8/18 – East Valley Chambers of Commerce Association Mayors Meeting (Wheatley)
- 8/18 – Housing Affordability and Supply Deep Dive Workshop (Benning)
- 8/23 – Economic Development Commission Meeting (McClure)
- 8/23 – Maricopa Association of Governments Regional Council Meeting (Wheatley)
- 8/23 – Council Meet & Greet (McClure)
- 8/23 – CeCe's Hope Center Board Meeting (Oliphant)
- 8/24 – Mayor Meet & Greet (Wheatley)
- 8/24 – Micromobility Discussion (Wheatley, Brown, Martineau)
- 8/24 – Vice Mayor Meet & Greet (Brown)
- 8/28 – Discuss Potential QC Civil Court (Wheatley)
- 8/29 – Portillo's Ribbon Cutting (Brown, Martineau, McClure, Padilla)
- 8/29-9/1 – League of Arizona Cities & Towns Annual Conference (Wheatley, Brown, Benning, McClure, Oliphant)
- 8/30 – Chandler Unified School District Hope Institute Ribbon Cutting (Padilla)
- 8/30 – My Ascension Youth Suicide Prevention Event (Martineau)
- 9/6 – Queen Creek Chamber Women in Business Event (Wheatley, Oliphant)
- 9/6 – Meet & Greet with Arizona State Treasurer Kimberly Yee (Wheatley)



TOWN OF  
**QUEEN CREEK**  
ARIZONA

**TO:** HONORABLE MAYOR AND TOWN COUNCIL  
**THROUGH:** BRUCE GARDNER, TOWN MANAGER  
**FROM:** MARIA GONZALEZ MMC, TOWN CLERK  
**RE:** CONSIDERATION AND POSSIBLE APPROVAL OF THE AUGUST 16, 2023 REGULAR SESSION MINUTES.  
**DATE:** September 6, 2023

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**Suggested Action:**

To approve the draft minutes as presented.

**Alternatives:**

Council can request revisions to be made to the draft minutes and approve with revisions or continue to a future meeting.

**Attachment(s):**

1. [Minutes](#)



**Minutes**  
**Town Council Regular Session**  
Community Chambers, 20727 E. Civic Parkway  
Wednesday, August 16, 2023  
6:30 PM

**1) Call to Order:**

The meeting was called to order at 6:30 p.m.

**2) Roll Call:**

**PRESENT:**

Julia Wheatley, Mayor  
Jeff Brown, Vice Mayor  
Robin Benning, Council Member  
Leah Martineau, Council Member  
Bryan McClure, Council Member  
Dawn Oliphant, Council Member  
Travis Padilla, Council Member

Council Member Benning and Council Member McClure attended remotely.

**3) Pledge of Allegiance:**

**4) Invocation/Moment of Silence:**

Floria Goharriz from the Baha'i Faith of Queen Creek provided the invocation.

A moment of silence in remembrance of colleague, friend and former Queen Creek Vice Mayor and Town Council Member Emilena Turley was held.

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

**5.A) Recognition of the Queen Creek Little League**

Council recognized Queen Creek Little League and congratulated the Queen Creek Little League Baseball Junior League District 14 Champions. A special thanks was given to coaches McIntyre, Bair and Harris for their support.

5.B) Introduction of new Queen Creek Fire and Medical Emergency Transportation Services (Ambulance) staff

Mayor Wheatley announced the expansion of our Queen Creek Fire and Medical Department and recognized the QC Fire & Medical Department (QCFMD) for their fifteenth year.

QCFMD Chief Vance Gray welcomed the recently hired new ambulance staff to the Queen Creek team. He recognized EMS Coordinator Alyson Welch, Deputy Chief Lee Barnes and Deputy Chief Matthew Skowron for their efforts to help get the program off the ground.

6) **Committee Reports:**

6.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.

Committee Reports 

6.B) Committee and outside agency reports (only as scheduled):  
1. Parks and Recreation Advisory Committee (August 8, 2023)  
2. Transportation Advisory Committee (August 10, 2023)

Council Member Padilla provided the report. The committee welcomed new member Lindzie Head. End of season reports by Queen Creek Heat Little League and Queen Creek Little League were presented to the committee. The committee approved a recommendation of the FY24 Work Plan with the addition of a review and assessment of the Town trail system. The committee heard a Costs Analysis and Fee Study presentation. They recommended approval of the Youth Sports Partnership Policy and Sport Field Rental Policies to be included in the Cost Analysis and Fee Study project. The next meeting will be held on September 12.

TAC Chair Bob Adelfson provided the report. The committee elected new chair and vice-chair positions. They heard a presentation on community outreach in relation to transportation from Constance Halonen-Wilson. Traffic signal updates were provided by Traffic Engineer Marshall Riegel, and CIP Manager Brad Novacek provided department and regional project updates. Public Works Operation Manager Jan Martin presented details on the Pavement Preservation Program. The next meeting is November 9, 2023

7) **Public Comments:**

None.


8) **Consent Agenda:**



- 8.A) Consideration and possible approval of the August 2, 2023 Regular Session minutes.

**Department:** Town Clerk's Office


Staff Report 


Minutes 

- 8.B) Consideration and possible approval of the "Final Plat" for Ellsworth Ranch Phase 2 Parcel D, a request by Taylor Morrison/Arizona Inc.

**Department:** Development Services

Staff Report 

Aerial Exhibit - Ellsworth Ranch.pdf 

Final Plat - Ellsworth Ranch Phase 2 Parcel D.pdf 

- 8.C) Consideration and possible approval of the "Final Plat" for Mayberry on Rittenhouse, a request by LDR Pacific-Lone MT, LLC.

**Department:** Development Services

Staff Report 

Aerial Exhibit - Mayberry on Rittenhouse.pdf 

Final Plat - Mayberry on Rittenhouse.pdf 

- 8.D) Consideration and possible approval of a Project Order #5 Town Contract 2022-023, with Lee Engineering, LLC for traffic signal design engineering services at Queen Creek Road and 220th Street (CIP Project I0052) in an amount not to exceed \$27,390 and necessary budget adjustments.

**Department:** Capital Improvement Projects

Staff Report 

10052 Project Site Exhibit 


Project Order #5 - Lee Engineering, LLC 

- 8.E) Consideration and possible approval of an On-Call Project Order with Sunrise Engineering, Contract 2023-003 in an amount not to exceed \$40,026 for engineering services for the Barney Farms Well Site Blending Plan. (FY 24 Budgeted Item)

**Department:** Utilities

Staff Report 


Sunrise Project Order 05 - Barney Farms Blending Plan 

Exhibit - Barney Farms Blending Plan 

- 8.F) Consideration and possible approval of a purchase order in the amount of \$4,180,000 with Pumpman Waterworks utilizing Town Contract 2020-046 for well drilling and hydrogeological services for Ware Farms Well 1 - Coyote Well Site Project WA014 and Ware Farms Well 2 - Stagecoach Well Site Project WA025, and related budget adjustments.

**Department:** Utilities

Staff Report 

Pumpman Waterworks Estimate 

- 8.G) Consideration and possible approval of Delegation Resolution #1531-23 authorizing and directing the Town Manager and/or Capital Improvement Projects Department Director to take any and all action necessary; and to sign any and all documents, contracts, and/or agreements related to construction and completion of Ryan Road and 220th Street Improvements (CIP Projects No. A2001 & A1702), in an amount not to exceed \$5,800,000 and related budget adjustments.

**Department:** Capital Improvement Projects

Staff Report 

A2001 and A1702 Project Site Exhibit 


Delegation Resolution #1531.23 Exhibit 1 

- 8.H) Consideration and possible approval of Delegation Resolution #1532-23 authorizing and directing the Town Manager and/or Capital Improvement Projects Department Director to take any and all action necessary; and to sign any and all documents, contracts, and/or agreements related to construction and completion of Cloud Road and Ellsworth Road Improvements (CIP Project No. A1006) in an amount not to exceed \$2,500,000; and necessary budget adjustments.

**Department:** Capital Improvement Projects

Staff Report 

A1006 Project Site Exhibit 

Delegation Resolution #1532-23 Exhibit 1 


**MOTION:** To approve the Consent Agenda.  
**RESULT:** Approved unanimously (7-0)  
**MOVER:** Dawn Oliphant, Council Member  
**SECONDER:** Leah Martineau, Council Member  
**AYES:** Julia Wheatley, Mayor, Jeff Brown, Vice Mayor, Robin Benning, Council Member, Leah Martineau, Council Member, Bryan McClure, Council Member, Dawn Oliphant, Council Member, Travis Padilla, Council Member

9) **Public Hearing Consent Agenda:**

9.A) Consideration and possible recommendation of approval on a new Series 012 Restaurant Liquor License application submitted by Navayogasingam Thuraisingam on behalf of Macayo’s Mexican Food located at 24460 E Ocotillo Road, Queen Creek.

**Department:** Town Clerk's Office

Staff Report 

Rule R19-1-702 (9-24-22).pdf 

LGB Public Report.pdf 

QCPD Report.pdf 

Mayor Wheatley opened the public hearing. There were no comments and the public hearing was closed.

**MOTION:** To forward a recommendation of approval to the Arizona Department of Liquor Licenses and Control on a new Series 012 Restaurant Liquor License application submitted by Navayogasingam Thuraisingam on behalf of Macayo's Mexican Food located at 24460 E Ocotillo Road, Queen Creek.  
**RESULT:** Approved unanimously (7-0)  
**MOVER:** Jeff Brown, Vice Mayor  
**SECONDER:** Dawn Oliphant, Council Member  
**AYES:** Julia Wheatley, Mayor, Jeff Brown, Vice Mayor, Robin Benning, Council Member, Leah Martineau, Council Member, Bryan McClure, Council Member, Dawn Oliphant, Council Member, Travis Padilla, Council Member

10) **Public Hearings:**

None.

**11) Items for Discussion:**

11.A) Presentation and discussion regarding devices identified as micromobility and the use of motor-driven cycles, golf carts, mopeds, all-terrain vehicles, neighborhood electric vehicles, quadricycles, motorcycles, and other motor vehicles on town-owned sidewalks, streets, and other designated public areas.

**Department:** Police

Staff Report 

Presentation Micromobility and Motor Vehicles 

Queen Creek Police Chief Randy Brice presented information about devices identified as micromobility and the use of these items in designated areas. He identified self-propelled and powered devices and how they apply to state law. He discussed how the different devices are classified and regulated and how to account for safety. He said the next steps include further discussion, updates to Town Codes and Zoning Ordinances and public outreach on vehicle types and the laws and regulations that apply.

**12) Final Action:**

None.

**13) Adjournment:**

The Council reconvened to Executive Session at 7:33 p.m. The Regular Session reconvened and adjourned at 8:14 p.m.

TOWN OF QUEEN CREEK

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Julia Wheatley, Mayor

ATTEST:

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Maria E. Gonzalez, Town Clerk

I, Maria E. Gonzalez, do hereby certify that to the best of my knowledge and belief, the foregoing Minutes are a true and correct copy of the Town Council Regular Session Minutes of the August 16, 2023 Town Council Regular Session of the Queen Creek Town Council. I further certify that the meeting was duly called and that a quorum was present.

Passed and approved on: \_\_\_\_\_



TOWN OF  
**QUEEN CREEK**  
ARIZONA

**TO:** HONORABLE MAYOR AND TOWN COUNCIL  
**THROUGH:** BRUCE GARDNER, TOWN MANAGER  
**FROM:** MELISSA BAUER, PROCUREMENT MANAGER  
**RE:** CONSIDERATION AND POSSIBLE APPROVAL OF EXPENDITURES \$25,000 AND OVER, PURSUANT TO TOWN PURCHASING POLICY. (FY 23/24 BUDGET ITEMS)  
**DATE:** September 6, 2023

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**Suggested Action:**

To approve the Expenditures \$25,000 and over, pursuant to Town Purchasing Policy.

**Discussion:**

The following items being requested are:

1. Stryker - Medical Equipment for Patient Transport (MTS Power Load System & Video Laryngoscopes): \$77,712 (Fire & Medical)
2. Sierra Auction - 2008 Pierce Quantum Ladder Truck: \$55,784 (Fire & Medical)

**Fiscal Impact:**

The fiscal impact of the requested spending authority for the above expenditures is \$133,496. Funds have been identified within the line item budget as approved in the FY23/24 budget or subsequently approved by Council.

**Attachment(s):**

1. [Expenditures over \\$25,000.pdf](#)

**Attachment: Expenditures \$25,000 and Over  
Budgeted in Fiscal Year 23/24  
September 6, 2023**

<b>Item #</b>	<b>Vendor(s)</b>	<b>Description</b>	<b>Purpose</b>	<b>Requesting Dept(s)</b>	<b>Fiscal Impact \$</b>	<b>Procurement Method</b>	<b>Alternative</b>
1	Stryker	<p>MTS Power Load System (a guided load and unload system for the ambulance gurney which supports the weight of the patient and cot throughout the ambo load/load process).</p> <p>Video Laryngoscopes (is a tool used by paramedics when placing an endotracheal tube (breathing tube) to control a patient's airway and facilitate breathing, when the patient is unable to breathe for themselves).</p>	<p>Twenty-five percent of career ending injuries for EMS personnel are lifting injuries. We are requesting spending authority to deploy the power load system specifically to prevent lifting injuries. The system supports the weight of the patient during the loading and unloading process removing the need for our personnel to lift the patient into the apparatus. All the newly ordered ambulances are coming with this system. This purchase brings the existing ambulance into line with current requirements and specifications.</p> <p>The addition of the video capability to a standard laryngoscope improves the ability of the paramedic to visualize the patient's airway and aids in proper placement of the endotracheal tube. The patients that we treat who require this intervention are injured or very sick. These factors make airway management difficult. The video capability helps overcome the difficulties so our paramedics can provide excellent patient care.</p>	Fire & Medical	\$77,712	SAVIK National Cooperative Contract #2021-06 & 2019-05	Council could choose not to approve the expenditure. In this case patients would be lifted and moved into the ambulance manually by QCFM personnel, and patients with airway issues would be treated using our existing standard laryngoscopes.
2	Sierra Auction	2008 Pierce Quantum Ladder Truck	Purchase of a used 2008 Pierce Quantum Ladder Truck. This unit will serve as a spare ladder truck when L411 is out for repairs.	Fire & Medical	\$55,784	Exempt - used equipment	Council could choose not to approve the expenditure. The alternative would be to continue placing Ladder 411 out of service and rely on our automatic aid partners to be dispatched in the event of an emergency requiring a ladder truck.



TOWN OF  
**QUEEN CREEK**  
 ARIZONA

**TO:** HONORABLE MAYOR AND TOWN COUNCIL

**THROUGH:** BRUCE GARDNER, TOWN MANAGER

**FROM:** BRETT BURNINGHAM, DEVELOPMENT SERVICES DIRECTOR, LISA BUCZEK, MANAGEMENT ANALYST

**RE:** CONSIDERATION AND POSSIBLE APPROVAL OF THE REAPPOINTMENT OF ALEX MATHESON AND TROY YOUNG TO THE PLANNING COMMISSION.

**DATE:** September 6, 2023

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**Suggested Action:**

To reappoint Alex Matheson and Troy Young to the Planning Commission for a 3-year term, expiring 8/31/2026.

**Relevant Council Goal(s):**

Effective Government

**Discussion:**

The term for commissioners Alex Matheson and Troy Young are due to expire August 31, 2023. Staff is recommending the reappointment of Alex Matheson and Troy Young to the Planning Commission. They both have good attendance records and have been active participants in the deliberations of the Commission.

Alex Matheson is a dentist in the Town of Queen Creek. Commissioner Matheson has been on the Planning Commission since 2010. Commissioner Young owns and operates an at home assisted living facility. Commissioner Young also has experience in the construction and landscaping business. Commissioner Young is a 2017 graduate of the Queen Creek Leadership Institute and served as the Planning Commission Vice Chair and Chairman during his elected terms.

There currently is a vacant position on the Planning Commission. Staff is interviewing potential candidates to fill the position and will present the recommendation to the Council next month.

The Planning Commission is composed of seven members with staggered term expiration dates. The term for service on the Planning and Zoning Commission is three years, and members may be reappointed at the discretion of the Council. Appointments are reviewed on an annual basis.

**Fiscal Impact:**

There is no fiscal impact associated with making appointments to the Planning and Zoning Commission.

**Alternatives:**

The Town Council could choose to not reappoint Alex Matheson and Troy Young and request that staff present alternative appointments at the next Town Council meeting.

**Attachment(s):**



1. [Planning\\_and\\_Zoning\\_Commission\\_Terms\\_May August 2023 \(2\).pdf](#)

**PLANNING AND ZONING COMMISSION**  
**Proposed Terms**

<b><u>COMMISSIONER</u></b>	<b><u>TERM EXPIRES</u></b>
<b>COMMISSIONER</b> – David Gillette	Aug. 31, 2024
<b>COMMISSIONER</b> – Jeff Nielson	Aug. 31, 2024
<b>COMMISSIONER</b> – Spencer Hale	Aug. 31, 2025
<b>COMMISSIONER</b> – Leah Gumm	Aug. 31, 2025
<b>COMMISSIONER</b> – Alex Matheson	Aug. 31, 2026
<b>COMMISSIONER</b> – Troy Young	Aug. 31, 2026
VACANT	



TOWN OF  
**QUEEN CREEK**  
 ARIZONA

**TO: HONORABLE MAYOR AND TOWN COUNCIL**

**THROUGH: BRUCE GARDNER, TOWN MANAGER**

**FROM: ADAM ROBINSON, COMMUNITY SERVICES DEPUTY DIRECTOR**

**RE: CONSIDERATION AND POSSIBLE APPROVAL OF THE REAPPOINTMENT OF DRU ALBERTI TO THE PARKS AND RECREATION ADVISORY COMMITTEE (PRAC).**

**DATE: September 6, 2023**

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**Suggested Action:**

To reappoint Dru Alberti to a two year term beginning September 6, 2023 to the Parks and Recreation Advisory Committee (PRAC).

**Relevant Council Goal(s):**

Elective Government

**Discussion:**

The term for Parks and Recreation Advisory Committee member Dru Alberti will expire in August 2023.

Completed Boards and Committees Member Application form was reviewed for the applicant. Dru Alberti has had good attendance records and has been an active participant in PRAC, providing valuable input on parks, trails and recreation issues. Dru Alberti has been an active member since 2009.

The October 17, 2018 revised Town's Standard Form Bylaws for Designated Town Committees and Task Force state committee members may serve for three consecutive terms. The revised Bylaws also state term limits shall start with the first new term after adoption. As such, the term of 2023-2025 will be the third term under the revised Bylaws for the member up for reappointment.

If reappointed, this member will serve a two-year term in accordance to the Town's Standard Form Bylaws which state successive appointments shall be for two-year terms. The reappointment will be effective September 6, 2023 and terminate September 6, 2025.

**Fiscal Impact:**

There is no fiscal impact associated with making appointments to the Parks and Recreation Advisory Committee (PRAC).

**Alternatives:**

The Town Council could choose not to reappoint Dru Alberti and request that an alternative appointment be presented at a future Town Council Meeting.

**Attachment(s):**

1. [D.Alberti NOI 2023.pdf](#)

Submitter DB ID 51133  
IP Address 2600:1011:b133:3770:c503:4538:6ecc:b747  
Submission Recorded On 07/10/2023 10:25 am  
Time to Take the Survey 8 minutes, 38 secs.

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**Page 1**

**The Town of Queen Creek depends on its citizens to help advance the community toward its goals. Residents can participate in local decision-making by serving on volunteer boards, commissions, committees and task forces. In most cases, volunteer members act in an advisory capacity making recommendations to the Town Council.**

**Appointments are made by approval of the Town Council. If you would like to be considered for an appointment, complete this form, attach a resume or letter about yourself and return all documents to:**

**Town of Queen Creek**  
**Town Clerk's Office**  
**22350 S. Ellsworth Road**  
**Queen Creek, AZ 85142**  
**Fax: 480-358-3001**

**1. Date**

07/10/2023

**2. Name**

**First** Dru

**Middle** Not answered

**Last** Alberti

**3. Home Address**

18644 E VIa Del Oro

**4. Mailing Address (if different than home address)**

Not answered

**5. Occupation**

Ag Insurance Underwriter

**6. Phone**

**Home Phone** (480) 766-2830

**Work Phone** (480) 635-3686

**Best time to call (a.m. or p.m.)** Any

**Fax number** Not answered

**7. Email Address**

Qcridr@gmail.com

**8. How long have you been a resident of Queen Creek?**

Since 1998

**9. Are you a registered voter?**

**Yes**

**10. Do you live within the Town's incorporated limits?**

**Yes**

**11. Have you participated in the Queen Creek Citizen Leadership Institute?**

**Yes**

**12. If yes, did you graduate?**

**Yes**

**13. Which boards, commissions, committees or task forces have you served on in the past, in Queen Creek or elsewhere?**

PTOS

PRAC

Finance Review Task Force

Development Fee Committee

**14. I am interested in serving on: (Please rank the committees you are interested in, with 1 being your first choice.)**

**Board of Adjustment** Not answered

**Economic Development Commission** Not answered **Per Dru Alberti, this application is for PRAC renewal. Also stated in Section 15.**

**Downtown Arts & Placemaking Advisory Committee** Not answered

**Parks and Recreation Advisory Board** Not answered

**Planning and Zoning Commission** 1

**Transportation Advisory Committee** Not answered

**15. Please describe why you would like to serve on this board, committee, commission, etc.**

This is a renewal application.

My experience and knowledge of the inter workings of town government (with emphasis on Parks & Recreation) gives me the advantage of being able to quickly assess, solve, and guide our staff and council with options for our future. Additionally, I also have the personal skills to look at not only our history but to determine new opportunities.

**16. Please describe special knowledge or expertise you have that would benefit the Town.**

See number 15.

**17. Please list community, civic, professional, social, cultural or athletic organizations you have been affiliated with and in what capacity.**

Current director Friends of Horseshoe Park.

Past 4H leader.

**18. Are you available for evening meetings?**

**Yes**

**19. Are you available for morning meetings?**

**No**

**20. Are you available for lunch meetings?**

**Yes**

**21. Are there days of the week you are not available for meetings? (Check all that apply)**

Thursday

**22. Resume**

**I hereby acknowledge that all information provided on this application is subject to disclosure pursuant to the Arizona Public Records Law. I understand that members of boards, commissions, committees and task forces are subject to disclosure of conflicts of interest. I certify that the information contained herein is true and accurate to the best of my knowledge.**

**Note: Notice of Interest forms will be kept on file for 12 months. After that, they will expire and applicant's will need to submit a new form.**

**23. Signature**

Dru D. Alberti

This question is marked as sensitive.



TOWN OF  
**QUEEN CREEK**  
 ARIZONA

**TO:** HONORABLE MAYOR AND TOWN COUNCIL

**THROUGH:** BRUCE GARDNER, TOWN MANAGER

**FROM:** MARC SKOCYPEC , UTILITIES DIRECTOR

**RE:** CONSIDERATION AND POSSIBLE APPROVAL OF AN ON-CALL PROJECT ORDER WITH SUNRISE ENGINEERING, CONTRACT 2023-006 IN AN AMOUNT NOT TO EXCEED \$786,627 FOR ENGINEERING SERVICES FOR THE WALES GRAVEL PIT PROJECT WW103 AND WALES RANCH RIDGE SITE TANK AND BOOSTER PROJECT WA030 (FY 24 BUDGETED ITEM TO BE REIMBURSED BY PINAL COUNTY).

**DATE:** September 6, 2023

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**Suggested Action:**

Move to approve an On-Call Project Order with Sunrise Engineering, Contract 2023-006 in an amount not to exceed \$786,627 for engineering services for the Wales Gravel Pit Project WW103 and Wales Ranch Ridge Site Tank and Booster Project WA030 (FY 24 Budgeted Item).

**Relevant Council Goal(s):**

Secure Future: KRA Environment

**Discussion:**

Sunrise Engineering provides professional design services for wells, tanks and booster stations to the Utility Service Department in the capacity of an on-call engineering services consultant. The Town's Utility Services Department would like to procure a new project order through the on-call contract previously approved by Council for Sunrise Engineering to complete design services for the construction of a new tank and booster pump facility on the recently Town acquired property previously known as Wales Ranches Phase 5. The site is located on Kenworthy Road south of the Queen Creek Wash within Pinal County. The site was previously utilized as a gravel pit by the former owner.

The Town acquired the property for the intended use of building an additional storage tank and booster pumps as well as developing a water recharge site in order to meet the Town's near-term (5-10 years) need for additional water recharge capacity. This property is ideally located within the Town's service area, creating an opportunity to recharge water within the Area of Impact, which will allow the Town to maximize its recharge benefit. The property is located approximately one mile east of the EPCOR Utilities Pecan Wastewater Treatment Plan ("Pecan Plant") and is adjacent to six Town owned and operated recovery wells located on the Kenworthy Road alignment from Hashknife Road to Ocotillo Road and five future Town wells to be located on Schnepf Road from the Queen Creek Wash to Hashknife Road. In addition, the previous use and excavation for the property will allow the Town to recharge water in the most efficient and effective manner. Initial testing of this property estimates that the Town will be able to recharge 2,500 – 5,000 acre feet of the Town's renewable supplies annually. This includes the 1,100 acre feet of effluent allocated for the Encanterra development currently being treated at the Pecan Plant. This portion of recharged water will be recovered from one of the six wells located on Kenworthy Road and delivered to the Encanterra Golf Course. Additional Town treated effluent processed at the Pecan Plant will be recharged at the property along with a portion of the Town's surface water allocations. It is estimated that it will take



approximately two years to complete the recharge site permit process with ADEQ.

Proposed site improvements include construction of a 3 million gallon (MG) concrete tank, a future second tank, booster pump facility, recharge basins and associated piping. The booster pump capacity is anticipated to pump 7,000 gallons per minute into the Town’s water distribution system. Additionally, improvements include construction of a shade structure to cover the booster pumps and a small building to house chlorine and other well site tools and equipment. The property will not have an onsite well, rather source water will be delivered to the site via a dedicated tank fill line project that is not included in this scope of work.

Sunrise Engineering’s scope of services includes surveying, civil engineering, electrical engineering and structural engineering to develop plans and specifications for the proposed improvements. Sunrise Engineering’s design services will generally consist of site planning, grading design of site and recharge basins, tank design, pipes and pumping system. Additionally, they will provide structural engineering design and calculations for the proposed tank, electrical engineering for the site lighting, tank telemetry and booster pumps and construction support services throughout the project life.

**Fiscal Impact:**

The Wales Gravel Pit (WW103) and Wales Ranch Ridge Site Tank and Booster (WA030) projects are included in the Town’s Master Plan and current 5-year CIP project list. Budget authority for these projects is included in the FY 2023/24 adopted budget and have sufficient capacity to cover the requested on-call project order. The total not to exceed amount of \$786,627 includes the project order amount of \$715,116 plus an additional \$71,511 (10%) for possible unanticipated services. The following table summarizes the cost:

<b>Project</b>	<b>On-Call Project Order</b>	<b>10% Contingency</b>	<b>Total</b>
Wales Gravel Pit (WW103)	503,391	50,339	553,730
Wales Ranch Ridge Site Tank & Booster (WA030)	<u>211,725</u>	<u>21,172</u>	<u>232,897</u>
	<b>715,116</b>	<b>71,511</b>	<b>786,627</b>

The funding source for the on-call project order with Sunrise Engineering is from Pinal County through the American Rescue Plan Act (ARPA) funding.

These projects, specifically the recharge improvements to the Wales Gravel Pit, will have significant system wide benefits to the Town. The recharge project is essential to the Town’s efforts in efficiently and effectively recharging both treated effluent and surface water. The location of the project, within the geographic center of the water service area, will also allow for the maximum replenishment of the aquifer in the area of impact and mitigate impacts of future groundwater withdrawal. The recharge project at this location will give the Town the ability to offset either some or all of the Central Arizona Groundwater Replenishment District (CAGR) replenishment obligations for those Town residents located within Pinal County and also Town water customers located outside of the Town boundaries within Pinal County. Without this project, the Town would be forced to rely on other less efficient and effective recharge alternatives outside of the Town’s water service area and with a lesser overall benefit to the Town.

**Alternatives:**

Council may choose to not approve the contract. If not approved, Town staff will work with Council to identify and remedy any concerns. However, because the item is funded through ARPA funding, projects must be encumbered by December 2024 and completed by December 2026. Delaying the execution of this project order could delay the completion of construction.

**Attachment(s):**

1. Project Order #2-Kenworthy Pit, Tank and Boosters
2. Exhibit

**PROJECT TASK ORDER FORM**  
**TOWN OF QUEEN CREEK,**  
**an Arizona municipal corporation (“TOWN”)**

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**PROFESSIONAL PROJECT TASK ORDER**  
**Kenworthy Pit Tank and Boosters**  
**Project Task Order No. 02**  
**Contract No. 2023-006**

**THIS PROJECT ORDER** is made and entered into on the \_\_\_\_ day of September, 2023 by and between the Town of Queen Creek, Arizona, an Arizona municipal corporation, hereinafter called (“TOWN”) and the “CONSULTANT” designated below. This Project Task Order is entered in to pursuant to and incorporates herein the terms and provisions of the CONSULTANT Contract No. 2023-006, dated January 5, 2023 between TOWN and CONSULTANT (“Contract”). Upon full execution of this Project Task Order, the Project Task Order, together with the Project Task Order Contract (including all of the Contract Documents as defined therein), shall be the Contract between the Parties for the professional services specified herein (“Services”).

TOWN and CONSULTANT agree as follows:

**TOWN:** Town of Queen Creek  
Project Manager: Mike Huber  
Telephone: (480) 358-3482  
E-mail: mike.huber@queencreekaz.gov

**CONSULTANT:** Sunrise Engineering  
2045 S. Vineyard, Suite 101  
Mesa, AZ 85201  
Arizona Registration No. 20175  
Telephone: 480-768-8600  
E-mail: rholston@sunrise-eng.com

**PROJECT DESCRIPTION:** This Project Task Order #06 is to develop plans and specifications for the proposed Kenworthy Pit Tank and Boosters as outlined in the Proposal dated July 11, 2023.

The Project is scheduled to commence upon the notice to proceed and be completed no later than the agreed upon schedule to be submitted by the Consultant.

**PROJECT SITE ADDRESS/LOCATION:** The location for this Project Task Order # 06 is Kenworthy Road south of the Queen Creek Wash.

**PROJECT TASK ORDER PRICE (Not to Exceed):** \$715,116 as outlined in the attached Proposal dated July 11, 2023.

**SCOPE OF SERVICES, DELIVERABLES, AND PROJECT SCHEDULE/DURATION:** Attached Exhibit A

**UNIQUE INSURANCE AND/OR BOND REQUIREMENTS (IF ANY)** (Article 11): Attached Exhibit B.

**PROJECT SPECIFIC CONDITIONS (IF ANY):** Attached Exhibit C.

IN WITNESS, WHEREOF, the parties hereto have executed this Project Order through their duly authorized representatives and bind their respective entities as of the effective date.

**“TOWN”**

Signature \_\_\_\_\_

Name Julia Wheatley

Title Mayor

**ATTEST:**

Signature \_\_\_\_\_

Name Maria Gonzalez

Title Town Clerk

**“DESIGN PROFESSIONAL”**

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

**PROJECT TASK ORDER # 02**

**EXHIBIT A**

**GENERAL SCOPE OF WORK AND PROPOSAL DATED JULY 11, 2023**

**PROJECT TASK ORDER # 02**

**EXHIBIT B**

N/A

## PROJECT TASK ORDER # 02

### EXHIBIT C

#### Federal Certifications Addendum for Agreements Funded by U.S. Federal Grant

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#### Source of Funding:

Catalog of Federal Domestic Assistance (CFDA) Number: # 21.027

[Link to program: XXXX](#)

#### References:

Code of Federal Regulations (“CFR”), Title 2, Part 200 Uniform Requirements:

- CFR, Title 2: Grants and Agreements PART 200: [Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](#)
- Supplemented by the Department of Justice: [2 CFR Part 2800](#)

Federal Grants Financial Guide: [DOJ Financial Guide](#)

#### Definitions:

Allocable Costs. See 2 CFR § 200.405 Allocable costs.

- (a) A cost is allocable to a particular Federal award or other cost objective if the goods or services involved are chargeable or assignable to that Federal award or cost objective in accordance with relative benefits received. This standard is met if the cost:
  - (1) Is incurred specifically for the Federal award;
  - (2) Benefits both the Federal award and other work of the non-Federal entity and can be distributed in proportions that may be approximated using reasonable methods; and
  - (3) Is necessary to the overall operation of the non-Federal entity and is assignable in part to the Federal award in accordance with the principles in this subpart.
- (b) All activities which benefit from the non-Federal entity's indirect (F&A) cost, including unallowable activities and donated services by the non-Federal entity or third parties, will receive an appropriate allocation of indirect costs.
- (c) Any cost allocable to a particular Federal award under the principles provided for in this part may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons. However, this prohibition would not preclude the non-Federal entity from

shifting costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations, or the terms and conditions of the Federal awards.

- (d) Direct cost allocation principles. If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost must be allocated to the projects based on the proportional benefit. If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then, notwithstanding paragraph (c) of this section, the costs may be allocated or transferred to benefitted projects on any reasonable documented basis. Where the purchase of equipment or other capital asset is specifically authorized under a Federal award, the costs are assignable to the Federal award regardless of the use that may be made of the equipment or other capital asset involved when no longer needed for the purpose for which it was originally required. See also 2 CFR §§ 200.310 (Insurance coverage) through 200.316 (Property trust relationship) and 200.439 (Equipment and other capital expenditures).
- (e) If the contract is subject to CAS, costs must be allocated to the contract pursuant to the Cost Accounting Standards. To the extent that CAS is applicable, the allocation of costs in accordance with CAS takes precedence over the allocation provisions in this part.

Allowable Costs. See 2 CFR § 200.403 Factors affecting allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards:

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also 2 CFR § 200.306 (Cost sharing or matching) paragraph (b).
- (g) Be adequately documented. See also 2 CFR §§ 200.300 (Statutory and national policy requirements) through 200.309 (Modifications to Period of performance).

Catalog of Federal Domestic Assistance (CFDA) Number. A five-digit number assigned by the Federal Awarding Agency in the awarding document of most grants and cooperative agreements funded by the Federal government.



Construction Work. The regulation at 41 CFR § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition, or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

Contract. A legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. The term as used in this part does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward.

Contractor. An entity that receives a contract as defined in Contract.

Cooperative Agreement. A legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 USC §§ 6302–6305:

- (a) Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States (see 31 USC § 6101(3)); and not to acquire property or services for the Federal government or pass-through entity's direct benefit or use;
- (b) Is distinguished from a grant in that it provides for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.
- (c) The term does not include:
  - (1) A cooperative research and development agreement as defined in 15 USC § 3710a; or
  - (2) An agreement that provides only:
    - (i) Direct United States Government cash assistance to an individual;
    - (ii) A subsidy;
    - (iii) A loan;
    - (iv) A loan guarantee; or
    - (v) Insurance.

Federally Assisted Construction Contract. The regulation at 41 CFR § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

Federal awarding agency. The Federal agency that provides a Federal award directly to a non-Federal entity

Federal Award. Depending on the context, in either paragraph (a) or (b) of this section:

- (a) (1) The Federal financial assistance that a non–Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in 2 CFR § 200.101 (Applicability); or
  - (2) The cost-reimbursement contract under the Federal Acquisition Regulations that a non–Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in 2 CFR § 200.101 (Applicability).
- (b) The instrument setting forth the terms and conditions. The instrument is the grant agreement, cooperative agreement, other agreement for assistance covered in paragraph (b) of 2 CFR § 200.40 Federal financial assistance, or the cost-reimbursement contract awarded under the Federal Acquisition Regulations.
- (c) Federal award does not include other contracts that a Federal agency uses to buy goods or services from a Contractor or a contract to operate Federal government owned, Contractor operated facilities (GOCOs).
- (d) See also definitions of Federal financial assistance, grant agreement, and cooperative agreement.

Funding Agreements. The regulation at 37 CFR § 401.2(a) defines “funding agreement” as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any Contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

Non–Federal entity. A state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.

Nonprofit organization. Any corporation, trust, association, cooperative, or other organization, not including IHEs, that:

- (a) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
- (b) Is not organized primarily for profit; and
- (c) Uses net proceeds to maintain, improve, or expand the operations of the organization.

Obligations. When used in connection with a non–Federal entity's utilization of funds under a Federal award, orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non–Federal entity during the same or a future period.

Pass-through entity. A non–Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

Reasonable Costs. See 2 CFR § 200.404 Reasonable costs.

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when the non-Federal entity is predominantly federally-funded. In determining reasonableness of a given cost, consideration must be given to:

- (a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award.
- (b) The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Federal, state, local, tribal, and other laws and regulations; and terms and conditions of the Federal award.
- (c) Market prices for comparable goods or services for the geographic area.
- (d) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-Federal entity, its employees, where applicable its students or membership, the public at large, and the Federal Government.
- (e) Whether the non-Federal entity significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.

**Recipient.** A non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term recipient does not include subrecipients.

**Simplified acquisition threshold.** The dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. Non-Federal entities adopt small purchase procedures in order to expedite the purchase of items costing less than the simplified acquisition threshold. The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR, Part 2, Subpart 2.1 (Definitions) and in accordance with 41 USC § 1908. As of the publication of this part, the simplified acquisition threshold is \$150,000, but this threshold is periodically adjusted for inflation. (Also see definition of 2 CFR § 200.67 (Micro-purchase)).

**Subaward.** An award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a Contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

**Subcontractor.** Legal entity that enters into subcontract with a "Contractor."

**Subrecipient.** A non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

**Termination.** The ending of a Federal award, in whole or in part at any time prior to the planned end of period of performance.

### **Federal Grant Provisions:**

The following certifications and provisions may be required and apply when Pinal County expends federal funds for any purchase. Pursuant to 2 CFR § 200.327, all contracts, including small purchases,

awarded by Pinal County and Pinal County' Subcontractors shall contain the procurement provisions of Appendix II to Part 200, as applicable.

1. **Termination for Default.** Pinal County reserves all rights and privileges under the applicable laws and regulations with respect to this contract in the event of breach of contract. Pursuant to 2 CFR Part 200, Appendix II, paragraph (B), the County may terminate the contract in whole or in part for cause due to Contractor's failure to:
  - (a) Comply with any requirement, term, or condition of the contract;
  - (b) Obtain and maintain all required insurance policies, bonds, licenses, and permits;
  - (c) Make satisfactory progress in carrying out the work; or
  - (d) Failure to conduct business in an ethical or legal manner.

Procurement Officer shall give written notice of the termination and the reasons for it. Upon termination under this paragraph, all documents, data and reports prepared by Contractor under the contract and all necessary and attributable unfinished materials on hand, work in progress, work completed, and work accepted will become County's property, and Contractor shall deliver all of it immediately on demand. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice. The County may, following termination of the contract under this paragraph, procure on terms and in the manner it determines to be appropriate materials or services to replace those that were to have been provided or performed by Contractor, and Contractor will be liable to the County for any excess cost the County incurs in procuring such substitutes.

2. **Termination for Convenience.** Pursuant 2 CFR Part 200, Appendix II, paragraph (B), when Pinal County expends federal funds, Pinal County reserves the right to immediately terminate any contract, in whole or in part at any time, when in the best interests of the County without penalty or recourse. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed, and materials accepted before the effective date of termination.
3. **Equal Employment Opportunity.** Pursuant to 41 CFR, Chapter 60, Part 60-1, the Contractor agrees as follows during the performance of this contract:
  - (a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- (b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (c) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.
- (d) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (e) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (f) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (g) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (h) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to

section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each Subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Contractors and Subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a Contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Contractors and Subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

4. Compliance with Davis-Bacon Act. Pursuant to the Davis-Bacon Act (40 USC §§ 3141-3148) as supplemented by Department of Labor regulations at 29 CFR Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction) and 2 CFR Part 200, Appendix II(D), Contractor agrees as follows during the performance of this Contract:
  - (a) All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 USC §§ 3141- 3144, and 3146-3148) and the applicable requirements of 29 CFR pt. 5. The Contractor shall comply with 40 USC §§ 3141-3144, and 3146-3148 and the applicable requirements of 29 CFR pt. 5.

- (b) Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- (c) Additionally, Contractors are required to pay wages not less than once a week

Reference link for Labor Standards <https://www.hud.gov/sites/documents/4010.PDF>

5. Compliance with the Copeland “Anti-Kickback” Act. Pursuant to the Copeland “Anti-Kickback” Act (40 USC § 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”), Contractor agrees as follows during the performance of this contract:
  - (a) Contractor. The Contractor shall comply with 18 USC § 874, 40 USC § 3145, and the requirements of 29 CFR pt. 3 as may be applicable, which are incorporated by reference into this contract.
  - (b) Subcontracts. The Contractor or Subcontractor shall insert in any subcontracts the clause above and such other clauses as the Federal Awarding Agency may by appropriate instructions require, and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any Subcontractor or lower tier Subcontractor with all of these contract clauses.
  - (c) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a Contractor and Subcontractor as provided in 29 CFR § 5.12.”
6. Compliance with the Contract Work Hours and Safety Standards Act. Pursuant to 40 USC §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 CFR Part 5 (see 2 CFR Part 200, Appendix II (E)), Contractor agrees as follows during the performance of this Contract:
  - (a) Overtime requirements. No Contractor or Subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
  - (b) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a) of this section the Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract

for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a) of this section.

- (c) Withholding for unpaid wages and liquidated damages. Pinal County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or Subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or Subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b) of this section.
- (d) Subcontracts. The Contractor or Subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a) through (d) of this section and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any Subcontractor or lower tier Subcontractor with the clauses set forth in paragraphs (a) through (d) of this section.

7. Compliance with Section 3 Requirements. Pursuant to 24 CFR § 135.38, Contractor agrees as follows during the performance of this Contract. Contractor will be required to submit Section 3 compliance forms within three (3) days of contract award.

- (a) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that the employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low - and very low-income persons in the project area.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's



commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference; job titles subject to hire; availability of apprenticeship and training positions; the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- (d) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75 and agrees to take appropriate action, as provided in an applicable provision of the subcontract in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.
  - (e) The contractor will certify that any vacant employment positions, including training positions, that are filled: 1) after the contractor is selected but before the contract is executed; and 2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75.
  - (f) Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default and debarment or suspension from future HUD assisted contracts.
8. Rights to Inventions Made Under a Contract or Agreement. Contractor agrees to comply with the requirements of 37 CFR Part 401, 2 CFR § 200, Appendix II (F), and any other applicable regulations issued by the Federal Awarding Agency during the performance of this contract.
9. Clean Air Act. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 USC § 7401 *et seq.*
- (a) The Contractor agrees to report each violation to Pinal County and understands and agrees that Pinal County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
  - (b) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by the Federal Awarding Agency.

10. Federal Water Pollution Control Act. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC §§ 1251 *et seq.*
- (a) The Contractor agrees to report each violation to Pinal County and understands and agrees that the Pinal County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
  - (b) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by the Federal Awarding Agency.
11. Suspension and Debarment. Pursuant to Executive Orders 12549 and 12689, Pinal County may, by written notice to Contractor, immediately terminate this Contract if Pinal County determines that the Contractor has been disbarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including, but not limited to, being disapproved as a Subcontractor of any public procurement unit or other governmental body. Contractor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency. If at any time during the term of this contract, the Contractor or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency, the Contractor will notify Pinal County.

Contractor agrees to comply with the following during the performance of this contract.

- (a) This contract is a covered transaction for purposes of 2 CFR pt. 180 and 2 CFR pt. 3000. As such, the Contractor is required to verify that none of the Contractor's *principals* (defined at 2 CFR § 180.995) or its *affiliates* (defined at 2 CFR § 180.905) are *excluded* (defined at 2 CFR § 180.940) or *disqualified* (defined at 2 CFR § 180.935).
- (b) The Contractor must comply with 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (c) This certification is a material representation of fact relied upon by Pinal County. If it is later determined that the Contractor did not comply with 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C, in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (d) The Contractor agrees to comply with the requirements of 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

12. Byrd Anti-Lobbying Amendment, 31 USC § 1352 (as amended). The Contractor agrees to comply with the following during the term of this Contract:

- (a) No Federal appropriated funds have been paid or will be paid for on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
- (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- (c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- (d) The Contractor, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 USC Chapter 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

13. Procurement of Recovered Materials. Contractor agrees to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (See 42 USC §§ 6901 *et seq.*; and 2 CFR § 200.323) during the performance of this contract.

- (a) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired
  - i. Competitively within a timeframe providing for compliance with the contract performance schedule;
  - ii. Meeting contract performance requirements; or
  - iii. At a reasonable price.

- (b) Information about this requirement, along with the list of EPA- designated items, is available at EPA’s Comprehensive Procurement Guidelines web site,  
<https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- (c) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.
14. Fly Ash Certification. Contractor agrees to comply with the following during the performance of this contract.
- (a) The percentage of fly ash in the concrete or cement is or will be consistent with the amounts required by the EPA Guidelines, Statutes, and/or Regulations for federally funded projects involving procurement of cement and/or concrete (Solid Waste Disposal Act; Resource Conservation and Recovery Act).
15. Fingerprint and Background Checks. In accordance with ARS § 15-512(H), a Contractor, Subcontractor or vendor, any employee of a Contractor, Subcontractor or vendor who is contracted to provide services on a regular basis at an individual school may be required to obtain a valid fingerprint clearance card pursuant to ARS §§ 41-1758 *et seq.*
16. Civil Rights Act of 1964, Title VI. Contractor agrees to comply with the Civil Rights Act of 1964, as amended, (42 USC § 2000d and 28 CFR § 42.101 *et seq.*) that provides no person on the basis of Race, Color, or National Origin shall be excluded from participation, denied program benefits, or subjected to discrimination.
17. Rehabilitation Act of 1973, Section 504. Contractor agrees to comply with Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 and 28 CFR §§ 42.501 *et seq.*), as amended, that no otherwise individual shall solely by reason of his or her handicap be excluded from participation and/or employment, denied program benefits, subjected to discrimination under any program receiving federal funds.
18. Age Discrimination Act of 1975. Contractor agrees to comply with the Age Discrimination Act of 1975 (42 USC §§ 6101-6107 and 28 CFR § 42.700 *et seq.*), as amended, that no person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age under any program or activity receiving federal funds.
19. Americans with Disabilities Act of 1990. Contractor agrees to comply with Title II of the Americans with Disabilities Act of 1990 (42 USC §§ 12131-12134 and 28 CFR pt. 35), as amended, that there shall be no employment discrimination against “qualified individuals with disabilities.”
20. Other Grant Specific Regulations. Contractor agrees to comply with the following during the performance of this contract.

[List here](#)

21. Access to records. The following access to records requirements apply to this contract:

- (a) The Contractor agrees to provide the State of Arizona, Pinal County, the Federal Awarding Agency Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
  - (b) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
  - (c) The Contractor agrees to provide the Federal Awarding Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
  - (d) In compliance with the Disaster Recovery Reform Act of 2018, the Pinal County and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the Federal Awarding Agency Administrator or the Comptroller General of the United States.
  - (e) Contractor certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.334. The Contractor further certifies that Contractor will retain all records as required by 2 CFR § 200.334 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.
22. Contract changes and amendments. There will be no oral changes to this Agreement. This Agreement can only be modified in a writing signed by both parties. Amendments agreed to by both parties may modify the method, price, or schedule of the work without breaching the contract. The language of the clause may differ depending on the nature of the contract and the end-item procured. No charge for extra work or material will be allowed unless approved in writing, in advance, by the County and Contractor.
23. Uniform administrative requirements, cost principles, and audit requirements. Pinal County adheres to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for all federal awards included in 2 CFR Part 200. The federal cost principles require all costs for projects to be allowable, reasonable, and allocable. Therefore transparency of the cost proposal is required to ensure compliance.
24. Buy American provision. Contractor will purchase, to the maximum extent practicable, domestic commodities or products in accordance with 48 CFR § 52.225-1 through § 52.225-26 and 41 USC Chapter 83. The Contractor shall purchase, to the maximum extent practicable, domestic agricultural commodities or products substantially processed in the United States. "Substantially" means the final processed product contains over 51% domestically grown agricultural commodities. The provision applies to all food purchases paid from the nonprofit school food service account. There are limited exceptions to this provision, however before utilizing an exception, alternatives to purchasing non-domestic food products should be considered.

The County has preference for domestic end products for supplies acquired for the use in the United States when spending federal funds (purchases that are made with non-federal funds or grants are excluded from the Buy America Act). Contractor certifies that it is in compliance with all applicable provisions of the Buy America Act.

Exceptions to the Buy American provision should be used as a last resort; exceptions include: (1) the product is not produced or manufactured in the U.S. in sufficient and reasonable available quantities or of a satisfactory quality, or (2) costs of a U.S. product are significantly higher than the non-domestic product.

To be considered for the alternative or exception to the Buy American provision, the request must be submitted in writing to the designated Pinal County procurement official, a minimum of 7 days prior to delivery date. The request must include: (1) the alternative substitutes that are domestic and meet the required specifications, with price and (2) the reason for exception, with limited/lack of availability or price. If price, include the price of the domestic food product and the price of the non-domestic product that meets the required specifications of the domestic product.

25. Federal awarding agency seal, logo, and flags. The Contractor shall not use the Federal Awarding Agency seal(s), logos, crests, or reproductions of flags or likenesses of the Federal Awarding Agency officials without specific pre-approval from the Federal Awarding Agency.
26. Compliance with federal law, regulations, and executive orders. This is an acknowledgement that financial assistance provided by the Federal Awarding Agency will be used to fund all or a portion of the contract. The Contractor will comply with all applicable Federal law, regulations, executive orders, Federal Awarding Agency policies, procedures, and directives.
27. No obligation by federal government. The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from the contract.
28. Program fraud and false or fraudulent statements or related acts. The Contractor acknowledges that 31 USC Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

**Contractor** agrees to comply with all federal, state, and local laws, rules, regulations and ordinances, as applicable. It is further acknowledged that Contractor certifies compliance with all provisions, laws, acts, regulations, etc. as specifically noted above.



Phoenix Metro Office  
2045 S. Vineyard, Suite 101, Mesa, Arizona 85210 | 480.768.8600

July 11, 2023

Mike Huber  
Town of Queen Creek Utilities Division  
19715 S 220<sup>th</sup> Street  
Queen Creek, AZ 85142

Subject: Kenworthy Pit Tank & Boosters

Mr. Huber,

Designer will perform the work and services set forth herein, in accordance with the terms and conditions of the Contract for On-Call Professional Design Services Wells, Tanks & Boosters, RFQ No. 23-003, 2023-006, effective date January 5, 2023, between the Designer and Town.

### **SCOPE OF SERVICES**

The Town of Queen Creek needs to construct a tank and booster pump facility. The site is located on Kenworthy Road south of the Queen Creek Wash, Pinal County, Town of Queen Creek, Arizona. The site was an existing gravel pit. The proposed improvements will consist of a 3-million-gallon (MG) concrete tank, future second tank, booster pump facility, recharge basins and associated piping. The booster pump capacity is anticipated to be 7,000 gallons per minute. Booster pumps will be covered by a shade structure. Proposed building is a chlorine shed. The site will not have an onsite well. Source water will be delivered to the site via a dedicated tank fill line project that is not part of this scope. Sunrise Engineering, Inc's (SEI's) scopes of services are surveying, civil engineering, electrical engineering and structural engineering to develop plans and specifications for the proposed improvements. SEI's design services will generally consist of site planning, grading design of site and recharge basins, tank design, pipes and pumping system. All site piping for proposed improvements this scope are onsite with proposed connections stubbing or connecting to existing stubs at the right-of-way of the site frontage. SEI will provide structural engineering design and calculations for the proposed tank. SEI will provide electrical engineering for the site lighting, tank telemetry and booster pumps. During construction SEI will provide construction support services. Below is further detail of the SEI's proposed scope of work. See [Exhibit A](#) for project site limits.

**Phase 0001 Meetings & Project Management:** This phase includes the project meetings and overall project management of the project by SEI for the design phase of the project.

**Task 001 Project Meetings:** The scope of work included in this task is for the project meetings, which are anticipated to be as follows:

- a. Attend project kick-off meeting to review the overall scope of work, schedule, identify communication lines, project reporting, and confirm the project goals.
- b. Attend up to twelve (12) project meetings with the client for the project at the Town
- c. Attend up to 72 bi-weekly project update meetings with the client via Teams.

**Task 002 Project Management:** The scope of work included in this task is for the project management, which are anticipated to be as follows:

- a. Prepare and maintain project design schedule
- b. Prepare written weekly email project progress updates for the scope of work outlined within this contract.
- c. Coordinate activities of the project design team.

**Phase 0002 Survey & Base-Mapping:** This phase of the project includes survey and base-mapping for the project site as shown in Exhibit A. The goal of this phase is to create a base-map of the existing surface features, topography, and parcel information. This phase includes the following tasks:

**Task 001 Field Survey:** A field survey of the project site will be performed to establish project control and verify benchmarks. In addition, this scope item will include additional field survey to verify mapping, capture pertinent surface features, capture surface evidence of existing utilities and obtain rim/invert information for sewer and storm drains, both onsite and at connections to adjacent utilities.

**Task 002 Aerial Mapping:** Aerial mapping will be performed for the proposed project site approximately 100 feet beyond the outside perimeter and R/W limits of adjacent roadway. Contours will be included in the mapping.

**Task 003 Boundary:** This task will also include determination of boundary/right-of-way limits within the project limits. A land surveyor will calculate the boundary and make a determination based on his experience and expertise. The boundary determination will be based on the controlling corners located per Task 001 above and record documents provided by the Town. SEI will supplement the base-map based with said documentation. Current title documentation for each site shall be provided by the Town or sufficient documentation to identify the subject parcel(s).

Corners will not be set as a part of this task and a Results of Survey will not be recorded. See Allowances for Record Survey task.

Completion of the survey may be stopped if any conflict with the boundary of the subject parcel is discovered during the evaluation and survey of the property. All services required to resolve the conflict are additional to the scope of work outlined in this Task and not included in the cost of the survey. Approval for additional services due to boundary conflict shall be in writing in accordance to this contract before proceeding with any additional services to resolve the conflict(s). The survey will be based solely on the documents provided by the Client.



**Task 004 Base-Mapping:** SEI will prepare a base-map of the project area using data collected during the field survey, recorded plat maps, as-builts, GIS files provided by the Town and utility information. This base-map will show existing topographic data, property lines, rights-of-way, utilities and existing surface improvements. All base-mapping will use the Town local horizontal and vertical datums.

**Phase 0003 Construction Documents:** This phase of the project includes the design and preparation of construction documents (plans) for the tank, booster station, recharge basins and piping. The design will be submitted and reviewed at three (3) stages: 30%, 60% and 100% (Final). The plans and specifications will be prepared so they can be submitted to Maricopa County Environmental Services (MCESD) for approval at the 60% and 100% (Final) stages. This phase will include the following tasks:

**Task 001 30% Plans:** The 30% Plans Submittal will include plan and profile sheets (no profile included until 60% Plans) showing topographic survey, existing utilities, potential obstructions and proposed facilities. The following materials will be developed and submitted for review:

- a. Initial design sheet with index, general notes and design parameters
- b. Initial tank and booster pump site plan and preliminary grading plan
- c. Initial recharge basins site plan and preliminary grading plan
- d. Initial booster pump mechanical design
- e. Initial equipment selection
- f. Initial location of piping, valves, and appurtenances
- g. Initial location of connections to other lines or facilities
- h. Location of existing utilities and identification of initial utility conflicts
- i. Initial summary of quantities
- j. Initial electrical and controls design
- k. Initial One-Line Diagram
- l. Initial P&ID

**Task 002 60% Plans:** The 60% Plans Submittal will include further detailed design and development based on the 30% design comments and feedback from the Town. The following materials will be developed and submitted for review:

- a. Pre-final design sheet with index and general notes
- b. Pre-final tank and booster pump site plan and grading plan
- c. Pre-final recharge basins site plan and grading plan
- d. Pre-final booster pump mechanical design
- e. Pre-final equipment selection
- f. Pre-final location of piping, valves, and appurtenances
- g. Pre-final location of connections to other lines or facilities
- h. Pre-final Location of existing utilities and identification of initial utility conflicts
- i. Pre-final summary of quantities
- j. Pre-final electrical and controls design
- k. Pre-final One-Line Diagram

- l. Pre-final P&ID
- m. Pre-final structural details for AWWA D110 tank, equipment pads and chlorine shed pad
- n. Technical specifications for tank, booster station and recharge facility
- o. Value engineering review and recommendations
- p. Pump selection design memo
- q. Equipment tagging index
- r. Design report

**Task 003 100% (Final) Plans:** SEI will prepare 100% (Final) construction plans from the 60% plan review comments. The construction plans will address the client and submittal agency comments. The following materials will be developed and submitted for review:

- a. Final design sheet with index and general notes
- b. Final tank and booster pump site plan and grading plan
- c. Final recharge basins site plan and grading plan
- d. Final booster pump mechanical design
- e. Final equipment selection
- f. Final design of piping, valves, and appurtenances
- g. Final design of connections to other lines or facilities
- h. Final design of existing utilities and identification of initial utility conflicts
- i. Final summary of quantities
- j. Final electrical and controls design
- k. Final One-Line Diagram
- l. Final P&ID
- m. Final structural details for AWWA D110 tank, equipment pads and chlorine shed pad
- n. Technical specifications for tank, booster station and recharge facility
- o. Value engineering review and recommendations
- p. Pump selection design memo
- q. Equipment tagging index
- r. Final design report

**Task 004 Electrical, Instrumentation & Controls (EI&C) Plans:** The scope for this task will include the electrical design for the proposed booster pump station and water storage tank:

- a. Design will include the design of a new electric service for the facility, coordination with utility provider for electric service requirements, and electrical distribution to booster station equipment, tank & recharge site instrumentation.
- b. Design will include new electric service and distribution equipment, conduit and conductor routing for instrumentation, pump control and SCADA system. Pump control system and tank system will include I/O for connection to SCADA/Telemetry system.
- c. SEI will coordinate SCADA system requirements with the Owner's SCADA System Provider.
- d. Electrical plans and specifications will include one-line diagram, power distribution, lighting distribution and control, electrical site plan and specifications for construction. One-line diagram to be included with all submittals.

- e. Design plans and cost estimates will be submitted for review at the 60% and 100% (Final) stages.
- f. General consulting services for engineering, programming, and commissioning with the Owner for the design of the Booster Pump Station. Consultation will include meetings, drawing and technical document review, hardware recommendations according to owner requirements and standards, I/O identification, and coordination with Owner's SCADA supplier.
- g. SCADA system design and implementation will be by Owner's SCADA System supplier.

**Task 005 Structural Design:** This task will be full design and specifications for an AWWA D110 Type I cast in place tank and equipment pads design

- a. SEI will provide the dimensional requirements for the tank construction. Including locations of hatches, ladders, inlets, outlets, and other tank appurtenances.
- b. SEI will provide the structural design of an AWWA D110 pre-stressed tank along with the required construction specifications and foundation design. Construction documents will include foundation plan, wall plan, column sections, roof plan, and pre-stressing requirements for tank. Documents will also include connection requirements between tank floor to wall and wall to roof.
- c. Work will include production of plans for bidding and final construction.
- d. Equipment pads & chlorine shed pad.

**Task 006 Cost Estimates:** SEI will prepare an Engineer's Opinion of Probable Costs for the 60% and sealed 100% (Final) submittals.

**Task 007 Design Report:** This task includes preparing the booster pump and tank final design report in accordance with MCESD requirements. The Final Design Report will include flow analysis, booster pump sizing and appurtenance piping. The written report will include design criteria documentation, overall description, exhibits and calculations that will be submitted to MCESD for review. To be submitted with plans at 60% and 100% submittal.

**Task 008 Technical Specifications:** SEI will prepare Technical Specifications for the 60% (Preliminary) and 100% (Final) submittals. SEI will provide technical specifications for any items that cannot be covered by SEI & MAG Standard Specifications and details. These specifications will be included in American Institute of Architects (AIA) format.

**Task 009 Geotechnical Report:** The scope of work for this task includes borings in the near vicinity of the proposed tank site, materials analysis and geotechnical recommendations/report. Detailed scope of work will be provided in accordance with the attached proposal from Ninyo & Moore. (See [Exhibit E](#) – Ninyo & Moore)

**Task 010 ATC:** SEI will prepare and submit the ATC package to MCESD. The package includes the application, design report, and review fees. See the reimbursable expenses allowance task for the expected expedited review fees.

**Task 011 Quality Control Reviews:** SEI will perform internal quality control reviews of the project. The construction documents will be reviewed by a qualified individual other than the originator to review the plans for accuracy, conciseness, constructability and ability to convey the intent to the contractor(s).

**Task 012 Utility Coordination:** SEI will research public and private utilities and submit plans to utility providers for conflict review at 30%, 60% and prior to 100% (Final) submittal. SEI will utilize the Town's GIS information and Town As-Builts for verification of the Town's utilities and SEI will obtain private utility maps through request letters. SEI will send plans to each utility company to obtain a "NO CONFLICT" letter once all comments have been incorporated into the plans. SEI will continue to send plans to all utility companies at the three submittal stages even if a "NO CONFLICT" is received prior to final plan submittal.

**PHASE 004 CONSTRUCTION SUPPORT & POST DESIGN SERVICES (ALLOWANCE):** This phase of the project includes construction support and post design services during construction of the project. Tasks include contractor selection, GMP development, construction engineering support and special inspection. This phase will include the following tasks:

**Task 001 Contractor Selection Support:** The project is anticipated to use a CMAR delivery method. SEI will assist the Town in the CMAR selection process (RFQ development, SOQ review, interview panel) for the project.

**Task 002 GMP Development & Review:** This task includes responding to the contractor/ Town request for information (RFI's) and engineering clarifications during development of the Guaranteed Maximum Price (GMP). Lastly, this task includes review and comments of the contractor's GMP at the 30%, 60% and Final stages.

**Task 003 Construction Engineering Support:** SEI will provide Construction Engineering Support services for the project construction. It is expected the Town will provide a construction administration and construction inspector. SEI services may include:

- a. Coordinate with the contractor, CM, Town staff and others
- b. Attend construction kick off meeting
- c. Attend weekly construction meetings
- d. Review and approve/disapprove contractor submittals for proposed materials for adherence to the plans, and specifications. Including pump certification.
- e. Respond, in writing to written contractor RFI's during construction
- f. Design support
- g. Attend Owner demonstration testing
- h. Direct pump testing and provide final pump curve
- i. Review and recommend approval/disapproval of change orders during construction
- j. The Project Engineer will make site visits outside of the construction meetings when issues arise or when requested by the Town. Twenty (20) site visits of this nature are budget for this task. If additional site visits are required, they will be attended on a time and materials (T&M) basis according to the hourly fee schedule in Exhibit D included with this proposal.

- k. Project Engineer and electrical engineer will attend startup and commissioning of the facility.

**Task 004 Special Inspection:** SEI will supplement the Town's inspection with special inspections for concrete, electrical and controls. Observation will not relieve Contractor in any way from their obligations and responsibilities under the Contract Documents. A special inspection observer will be furnished for the project that will be qualified for the work and their duties. Special inspection duties will include but not be limited to:

- a. If needed, provide written documentation of the field observations to the Town and verify correction of deficiencies as noted.
- b. Issue immediate written memoranda of non-compliance to Contractor, Town and Project Engineer when the Special Inspector determines Contractor's work to be defective or deficient.
- c. Structural special inspections for floor rebar, wall rebar and roof rebar prior to pours. Structural special inspection of continuous pre-stressing of tank wall to be provided by contractor in accordance with specification requirements.
- d. Attend shop demonstration of electrical and control panels as indicated in specifications.
- e. Attend weekly or bi-weekly construction coordination meetings as required leading up to and during their task assignment.

**PHASE 0005 ALLOWANCES:** The following allowances are provided for additional services that may be requested by the Town as part of this project. Allowances will only be used with prior written authorization from the Town's Project Manager.

**Task 001 Easements and Right-of-Way (R/W) Legals/Exhibits:** SEI will provide legal descriptions and exhibits for easements (temporary construction or permanent) or R/W acquisitions, as needed, for the project. A total of \$4,000 has been budgeted for this allowance. SEI shall contact the Town's Project Manager prior to preparing any legals/exhibits.

**Task 002 Record of Survey:** This task will perform a "Record of Survey" of the project parcel with boundary as determined in Phase 0002. The Record of Survey shall be performed in accordance with Arizona Minimum Standards for Boundary Surveys which includes setting property corners.

**Task 003 Reimbursable Expenses:** This allowance will be for reproductions costs of plans and other documents, review fees and other miscellaneous project expenses as needed.

## **PROJECT TENTATIVE SCHEDULE**

See proposed project schedule attached as [Exhibit C](#)

## **BASIS FOR PAYMENT**

See manhour sheet attached as [Exhibit B](#)

## DELIVERABLES

1. Submittals prior to final to Town will be electronic PDF format. Plan sheets will be full size 24 x 36 - inch and reports, specs and estimates will be 8.5 x 11 - inch.
2. Final Submittal will be the above-mentioned PDF and full-size printed copy of final documents.


## SCOPE OF WORK CONDITIONS

1. Any items not specifically included within the scope of this proposal are excluded. If additional items are added to the contract, they will be performed in accordance with rates & fees in the Contract for On-Call Professional Design Services Wells, Tanks & Boosters, RFQ No. 23-003, 2023-006, effective date January 5, 2023 between the Designer and Town.
2. The Town of Queen Creek shall be responsible for providing the following:
  - a. Record drawings/as-builts within the project areas
  - b. Town quarter section utility maps and electronic GIS map files
  - c. The Town will provide recharge basin volume required and infiltration well design by another consultant.
  - d. The project is planning for construction with a construction manager at risk (CM@R) contractor.
  - e. The Town will provide construction administration and construction observation.
3. Time and Materials tasks will be performed in accordance with rates & fees shown in Exhibit D.
4. SCADA system and remote telemetry design are excluded.
5. Arc flash study is excluded.
6. Reproduction costs for plans, exhibits, reports, etc. will be billed as a reimbursable expense or on a Time and Material basis depending on method of execution, in addition to the project cost.
7. Additional tasks may be added by written request.

If you are interested in having us complete the services outlined in this proposal, please execute the agreement below and return one copy to our office. Client will be billed monthly based on the amount of work completed for each task. We will invoice you at the beginning of each month for services performed during the previous month. Payment is due 30 days from the date of the invoice. If you have any questions regarding this proposal, please contact me at (480) 768-8600. We look forward to continuing to work with you on this project.

Sincerely,  
SUNRISE ENGINEERING, INC.

Accepted and Agreed:  
Town of Queen Creek

  
Geoffrey S. Child, P.E.  
Vice President

By: \_\_\_\_\_  
Signature  
\_\_\_\_\_  
Printed Name  
Title: \_\_\_\_\_  
Print Title  
Date: \_\_\_\_\_

rmh





Town of Queen Creek  
Kenworthy Tank and Boosters

(PM)

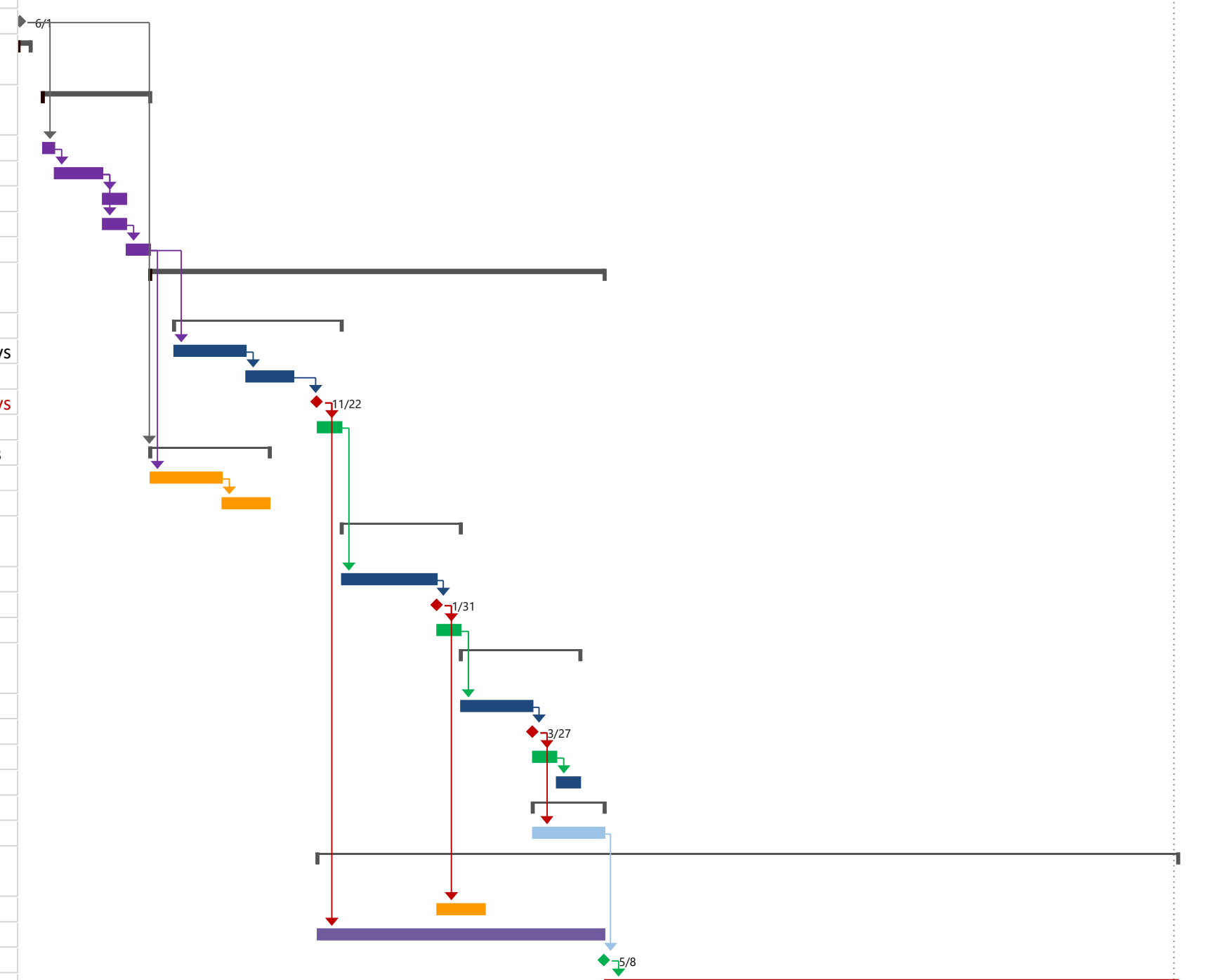
Phase	Task	Work Task Description	Engineer V	Engineer IV	Engineer III	Engineer (E.I.T.) II	Engineering Tech II	Engineering Tech I	CAD Technician IV	Registered Surveyor	Survey Manager	Survey Crew Chief	Survey CAD Tech	Survey Tech II	Survey Tech I	Administrative III	Construction Observer IV	Direct Costs	Mileage	(hours)	(\$)	Fee Type*		
<b>0001</b>		<b>Meetings &amp; Project Management</b>																					NTE	
	001	Project Meetings		120	120	160														400	\$62,800			
	002	Project Management		24	40	60														124	\$18,788			
																				<b>Subtotal</b>	<b>\$81,588</b>		NTE	
<b>0002</b>		<b>Survey &amp; Base-Mapping</b>																					NTE	
	001	Field Survey								4	25				25					54	\$7,050			
	002	Aerial Mapping								2	10		10							22	\$2,990			
	003	Boundary								32										32	\$6,048			
	004	Base-Mapping								4		8	16							28	\$3,396			
																				<b>Subtotal</b>	<b>\$19,484</b>		NTE	
<b>0003</b>		<b>Construction Documents</b>																					NTE	
	001	30% Plans																						
		Tank and Boosters	20		20	20	20		40											120	\$17,080			
		Recharge Basins	20		40	60	60		40											220	\$30,100			
	002	60% Plans																						
		Tank and Boosters	40		60	60			100											260	\$37,820			
		Recharge Basins	20		20	40	40		20											140	\$19,540			
	003	100% (Final) Plans																						
		Tank and Boosters	40		60	100	40		80											320	\$45,120			
		Recharge Basins	10		12		40		20											82	\$11,054			
	004	Electrical, Instrumentation & Controls Plans																	\$22,250	0	\$22,250			
	005	Structural Design																	\$50,500	0	\$50,500			
	006	Cost Estimates	16		32	40														88	\$13,736			
	007	Design Report	40		40	60														140	\$22,580			
	008	Technical Specifications	40		80	80														200	\$31,800			
	009	Geotechnical Report																	\$45,000	0	\$45,000			
	010	ATC	8		12	12														32	\$5,184			
	011	Quality Control Reviews	24	24	12			40												100	\$15,260			
	012	Utility Coordination		16	16				8								16			56	\$7,688			
																				<b>Subtotal</b>	<b>\$374,712</b>		NTE	
<b>0004</b>		<b>Contractor Support &amp; Post Design Services (Allowance)</b>																					NTE	
	001	Contractor Selection Support	20		24	16															60	\$10,180		
	002	GMP Development & Review	72		72	72	60		40											316	\$47,732			
	003	Construction Engineering Support	160		160	160	120		40										\$5,000	640	\$103,720			
	004	Special Inspection															480		\$5,000	480	\$60,200			
																				<b>Subtotal</b>	<b>\$221,832</b>		NTE	
<b>0005</b>		<b>Allowances</b>																					NTE	
	001	Easements Legals & Exhibits																	\$4,000	0	\$4,000			
	002	Record of Survey																	\$3,500	0	\$3,500			
	003	Reimbursable Expenses																	\$10,000	0	\$10,000			
																				<b>Subtotal</b>	<b>\$17,500</b>		NTE	
Sub-total Hours/Miles/Days			530	184	820	940	380	40	388	32	10	35	8	26	25	16	480	145250	0	3914				
Hourly Billing Rate			\$207	\$187	\$167	\$127	\$115	\$95	\$119	\$189	\$175	\$165	\$139	\$99	\$89	\$67	\$115			\$0.63				
Total Dollars			\$109,710	\$34,408	\$136,940	\$119,380	\$43,700	\$3,800	\$46,172	\$6,048	\$1,750	\$5,775	\$1,112	\$2,574	\$2,225	\$1,072	\$55,200	\$145,250	\$0					

\*Lump Sum = Fixed Fee; T&M = Time & Materials; NTE = T&M Not to Exceed, is a budgeted amount that will not be exceeded without Client approval and does not guarantee the tasks will be completed within this amount.

**Total Design \$ 475,784**  
**Total Allowances \$ 239,332**  
**Total NTE Contract \$ 715,116**

# Town of Queen Creek Kenworthy Pit Tank and Boosters

Task ID	Task Name	Duration	Start	Finish	Predecessors	2024												2025															
						Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
1	<b>Kenworthy Pit Tank and Boosters</b>	<b>485 days</b>	<b>Thu Jun 1, '23</b>	<b>Wed Apr 9, '25</b>		[Gantt bar for Task 1]																											
2	<b>NOTICE TO PROCEED</b>	0 days	Thu Jun 1, '23	Thu Jun 1, '23		[Gantt bar for Task 2]																											
3	<b>Project Kick-Off</b>	5 days	Thu Jun 1, '23	Wed Jun 7, '23		[Gantt bar for Task 3]																											
5	<b>Survey &amp; Base-Mapping</b>	<b>45 days</b>	<b>Thu Jun 15, '23</b>	<b>Wed Aug 16, '23</b>		[Gantt bar for Task 5]																											
6	Field Survey Control & Aerial Targets	5 days	Thu Jun 15, '23	Wed Jun 21, '23	2FS+10 days	[Gantt bar for Task 6]																											
7	Aerial Mapping	20 days	Thu Jun 22, '23	Wed Jul 19, '23	6	[Gantt bar for Task 7]																											
8	Boundary Determination/Mapping	10 days	Thu Jul 20, '23	Wed Aug 2, '23	7	[Gantt bar for Task 8]																											
9	Existing Utility Mapping	10 days	Thu Jul 20, '23	Wed Aug 2, '23	7	[Gantt bar for Task 9]																											
10	Create Final Base-Mapping	10 days	Thu Aug 3, '23	Wed Aug 16, '23	9	[Gantt bar for Task 10]																											
11	<b>Construction Documents</b>	<b>190 days</b>	<b>Thu Aug 17, '23</b>	<b>Wed May 8, '24</b>		[Gantt bar for Task 11]																											
12	<b>30% Tank, Booster &amp; Recharge Basin Plans</b>	<b>70 days</b>	<b>Thu Aug 31, '23</b>	<b>Wed Dec 6, '23</b>		[Gantt bar for Task 12]																											
13	Preliminary Recharge Basin Grading	30 days	Thu Aug 31, '23	Wed Oct 11, '23	10FS+10 days	[Gantt bar for Task 13]																											
14	Prepare 30% Plans	20 days	Thu Oct 12, '23	Wed Nov 8, '23	13	[Gantt bar for Task 14]																											
15	Submit 30% Plans	0 days	Wed Nov 22, '23	Wed Nov 22, '23	14FS+10 days	[Gantt bar for Task 15]																											
16	Design Team Review	10 days	Thu Nov 23, '23	Wed Dec 6, '23	15	[Gantt bar for Task 16]																											
17	<b>CMAR Contractor Selection</b>	<b>50 days</b>	<b>Thu Aug 17, '23</b>	<b>Wed Oct 25, '23</b>	<b>2FS+16 days</b>	[Gantt bar for Task 17]																											
18	Solicitation & Selection of CMAR Contractor	30 days	Thu Aug 17, '23	Wed Sep 27, '23	10	[Gantt bar for Task 18]																											
19	CMAR Contractor Contract Approval	20 days	Thu Sep 28, '23	Wed Oct 25, '23	18	[Gantt bar for Task 19]																											
20	<b>60% Tank, Boosters, Recharge Basin Plans &amp;</b>	<b>50 days</b>	<b>Thu Dec 7, '23</b>	<b>Wed Feb 14, '24</b>		[Gantt bar for Task 20]																											
21	Prepare 60% Plans & Specifications	40 days	Thu Dec 7, '23	Wed Jan 31, '24	4,16	[Gantt bar for Task 21]																											
22	Submit 60% Plans & Specifications	0 days	Wed Jan 31, '24	Wed Jan 31, '24	21	[Gantt bar for Task 22]																											
23	Design Team Review	10 days	Thu Feb 1, '24	Wed Feb 14, '24	22	[Gantt bar for Task 23]																											
24	<b>Final Tank, Boosters, Recharge Basin Plans &amp;</b>	<b>50 days</b>	<b>Thu Feb 15, '24</b>	<b>Wed Apr 24, '24</b>		[Gantt bar for Task 24]																											
25	Prepare Final Plans & Specifications	30 days	Thu Feb 15, '24	Wed Mar 27, '24	23	[Gantt bar for Task 25]																											
26	Submit Final Plans & Specifications	0 days	Wed Mar 27, '24	Wed Mar 27, '24	25	[Gantt bar for Task 26]																											
27	Design Team Review	10 days	Thu Mar 28, '24	Wed Apr 10, '24	26	[Gantt bar for Task 27]																											
28	Address Final Comments	10 days	Thu Apr 11, '24	Wed Apr 24, '24	27	[Gantt bar for Task 28]																											
29	<b>Environmental &amp; Permitting</b>	<b>30 days</b>	<b>Thu Mar 28, '24</b>	<b>Wed May 8, '24</b>		[Gantt bar for Task 29]																											
30	MCESD Review/Approval	30 days	Thu Mar 28, '24	Wed May 8, '24	26	[Gantt bar for Task 30]																											
31	<b>Construction</b>	<b>360 days</b>	<b>Thu Nov 23, '23</b>	<b>Wed Apr 9, '25</b>		[Gantt bar for Task 31]																											
32	Long Lead Material GMP	20 days	Thu Feb 1, '24	Wed Feb 28, '24	22	[Gantt bar for Task 32]																											
33	Construction GMP (30%, 60%, 90% & Final)	120 days	Thu Nov 23, '23	Wed May 8, '24	15	[Gantt bar for Task 33]																											
34	Construction NTP	0 days	Wed May 8, '24	Wed May 8, '24	30	[Gantt bar for Task 34]																											
35	Construction	240 days	Thu May 9, '24	Wed Apr 9, '25	34	[Gantt bar for Task 35]																											



**Project: Kenworth Pit Tank & Boosters Project Schedule**  
2023-04-25  
Date: Tue Apr 25, '23

Task		Project Summary		Manual Task		Start-only		Deadline	
Split		Inactive Task		Duration-only		Finish-only		Progress	
Milestone		Inactive Milestone		Manual Summary Rollup		External Tasks		Manual Progress	
Summary		Inactive Summary		Manual Summary		External Milestone			



RFQ 23-003 Contract Exhibit C  
Pricing

**On-Call Wells, Tanks & Boosters**

Firm Name: Sunrise Engineering, Inc.

Submit fee schedule in accordance with the sample below. Respondent may provide a table of costs based on expertise of employee i.e. classification / title

Item	Classification / Title	Average Hourly Rate	Overhead	Net Fee	Total Hourly Rate
1	Principal Engineer	\$72.11	187%	10%	\$228
2	Engineer V	\$65.47	187%	10%	\$207
3	Engineer IV	\$59.14	187%	10%	\$187
4	Engineer III	\$52.82	187%	10%	\$167
5	Engineer (E.I.T.) III	\$43.33	187%	10%	\$137
6	Engineer (E.I.T.) II	\$40.17	187%	10%	\$127
7	Engineer (E.I.T.) I	\$37.01	187%	10%	\$117
8	Engineering Tech IV	\$43.96	187%	10%	\$139
9	Engineering Tech III	\$40.80	187%	10%	\$129
10	Engineering Tech II	\$36.37	187%	10%	\$115
11	Engineering Tech I	\$30.05	187%	10%	\$95
12	Project Manager II	\$56.61	187%	10%	\$179
13	Project Manager I	\$50.29	187%	10%	\$159
14	CAD Technician IV	\$37.64	187%	10%	\$119
15	CAD Technician III	\$34.47	187%	10%	\$109
16	CAD Technician II	\$31.31	187%	10%	\$99
17	CAD Technician I	\$28.15	187%	10%	\$89
18	Civil Plan Reviewer	\$52.19	187%	10%	\$150
19	Principal Surveyor	\$66.10	187%	10%	\$209
20	Registered Surveyor	\$59.78	187%	10%	\$189
21	Survey Manager	\$55.35	187%	10%	\$175
22	Survey Crew Chief	\$52.19	187%	10%	\$165
23	Survey CAD Tech	\$43.96	187%	10%	\$139
24	Survey Tech II	\$31.31	187%	10%	\$99
25	Survey Tech I	\$28.15	187%	10%	\$89
26	Administrative III	\$21.19	187%	10%	\$67
27	Administrative II	\$18.03	187%	10%	\$57
28	Administrative I	\$14.87	187%	10%	\$47
29	Construction Observer IV	\$36.37	187%	10%	\$115
30	Construction Observer III	\$33.21	187%	10%	\$105
31	Construction Observer II	\$30.05	187%	10%	\$95
32	Construction Observer I	\$26.88	187%	10%	\$85
33	Construction Manager II	\$45.86	187%	10%	\$145
34	Construction Manager I	\$39.54	187%		\$125

**REIMBURSABLE EXPENSES/TRAVEL EXPENSES**

\* Requires prior written authorization and shall be paid at actual cost.

Photo Copies \$          per outsourced invoice

Color Copies \$          per outsourced invoice

Mileage \$ 0.625/mile



June 27, 2023  
Proposal No. 12PHX02-05203

Mr. Ricky Holston, PE  
Sunrise Engineering  
2045 South Vineyard, Suite 101  
Mesa, Arizona 85210

Subject: Proposal to Provide Geotechnical Engineering Services  
Town of Queen Creek (TOQC)  
Kenworthy Tank and Boosters  
38721 North Kenworthy Road  
Town of Queen Creek, Arizona

Dear Mr. Holston:

Ninyo & Moore is pleased to submit this proposal to provide geotechnical engineering services for the above mentioned project. This proposal is based on the information that we received from your office and comments provided by the Town of Queen Creek on June 26, 2023. This proposal outlines our scope of services, project assumptions, anticipated schedule, and fee for this phase of the project.

## **SITE AND PROJECT DESCRIPTION**

The project site is located at 38721 North Kenworthy Road within the Town of Queen Creek, Arizona. This site was formally used by CEMEX as a sand and gravel quarry and as a result, portions of the site were mass excavated to depths up to about 100 feet below the surrounding grade. We understand that the project includes the design and construction of a three-million-gallon concrete water storage tank, booster pumps, future tank, and recharge basins. The tanks and booster pumps will be situated within a relatively flat area of the site, where little to no past grading was conducted. However, the recharge basins will be situated within the portion of the site where mass excavations have occurred. The plan in this area is to excavate the perimeter edge of the quarry pit and fill the lower portions of the pit to create a level bottom. We have been asked to prepare this proposal to conduct the geotechnical engineering work for this project.

## SCOPE OF SERVICES

Our scope of services is summarized below:

- Review available published and in-house geotechnical reports, topographic information, soil surveys, geologic literature, and aerial photographs of the project area.
- Conduct a field trip to the site for geologic reconnaissance.
- Conduct a site visit to select and mark out the proposed boring locations.
- Contact Arizona 811 to evaluate utility locations prior to drilling.
- Perform a geotechnical exploration, which will include the excavating of five soil borings. Of these borings, three will be located within or near the concrete water storage tank, booster pumps, and future tank area will extend up to 70 feet deep; while two will be located within or near the recharge basins area will extend up to 35 feet deep. These borings will be advanced with a truck mounted drill rig using hollow-stem augers (HSAs).
- Collect soil samples in the borings for laboratory testing and analysis. The boreholes will be backfilled with soil spoils. Ninyo & Moore personnel will log the borings in general accordance with the Unified Soil Classification System and ASTM D2488 by observing cuttings and split-spoon samples. The soil samples will be transported to a Ninyo & Moore laboratory for testing.
- Conduct four field double-ring percolation test in order to assist in evaluating the infiltration rates specific locations. Two tests will be run near the planned tanks and two tests will be run in the areas of the planned recharge area. They will be conducted in general accordance with ASTM D3385-18.
- Perform laboratory testing that will evaluate the on-site soils characteristics for representative soil samples.
- Prepare a geotechnical report to include logs of the exploratory borings and results of the laboratory testing. The report will include a cover letter sealed by a Professional Engineer licensed in the State of Arizona. The report will include the following:
  - Site vicinity map and boring plan map;
  - Description of work scope, laboratory, and field procedures;
  - Encountered subsurface soil and groundwater conditions;
  - General seismic characteristics in accordance with International Building Code;
  - Geologic hazards;
  - Excavation characteristics of on-site soils;
  - Excavation side slope stability;
  - Vertical shoring guidelines;
  - Earthwork factors;

- Potential for re-use of on-site soils;
- Subgrade preparation measures;
- Recommendations for special soil conditions such as expansive, collapsible, or highly compressible soils;
- General foundation guidelines;
- Shallow foundation recommendations, including allowable bearing pressure; total settlement; and differential settlement;
- Percolation test results;
- Recommendations relative to site drainage; and
- Discussion of soil corrosivity to steel and concrete.

## **ASSUMPTIONS**

We have made the following assumptions in the preparation of this proposal:

- Right-of-way permits and permission will be obtained by others.
- No traffic control services will be needed.
- The site is accessible to normal, two-wheel drive, truck-mounted drilling equipment, and site access will be granted.
- The work can be accomplished using HSA operating at a normal rate of penetration.
- If auger refusal is encountered, we will terminate the drilling and notify your office.
- Double-ring tests will be run at the existing ground elevations. No additional excavation will be needed.
- Groundwater will not be encountered.
- Ninyo & Moore will not need to obtain any environmental clearance as a part of this project.

## **SCHEDULE**

We are prepared to initiate this project immediately. The fieldwork should be finished within four weeks of receiving right-of-entry. We anticipate issuing our report within about eight weeks from receiving right-of-entry. Preliminary recommendations can be provided about one week after the field work is done.

## FEE

We propose to perform the geotechnical work scope described above for a lump sum fee of \$45,000 (Forty-Five Thousand Dollars). The fee is based on the scope of services presented above and our understanding of the project. Any additional services, not included in the aforementioned scope, will be charged on a time-and-materials basis in accordance with our current Schedule of Fees. To authorize our services, please sign and return the attached Work Authorization and Agreement.

We look forward to working with you.

Respectfully submitted,

**NINYO & MOORE**



Steven D. Nowaczyk, PE  
Managing Principal Engineer

SDN/tp

Attachment: Work Authorization and Agreement

## WORK AUTHORIZATION AND AGREEMENT

Please Sign and Return One Copy to:

**NINYO & MOORE**  
3202 East Harbour Drive  
Phoenix, Arizona 85034

PROPOSAL NO. **12PHX02-05203**

1. PROJECT ADDRESS: **38721 North Kenworthy Road, Town of Queen Creek, Arizona**
2. PROJECT DESCRIPTION: **Geotechnical Engineering Services**
3. SCOPE OF STUDY: **Please refer to proposal dated June 27, 2023.**
4. FEE: **\$45,000 (Forty-Five Thousand Dollars – Lump Sum)**
5. PORTION OF FEE IN ADVANCE OF WORK: **None**
6. CLIENT: **Sunrise Engineering** PHONE: **(480) 768-8600**  
**2045 South Vineyard, Suite 101**  
**Mesa, Arizona 85210**
- CONTACT: **Ricky Holston** PHONE: **(480) 768-8600**
7. STATEMENT TO BE SENT TO: **Client**

## CONDITIONS OF AGREEMENT BETWEEN CLIENT AND NINYO & MOORE

This AGREEMENT is made by and between: NINYO & MOORE GEOTECHNICAL AND ENVIRONMENTAL SCIENCES CONSULTANTS, hereinafter referred to as CONSULTANT, and **Sunrise Engineering**, hereinafter referred to as CLIENT. This AGREEMENT between the parties consists of these TERMS, the attached Proposal identified as No. **12PHX02-05203** dated **June 27, 2023**, and any exhibits or attachments noted in the Proposal. Together, these elements will constitute the entire AGREEMENT superseding any and all prior negotiations, correspondence, or agreements either written or oral. Any changes to this AGREEMENT must be mutually agreed to in writing.

## STANDARD OF CARE

CLIENT recognizes that subsurface conditions may vary from those observed at locations where borings, surveys, or explorations are made, and that site conditions may change with time. Data, interpretations, and recommendations by CONSULTANT will be based solely on information available to CONSULTANT. CONSULTANT is responsible for those data, interpretations, and recommendations, but will not be responsible for other parties' interpretations or use of the information developed.

Services performed by CONSULTANT under this AGREEMENT are expected by CLIENT to be conducted in a manner consistent with the level of care and skill ordinarily exercised by members of the geotechnical engineering profession practicing contemporaneously under similar conditions in the locality of the project. Under no circumstance is any warranty, expressed or implied, made in connection with the providing of geotechnical consulting services.

## SITE ACCESS AND SITE CONDITIONS

CLIENT will grant or obtain free access to the site for all equipment and personnel necessary for CONSULTANT to perform the work set forth in this agreement. CLIENT will notify any and all possessors of the project site that CLIENT has granted CONSULTANT free access to the site. Client will protect all property, inside and out, including all plants and landscaping. CONSULTANT will take reasonable precautions to reduce the potential for damage to the site, but it is understood by CLIENT that, in the normal course of work, some damage may occur and the correction of such damage or alteration is not part of this AGREEMENT unless so specified in the Proposal.

CLIENT is responsible for accurately delineating the locations of all subterranean structures and utilities. CONSULTANT will take reasonable precautions to avoid known subterranean structures, and CLIENT waives any claim against CONSULTANT, and agrees to defend, indemnify and hold CONSULTANT harmless from any claim or liability for injury or loss, including costs of defense, arising from damage done to subterranean structures and utilities not identified or accurately located. In addition,



CLIENT agrees to compensate CONSULTANT for any time spent or expenses incurred by CONSULTANT in defense of any such claim, with compensation to be based upon CONSULTANT's prevailing fee schedule and expense reimbursement policy.

## SAMPLE DISPOSAL

CONSULTANT will dispose of remaining soil, rock, and water samples approximately thirty (30) days after submission of the report covering those samples. Further storage or transfer of samples can be made at CLIENT's expense upon CLIENT's prior written request.

## MONITORING

If CONSULTANT is retained by CLIENT to provide a site representative for the purpose of monitoring specific portions of construction work or other field activities as set forth in the Proposal, then this phrase applies. For the specified assignment, CONSULTANT will report observations and professional opinions to CLIENT or CLIENT's agent. No action of CONSULTANT or CONSULTANT's site representative can be construed as altering any AGREEMENT between the CLIENT and others. CONSULTANT will report to CLIENT or CLIENT's agent any observed geotechnically related work which, in CONSULTANT's professional opinion, does not conform with plans and specifications. The CONSULTANT has no right to reject or stop work of any agent or subcontractor of CLIENT; such rights are reserved solely for CLIENT. Furthermore, CONSULTANT's presence on the site does not in any way guarantee the completion or quality of the performance of the work of any party retained by CLIENT to provide field or construction-related services.

If CONSULTANT is not retained by Client for the purpose of monitoring construction work or field activities, CONSULTANT will expressly not be held liable or responsible for such activities or for the geotechnical performance of the completed project. Monitoring of construction work or field activities and the geotechnical performance of the completed project is and will remain the sole and express responsibility of the CLIENT or other party designated by the CLIENT. CLIENT hereby agrees to indemnify and hold harmless CONSULTANT from and against any loss or judgment, suffered by the CONSULTANT as a result of a claim or lawsuit resulting from CLIENT's failure to monitor construction work or field activities for which CONSULTANT has not been retained.

CONSULTANT will not be responsible for and will not have control or charge of specific means, methods, techniques, sequences or procedures of construction or other field activities selected by any agent or agreement of CLIENT. It is mutually understood and agreed by CLIENT and CONSULTANT that CONSULTANT has no control or enforcement ability over any persons or parties who are not employees of CONSULTANT. CONSULTANT does not purport to be, nor is CONSULTANT responsible for, any safety precautions nor programs incident thereto for such non-employees of CONSULTANT.

## OWNERSHIP AND MAINTENANCE OF DOCUMENTS

Unless otherwise specified in this Agreement or in an Addendum, and provided that CONSULTANT has been fully paid for the Services, CLIENT shall have the right to use the documents, maps, photographs, drawings and specifications resulting from CONSULTANT's efforts on the project, for purposes reasonably contemplated by the parties. CONSULTANT shall have the right, but shall not be obligated, to retain copies of all such materials and shall have the right to use the same for any purpose, unless such use would be expected to cause harm to CLIENT. CLIENT shall specify in advance, in writing, and be charged for all arrangements for special or extended-period maintenance of such materials by CONSULTANT. CONSULTANT retains the right of ownership with respect to any patentable concepts or copyrightable materials arising from its Services.

Reuse of any material described by CLIENT, including publication to third parties, on extension of this project or on any other project without CONSULTANT's written authorization, shall be at CLIENT's risk, and CLIENT agrees to indemnify, defend, and hold harmless CONSULTANT from all claims, damages, and expenses, including attorney's fees, arising out of such unauthorized reuse.

## BILLING AND PAYMENT

CLIENT will pay CONSULTANT in accordance with the procedures indicated in the Proposal and its attachments. Invoices will be submitted to CLIENT by CONSULTANT, and will be due and payable upon presentation. If CLIENT objects to all or any portion of any invoice, CLIENT will so notify CONSULTANT in writing within fourteen (14) calendar days of the invoice date, identify the cause of disagreement, and pay when due that portion of the invoice not in dispute. The parties will immediately make every effort to settle the disputed portion of the invoice. In the absence of written notification described above, the balance as stated on the invoice will be paid.

Invoices are delinquent if payment has not been received within thirty (30) days from date of invoice. CLIENT will pay an additional charge of three quarters of a percent (.75) per month (or the maximum percentage allowed by law, whichever is lower) on any delinquent amount, excepting any portion of the invoiced amount in dispute and resolved in favor of CLIENT. Payment thereafter will first be applied to accrued interest and then to the principal unpaid amount. All time spent and expenses incurred (including any attorney's fees) in connection with collection of any delinquent amount will be paid by CLIENT to CONSULTANT per CONSULTANT's current fee schedules. In the event CLIENT fails to pay CONSULTANT within sixty (60) days after invoices are rendered, CLIENT agrees that CONSULTANT will have the right to consider the failure to pay the CONSULTANT's invoice as a breach of this AGREEMENT and CONSULTANT may cease work on the project. At CONSULTANT's option, CONSULTANT may waive said major breach upon payment by CLIENT of all arrearages and outstanding invoices.

## TERMINATION

This AGREEMENT may be terminated by either party seven (7) days after written notice in the event of any breach of any provision of this AGREEMENT or in the event of substantial failure of performance by either party, or if CLIENT suspends the work for more than three (3) months. In the event of termination, CONSULTANT will be paid for services performed prior to the date of termination plus reasonable termination expenses, including, but not limited to, the cost of completing analyses, records, and reports necessary to document job status at the time of termination.

## RISK ALLOCATION

Many risks potentially affect CONSULTANT by virtue of entering into this AGREEMENT to perform professional consulting services on behalf of CLIENT. The principal risk is the potential for human error by CONSULTANT. For CLIENT to obtain the benefit of a fee which includes a nominal allowance for dealing with CONSULTANT's liability, CLIENT agrees to limit CONSULTANT's liability to CLIENT and to all other parties for claims arising out of CONSULTANT's performance of the services described in this AGREEMENT. The aggregate liability of CONSULTANT will not exceed \$50,000 for negligent professional acts, errors, or omissions, including attorney's fees and costs which may be awarded to the prevailing party, and CLIENT agrees to indemnify and hold harmless CONSULTANT from and against all liabilities in excess of the monetary limit established above.

Limitations on liability and indemnities in this AGREEMENT are business understandings between the parties voluntarily and knowingly entered into, and shall apply to all theories of recovery including, but not limited to, breach of contract, warranty, tort (including negligence), strict or statutory liability, or any other cause of action, except for willful misconduct or gross negligence. The parties also agree that CLIENT will not seek damages in excess of the limitations indirectly through suits with other parties who may join CONSULTANT as a third-party nor by an award of attorney's fees and costs to the prevailing party in excess of the aggregate liability agreed upon herein by the parties. Parties means CLIENT and CONSULTANT and their officers, employees, agents, affiliates, and subcontractors.

Both CLIENT and CONSULTANT agree that they will not be liable to each other, under any circumstances, for special, indirect, consequential, or punitive damages arising out of or related to this AGREEMENT.

## INDEMNIFICATION

If any claim is brought against CONSULTANT, its employees, agents and subcontractors and/or CLIENT by a third party, relating in any way to the Services, the contribution and indemnification rights and obligations of CONSULTANT and Client, subject to the paragraph titled "Risk Allocation" above, such claim shall be determined as follows:

1. If any negligence, breach of contract, or willful misconduct of CONSULTANT caused any damage, injury, or loss claimed by the third party, then CONSULTANT and CLIENT shall each indemnify the other against any loss or judgement on a comparative negligence basis (CLIENT responsibility to include that of its agents, employees, and other contractors); and
2. Unless CONSULTANT was liable for negligence, breach of contract, or willful misconduct which in whole or in part, caused the damage, injury, or loss asserted in the third party claim, CLIENT shall indemnify CONSULTANT against the claim, liability, loss, legal fees, consulting fees, and other costs of defense reasonably incurred.

## DISCOVERY OF UNANTICIPATED HAZARDOUS MATERIALS

CLIENT represents that CLIENT has made a reasonable effort to evaluate if hazardous materials are on or near the project site, and that CLIENT has informed CONSULTANT of CLIENT's findings relative to the possible presence of such materials.

Hazardous materials may exist at a site where there is no reason to believe they could or should be present. CONSULTANT and CLIENT agree that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. CONSULTANT and CLIENT also agree that the discovery of unanticipated hazardous materials may make it necessary for CONSULTANT to take immediate measures to protect health and safety. CLIENT agrees to compensate CONSULTANT for any equipment decontamination or other costs incident to the discovery of unanticipated hazardous materials.

CONSULTANT agrees to notify CLIENT when unanticipated hazardous materials or suspected hazardous materials are encountered. CLIENT agrees to make any disclosures required by law to the appropriate governing agencies. CLIENT also agrees to hold CONSULTANT harmless for any and all consequences of disclosures made by CONSULTANT which are required by governing law. In the event the project site is not owned by CLIENT, CLIENT recognizes that it is CLIENT's responsibility to inform the property owner of the discovery of unanticipated hazardous materials or suspected hazardous materials.

Notwithstanding any other provision of the AGREEMENT, CLIENT waives any claim against CONSULTANT and, to the maximum extent permitted by law, agrees to defend, indemnify, and save CONSULTANT harmless from any claim, liability, and/or defense costs for injury or loss arising from CONSULTANT's discovery of unanticipated hazardous materials or suspected hazardous materials, including, but not limited to, any costs created by delay of the project and any cost associated with possible reduction of the property's value.

CLIENT will be responsible for ultimate disposal of any samples secured by CONSULTANT which are found to be contaminated.

## DISPUTE RESOLUTION

If a dispute at law arises from matters related to the services provided under this AGREEMENT and that dispute requires litigation, then:

1. The claim will be brought and tried in judicial jurisdiction of the court of the county where CONSULTANT's principal place of business is located and CLIENT waives the right to remove the action to any other county or judicial jurisdiction, and;
2. The prevailing party will be entitled to recovery of all reasonable costs incurred, including staff time, court costs, attorneys' and expert witness fees, and other claim-related expenses.

## GOVERNING LAW AND SURVIVAL

If any of the provisions contained in this AGREEMENT are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions will not be impaired. Risk allocation and indemnities will survive termination or failure of this AGREEMENT for any cause.

The parties have read, or had the opportunity to read, the foregoing, including all attachments, addendums, and exhibits hereto, have had an opportunity to discuss the same, understand completely the terms, and willingly enter into this AGREEMENT which will become effective on the date signed below by CLIENT.

\_\_\_\_\_  
**Printed Name of Client or Authorized Agent**

\_\_\_\_\_  
**Signature of Client or Authorized Agent**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Steven D. Nowaczyk, PE, Managing Principal Engineer**

\_\_\_\_\_  
**Date**

**PM: SDN**

# Exhibit Wales Tank, Boosters and Recharge Site





TOWN OF  
**QUEEN CREEK**  
 ARIZONA

**TO:** HONORABLE MAYOR AND TOWN COUNCIL

**THROUGH:** BRUCE GARDNER, TOWN MANAGER

**FROM:** MARC SKOCYPEC , UTILITIES DIRECTOR

**RE:** CONSIDERATION AND POSSIBLE APPROVAL OF JOB ORDER 01 WITH MGC CONTRACTORS, INC., CONTRACT 2023-084 IN AN AMOUNT NOT TO EXCEED \$152,533 FOR THE COMPLETION OF THE LAREDO RANCH WELL SITE GENERATOR INSTALLATION MAINTENANCE PROJECT WA017. (FY 23/24 BUDGETED ITEM)

**DATE:** September 6, 2023

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**Suggested Action:**

To approve Job Order 01 with MGC Contractors, Inc., Contract 2023-084 in an amount not to exceed \$152,533 for the completion of the Laredo Ranch Well Site Generator Installation Maintenance Project WA017. (FY 23/24 Budgeted Item)

**Relevant Council Goal(s):**

Secure Future: KRA Environment

**Discussion:**

The Laredo Ranch Tank and Booster Station Well Site was originally acquired by the Town of Queen Creek as part of the acquisition of Diversified Water. The Town of Queen Creek installs and maintains electric generators at all well sites that are considered a critical site. Critical sites are those well sites that include a well, storage tank and booster pumps. The Town's distribution system currently has over 20 well site electric generators.

Generators are utilized during power outages to operate well site booster pumps and equipment in order to maintain minimum water pressure to Town customers and ensures the availability of potable water during these power outages. Staff from the Utilities Department have identified the Laredo Ranch Well Site as a critical site. The site does not currently include a generator. This cost proposal includes the installation of a Town owned generator at the Laredo Ranch Well Site.

**Fiscal Impact:**


The Generator Installation Project WA017 has been included in the FY 23/24 Water Operating budget. This project has sufficient funding for the proposed Job Order NTE amount of \$152,533. The total not to exceed amount of \$152,533 includes the project order amount of \$138,667 plus an additional \$13,866 (10%) for possible unanticipated services.

**Alternatives:**

Council may choose not to approve this Job Order at this time. Town staff would then work with Council to resolve concerns regarding this project and determine a path forward.

**Attachment(s):**

1. [Job Order 01 - MGC Contractors, Inc. - Laredo Ranch Well Site Generator](#)

	<b>JOB ORDER</b>	<b>CONTRACT NUMBER:</b>	<b>August 3, 2023</b>
		<b>JOB ORDER NUMBER: 01</b>	

TO: MGC Contractors, Inc  
 Job Order Contracting Contractor ("Contractor")

FROM: Nathan Mecham  
 Project Manager/Principle Engineer  
 Town of Queen Creek

RE: Laredo Ranch Generator Install

This Job Order is issued pursuant to the Agreement between the Town of Queen Creek and **Contractor** dated **November 19, 2019**, and the other documents that were made part of and referenced in the Agreement. This Job Order is the Notice to Proceed with the subject Job Order Project on the below Job Order Beginning Date. The terms of this Job Order are as follows:

<b>Part I - Scope of Job Order Work</b>
1. Description of the Scope of Job Order Work: The Scope includes the a cost proposal for MGC Contractors to relocate the 500kW generator from the Town of Queen Creek Field Operations Facility to the Laredo Ranch Well Site.
2. A list of Specifications for the Project is attached as " <b>Attachment 1</b> ".

<b>Part II - Specific Information</b>		
1. Job Order Price		\$138,667.00
2. Schedule	Job Order Beginning Date: (Date project must start)	Upon Approval
	Job Order Final Completion Date: i.e. Date project is complete, including, without limitation, all deficiency, incomplete or correction items (Job Order Punch List)	TBD
If there are more than sixty (60) calendar days between the Beginning Date and the Final Completion Date, or if the Town of Queen Creek has requested a Job Order Progress Schedule, a Job Order Progress Schedule should be attached as " <b>Attachment 2</b> ".		

**Part II - Approvals**

<u>Nathan Mecham</u> Nathan Mecham, Project Manager	<u>8/4/23</u> Date
<u>M. Skocypiec</u> Marc Skocypiec, Utilities Director	<u>8/4/23</u> Date
<u>Bruce Gardner</u> Bruce Gardner, Town Manager	<u>                    </u> Date
<u>K. Chubberson</u> MGC Contractors, Inc.	<u>8/7/23</u> Date



This proposal has been reviewed  
and approved for issuance of a PO.  
2-August-2023 *Nathan R. Williams*

BQ 8/02/23

*Employee Owned*



QUALITY • PERFORMANCE • VALUE



*Job Order Contract -*

*Cost Proposal*

*Project Name:*

Laredo Ranch Generator Installation REV01



August 1<sup>st</sup>, 2023

Town of Queen Creek  
22358 S Ellsworth Road  
Queen Creek, AZ 85142

Attn: PE Nathan Mecham

Re: Cost Proposal  
Laredo Ranch Generator Installation REV01

Dear Nate:

In accordance with the information provided, we are pleased to offer a cost proposal for MGC Contractors to relocate the 500kW generator from the TOQC Yard to the Laredo Ranch Site. Swain Electric is to procure all electrical instrumentation and control equipment and installation, wiring, and startup services at the Laredo Ranch. The total price of work is (\$138,667.00) One Hundred Thirty-Eight Thousand Six Hundred Sixty-Seven dollars and Zero cents. A further breakdown of the proposal and quotations are attached. We have included all applicable sales tax, bonds, and insurance. Please note the following clarifications:

Included scope:

- Demo and rework electrical conduits for pad extension retrofit.
- New grounding rods to new window location.
- Rework controls, battery charger, and block heater circuits.
- New feeders from the ATS to Generator and seal ATS cabinets.
- New flex connections and termination of relocated Generator.
- Start-up and testing.
- Relocate 500kW generator from the Town of Queen Creek yard to Laredo Ranch site by MGC Contractors.
- Concrete pad to fit the generator.
- Third-party compaction and cylinder testing.

Clarifications and exclusions:

- Swain Electric will perform electrical work.
- The concrete pad extension will be designed and stamped by Tantalean Consulting.





Thank you for the opportunity to be of service; if you have any questions, please do not hesitate to call.

Sincerely,



Kevin Christensen  
Project Manager



### Proposal Comment / Resolution Form

Project Name: Laredo Ranch Generator Installation			MGC Project Number: 19389-XX
Proposal #:			Contact: Kevin Christensen
Description: Proposal			Date: 8/01/2023
Item	Comment	Description	Resolution (Required)
0	The Town is looking for possible areas to reduce the cost of this re-installation by being as efficient as possible. As such we are seeking clarification to make sure our assumptions match yours.		
1	Are there any possible efficiencies that could be applied to Swain's scope and reduce the fee.	Subcontractor	Swain reviewed the proposal and adjusted their Pricing.
2	These hours seem high for the task.	Project Staff	These are the Hours required to complete this project.
3	CellPhone, Internet & Printer	GC Cost	Cell Phone was removed from the GC included in Overhead. Internet and printers aren't included in Overhead, This is included in the GCs.
4	Item 11: 6 people for this task seems high.	Project Staff	Adjusted the Hours
5	Item 12: 6 people for this task seems high.	Project Staff	Adjusted the Hours
6	Item 13: 6 people for one week seems high.	Project Staff	Crew of 6 designated for this project. 1 Excavation & Subgrade 1 Day Chip and expose Conduit. 1.5 day Drill, Epoxy, & Dowel into existing concrete pad. 1.5 days install & Inspect Rebar Mat. 3 days to F/P/S 1 day backfill and Compact

**LAREDO RANCH GENERATOR INSTALLATION REV01  
TOTAL PROJECT BREAKDOWN**

<b>Project Number:</b>	19389			
<b>Contractor:</b>	MGC Contractors Inc.			
<b>Date:</b>	01-Aug-23			
Division	Description	% of Total	Cost	Comments
	<b>Construction Indirect Costs Summary</b>			
00000	<b>Division 0 - Bidding and Contract Requirements</b>			
	Sales Tax	6.41%	\$8,882	
	Sales Tax Deduct	0.00%	\$0	
	Overhead	1.52%	\$2,103	
	Fee	2.43%	\$3,365	
	Subcontractor Fee	2.11%	\$2,921	
	Insurance (GL, IF, PL)	1.25%	\$1,730	
	Bond	1.00%	\$1,384	
00000	<b>Sub-Total</b>	<b>14.7%</b>	<b>\$20,386</b>	
01000	<b>Division 1 - General Requirements</b>			
	Project Staff	5.40%	\$7,483	
	Project Site Temporary Facilities	3.05%	\$4,234	
	Construction Administration	0.00%	\$0	
01000	<b>Sub-Total</b>	<b>8.4%</b>	<b>\$11,717</b>	
	<b>Sub-Total Indirect Costs</b>	<b>23.2%</b>	<b>\$32,103</b>	
	<b>SELF-PERFORMED WORK</b>			
	Relocate Generator from TOQC Yard to Laredo Ranch	21.89%	\$30,351	
	<b>Sub-Total</b>	<b>21.9%</b>	<b>\$30,351</b>	
	<b>SUBCONTRACTORS &amp; SUPPLIERS</b>			
	Electrical Subcontractor	42.14%	\$58,428	Swain Electric, Inc.
	Crane (Generator Installation)	4.51%	\$6,248	Bragg Crane Service
	Pad Structural Engineering	2.16%	\$3,000	Tantalean Consulting
	Concrete (Generator Pad)(11 CYD)	1.47%	\$2,035	Martin Marietta
	CLSM Backfill (3 CYD Short Load)	0.54%	\$750	Martin Marietta
	Rebar (Generator pad)	0.87%	\$1,210	Tyler Reinforcement
	Third Party Testing (Compaction & Cylinders)	1.44%	\$2,000	Alpha Geotech
	Senergy Petroleum (Generator Fuel) (initial fill up)	1.80%	\$2,500	Senergy Petroleum 500 Gals at \$5.00 Gallon
	Senergy Regulatory Compliance Fee	0.01%	\$13	Senergy Petroleum
	Senergy Fuel Surcharge	0.02%	\$30	Senergy Petroleum
	<b>Sub-Total</b>	<b>55.0%</b>	<b>\$76,214</b>	
	<b>Sub-Total Direct Costs</b>	<b>76.8%</b>	<b>\$106,565</b>	
	<b>Overall Total</b>		<b>\$138,667</b>	

LAREDO RANCH GENERATOR INSTALLATION REV01

Division 01

BY: KC & WF

#	DESCRIPTION	QUANT	UNIT	UNIT COST	AMOUNT	Comments
<b>1. Mobilization/Demobilization:</b>					-	
	- Company Equipment	2	Ea	\$ 800	\$ 1,600	
		0	Ea	\$ 600	\$ -	
	- Rental Equipment	0	Ea	\$ 650	\$ -	
	- Equipment Delivery	0	Ea	\$ 400	\$ -	
	- Other	0	Ea	\$ 800	\$ -	
<b>2. Permits</b>					\$ -	
	- Local	0	Ea		\$ -	
	- County	1	Ea	\$ 150	\$ 150	Dust Control Permit (PINAL)
	- Railroad	0	Ea		\$ -	
	- Other	0	Ea		\$ -	
<b>3. Trailers:</b>					\$ -	
	- MGC - storage	0	Mo	\$ 250	\$ -	
	- MGC - office	0	Mo	\$ 750	\$ -	
	- Engineer's office	0			\$ -	
<b>4. Temporary/Cellular Phone</b>		0	Mo	\$ 150	\$ -	
<b>5. Temporary Power:</b>					\$ -	
	- Set-up	0	Ea	\$ 200	\$ -	
	- Construction - monthly	0	Mo	\$ 75	\$ -	
	- Trailer - construction mo.	0	Mo	\$ 50	\$ -	
	- Trailer - Engineer mo.	0			\$ -	
<b>6. J-Jon/Sanitation Facilities</b>		0.5	Mo	\$ 375	\$ 188	
<b>7. Water - drinking/ice</b>		0.5	Mo	\$ 150	\$ 75	
<b>8. Water - construction</b>		0	LS	\$ 3,300	\$ -	
<b>9. Temporary Fencing:</b>					\$ -	
	- Set-up	0	LS	\$ 50	\$ -	
	- Monthly Charges	22	Mo	\$ 93	\$ 2,046	20 Months Invoiced, two additional Months projected. See the Invoices attached.
<b>10. Surveying/Construction Staking</b>		0	LS	\$ 1,600	\$ -	
<b>11. Subcontractor Bonds</b>		0			\$ -	
<b>12. Construction Testing</b>		0	LS	\$ -	\$ -	
<b>13. Safety Supplies (3% of Total Labor)</b>		0	LS	\$ 15,000	\$ -	
<b>14. Dumpster - monthly</b>		0	Ea	\$ 500	\$ -	
	Dump Fees	0	LS	\$ 1,800	\$ -	
<b>15. Clean-up</b>		0	LS	\$ 1,500	\$ -	
<b>16. AGC Fees</b>		0	LS		\$ -	
<b>17. Project Signage</b>		0	LS	\$ 750	\$ -	
<b>18. Liquidated Damages</b>		0			\$ -	
<b>19. Traffic Control:</b>		0	Dy	\$ 250	\$ -	
	Traffic plates	0	Mo	\$ 2,500	\$ -	
	Traffic officer	0	Hr	\$ 75	\$ -	
<b>20. Subsistence</b>		0			\$ -	
<b>21. Courier Fees</b>		0			\$ -	
<b>22. Reprographics</b>		0	LS	\$ 500	\$ -	
<b>23. O&amp;M Costs</b>		0	LS	\$ 250	\$ -	Existing Generator NO O&M
	OCR Recognition	0			\$ -	
<b>24. Security Costs</b>		0	Mo		\$ -	
<b>25. Insurance - Builders Risk</b>		0	Mo	\$ 576	\$ -	
<b>26. Dust Control - Materials</b>		0	LS	\$ 3,500	\$ -	
<b>27. Other</b>		0	LS	\$ 1,060	\$ -	
<b>28. SWPPP Permit</b>		0	LS	\$ 2,200	\$ -	
	SWPPP Materials	0	LS	\$ 1,800	\$ -	
<b>27. Per Diem</b>		0	Dy		\$ -	
<b>28. Hotel / Subsistence</b>		0	Rm		\$ -	
<b>29. Project &amp; Delivery Signs</b>		0	LS	\$ 1,200	\$ -	
					\$ -	
<b>30. Communications &amp; Job Printer</b>		0.25	MO	\$ 700	\$ 175	Internet (\$400) & Printer (\$300)
					\$ -	
	<b>TOTAL</b>				<b>\$ 4,234</b>	

## Project Staff & Temporary Facilities

<b>Labor</b>				
Position	Unit	Quantity	Labor Cost	
			Unit	Total
Project Executive	HR	2.0	\$175.88	\$352
Sr. Project Manager	HR	0.0	\$126.13	\$0
Project Manager	HR	16.0	\$109.53	\$1,752
Project Engineer	HR	32.0	\$86.31	\$2,762
General Superintendent	HR	4.0	\$168.15	\$673
CAD Engineer	HR	8.0	\$57.79	\$462
Administration	HR	0.0	\$54.17	\$0
Estimator	HR	4.0	\$71.13	\$285
QA/QC Manager	HR	4.0	\$168.15	\$673
	HR	0.0		\$0
			<b>Total Labor Cost:</b>	<b>\$6,958</b>

<b>Equipment</b>				
Item	Unit	Quantity	Equipment Cost	
			Unit	Total
Pickup Truck	HR	25.0	\$15	\$375
Supervisor Truck	HR	4.0	\$25	\$100
22 Ton Boom Truck	HR	0.0	\$96	\$0
L120 Front End Loader	HR	0.0	\$81	\$0
420 IT Backhoe	HR	0.0	\$56	\$0
Mini Excavator	HR	0.0	\$56	\$0
			<b>Total Equipment Cost:</b>	<b>\$475</b>

<b>Material</b>				
Item	Unit	Quantity	Material Cost	
			Unit	\$0
Office Consumable Supplies	LS	1.00	\$50.00	\$50
				\$0
				\$0
				\$0
			<b>Total Material Cost:</b>	<b>\$50</b>

Town of Queen Creek

10 12 Waterlines on Meridian Road  
Labor and Equipment Breakdown

Job Name: Laredo Ranch Generator Installation  
Work Order Breakdown  
By: KC, CO

#	Water & Wastewater Facilities Projects	Info	LABOR					EQUIPMENT					OTHER		\$ Total For Line	
			HRS Project Supt	HRS Forman	HRS Operator	HRS Skilled Laborer	HRS Laborer	HRS Supt Truck	HRS Mini-Excavator	HRS 420 Backhoe	HRS Jack-Hammer	HRS Wacker	HRS Haul Truck	HRS Vactor Truck		
1	Backup Generator Relocate															\$ -
2	Crane Existing Generator at TOQC Yard															\$ -
3	Prepare Generator for Craning		2.00	2.00	0.00	2.00	2.00	2.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	\$ 544
4	Crane Generator Onto Transportation Truck and Transport to Laredo Ranch		3.00	3.00	0.00	3.00	3.00	3.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	\$ 816
5			0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	\$ -
6	Crane Generator Onto Laredo Ranch SOG															\$ -
7	Crane generator Onto New SOG at Larado		3.00	3.00	0.00	3.00	3.00	3.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	\$ 816
8	Anchor Generator Onto New Pad		0.00	2.00	0.00	2.00	2.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	\$ 288
9																\$ -
10	FPS Concrete Pad Laredo Ranch															\$ -
11	Excavate & Subgrade Prep		8.00	8.00	8.00	8.00	8.00	8.00	8.00	8.00	0.00	8.00	4.00	8.00	8.00	\$ 6,592
12	Chip & Expose Conduit		8.00	8.00	4.00	8.00	8.00	8.00	4.00	0.00	8.00	0.00	0.00	0.00	0.00	\$ 2,955
13	Drill, Epoxy & Dowel into existing Pad		12.00	12.00	0.00	12.00	24.00	12.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	\$ 3,717
14	Install & Inspect Double Rebar Mat		12.00	12.00	0.00	12.00	24.00	12.00	0.00	0.00	0.00	8.00	0.00	0.00	0.00	\$ 3,817
15	F/P/S Concrete Pad		24.00	24.00	0.00	24.00	24.00	24.00	8.00	0.00	0.00	8.00	0.00	0.00	0.00	\$ 7,357
16	Backfill, Compact and Cleanup		8.00	8.00	8.00	8.00	16.00	8.00	0.00	8.00	0.00	0.00	0.00	0.00	0.00	\$ 3,447
17																\$ -
18																\$ -
19	<b>Total Column</b>		80.0	82.0	20.0	82.0	114.0	80.0	20.0	16.0	8.0	24.0	4	8		\$ 30,351
20	<b>Unit Cost</b>		\$ 102.90	\$ 62.24	\$ 53.67	\$ 44.33	\$ 37.65	\$ 25.00	\$ 90.75	\$ 67.47	\$ 25.00	\$ 12.50	\$ 135.00	\$ 260.00		
21	<b>Total Cost \$</b>		\$ 8,232	\$ 5,104	\$ 1,073	\$ 3,635	\$ 4,292	\$ 2,000	\$ 1,815	\$ 1,080	\$ 200	\$ 300	\$ 540	\$ 2,080		\$ 30,351



# SWAIN ELECTRIC INC.

Proposal

#230801-2

August 1, 2023

Kevin Christensen  
Project Manager  
MGC Contractors  
4110 E Elwood St, Phoenix, AZ

**Job:** Laredo Ranch Generator Pad Rework

- Demo and rework electrical conduits after MGC remove concrete generator pad section.  
\$3,821.00 Material \$5,090.00 Labor Total: \$8,911.00
- New grounding and rods to new window location  
\$2,571.00 Material \$1,885.00 Labor Total: \$4,456.00
- Rework controls, battery charger and block heater circuits  
\$591.00 Material \$2,749.00 Labor Total: \$3,340.00
- New Feeders from ATS to Generator and seal ATS cabinets of openings to prevent water and rodents from entering.  
\$21,407.00 Material \$11,705.00 Labor Total: \$33,112.00
- New flex connections and terminations of relocated generator.  
\$831.00 Material \$2,746.00 Labor Total: \$3,577.00
- Startup and testing Total: \$2,821.00
- Project Manager Total: \$2,211.00

**Scope of work:**

**Excludes:**

Patching and painting  
Bonds, Fees and Permits  
Concrete  
Trenching and backfill  
Diesel Fuel  
Taxes  
Over time

**Total: \$58,428.00**

We appreciate the opportunity to be of service. If you have any questions, please feel free to call.

Sincerely,

756 N. Monterey, Ste. A Gilbert, Arizona 85233 (480) 832-3299 Fax (480) 832-6233  
Lic: C-11 ROC090429, L-11 ROC090437, A-17 ROC106533  
www.swainelectric.com



# SWAIN ELECTRIC INC.

Darwin Rice  
Project Manager

756 N. Monterey, Ste. A Gilbert, Arizona 85233 (480) 832-3299 Fax (480) 832-6233  
Lic: C-11 ROC090429, L-11 ROC090437, A-17 ROC106533  
[www.swainelectric.com](http://www.swainelectric.com)





<b>Quote Number:</b>	P-7903	<b>Quoted out of:</b>	Phoenix
<b>Date of Quotation:</b>	1/27/2023	<b>Bragg Contact:</b>	Cerny, Paul
		<b>Phone Number:</b>	(602) 284-2546
		<b>E-Mail:</b>	paul.cerny@braggcrane.com
<b>Customer:</b>	MGC Contractors Inc	<b>Quoted To:</b>	Kevin Christensen
<b>Address:</b>	PO Box 61748	<b>Phone Number:</b>	(602) 437-5000
	Phoenix,AZ 85082-1748	<b>E-Mail:</b>	kchristensen@mgccontractors.com
<b>Jobsite Name:</b>	Loredo Genset	<b>Start Date:</b>	
<b>Jobsite Address:</b>	Queen Creek, AZ	<b>End Date:</b>	
		<b>Quotation Status:</b>	Quoted to Customer

Work to be performed: Relocate Genset

Lift Information:

Heaviest Pick	32000	Radius	50	Height	0
Up		In		Set Back Fr. Bldg.	

Equipment Required: (1) IWF  
(1) IW  
4K Fork

<u>Description</u>	<u>Est. Qty</u>	<u>Rate</u>	<u>Est. Amt</u>
Crane Mobilization	1.00 Each	\$750.00	\$750.00
115 Ton Hydraulic Truck Crane	8.00 Hour	\$365.00	\$2,920.00
Crane Demobilization	1.00 Each	\$750.00	\$750.00
Surcharge	1.00	10.00%	\$568.00
Trucking Charges	9.00 Hour	\$140.00	\$1,260.00
		<b>Quote Estimate:</b>	<b>\$6,248.00</b>

Comments: This quote is contingent on a clear working and level working area. Any hours worked over 8-hours \$48.00 per man, per hour will be added for overtime. There will be a 10% fuel surcharge on the job total.

**\*\*\*Issuance of a purchase order acknowledges acceptance of this quotation**



<b>Quote Number:</b>	P-7903	<b>Quoted out of:</b>	Phoenix
<b>Date of Quotation:</b>	1/27/2023	<b>Bragg Contact:</b>	Cerny, Paul
		<b>Phone Number:</b>	(602) 284-2546
		<b>E-Mail:</b>	paul.cerny@braggcrane.com

### Terms & Conditions:

Can be viewed at [www.braggcompanies.com](http://www.braggcompanies.com)

#### Qualification for Price Quotation of Operated and Maintained Crane Rental

1. Our customer will provide for free, clear, safe, compacted all-weather access for the erection, dismantling and operation of all equipment furnished by BRAGG. 24-hour notice is required for cancellations and/or delays/re-scheduling, including, but not limited to, those issues related to site clearance, access, or weather. Failure to notify Bragg 24-hours prior to the scheduled onsite time will result in show-up fees billed at their applicable rates, as determined by Bragg.
2. Unless specifically otherwise noted, cranes will be erected and dismantled during straight time hours in a continuous operation by Operating Engineers. Should another craft be required for the buildup per customer or union agreement, the additional personnel will be furnished by the customer at no cost to BRAGG.
3. All traffic control, street use permits or OSHA permits will be furnished by the customer in accord with local regulations unless specifically noted on this quote.
4. Travel permits will be furnished by BRAGG and billed to the customer at the applicable rate.
5. The customer will furnish qualified signalmen and qualified rigging personnel to support safe crane operation according to applicable laws.
6. All rigging is to be furnished by the customer. If BRAGG elects to use BRAGG rigging, damage to the rigging will be billed to the customer. Testing or certification of rigging will result in additional charges (if required).
7. Timber mats, steel plates or other site protections are available at additional cost (if required).
8. Lift engineering or professional engineering review is available at additional cost (if required). Each requested revision will be billed at applicable rate.
9. A Waiver of Liability releasing BRAGG from site damage caused by normal crane operation must be signed prior to work but is agreed to if directed to work by the customer even without the customer's signature
10. All site-specific training, testing or orientation of BRAGG personnel will be invoiced at applicable rates.
11. BRAGG will provide standard insurance in the in the amount of \$1 million each for Workers Compensation, General Liability and Automotive. Higher limits, endorsements and additionally insured certificates are available at additional cost of 8% of invoice value or \$200 (whichever is greater) for "directly caused by" indemnification only. Bonding will be invoiced at cost plus 15% for administrative processing. Additionally insured certificates cannot be issued after a job has been completed.
12. No tax will be applied to the invoice for crane operation as Bragg has already paid all taxes on the equipment.
13. Unless otherwise negotiated, a minimum 10% fuel and insurance charge will be added to the final invoice amount for fuel cost and mandatory industry insurance for crane operation.
14. A four-hour minimum applies to daily rentals; an eight-hour minimum applies to ongoing projects.
15. All work will be performed and billed in accordance with the local Operating Engineers Union area agreement and/or Iron Workers Local Union area agreement. Overtime rates are to be billed for work taking place between 5 PM and 6 AM local time.
  - a. If Operating Engineers are working with a craft with more favorable overtime or work rules, the better terms may apply.
  - b. A ½ hour meal period must be provided within five hours of start of work or be paid for at the double time rate.
16. This quote is valid for 30 days, subject to equipment availability at the time of order. Issuance of a purchase order or scheduling equipment shall be considered acceptance of the full and complete costs as determined by Bragg upon completion of work. Payment is due upon receipt unless alternative terms have been agreed to ahead of time. Invoices will incur late fees and penalties at a rate of 1.5% of the invoice total once past due, and for every thirty (30) days following.
17. Labor Compliance/Certified Payroll packages will be billed at the applicable one time rate: HACLA/HCIDLA/HUD or equivalent (\$750), OCPS (\$500), CPR ( \$300)
18. Customer Pre-Payment Policy: Dispatch of equipment to job site is contingent upon confirmation that Customer has a sufficient pre-approved credit limit or Customer has pre-paid for quoted services. Customers with no pre-approved credit should allow 2-3 business days for credit application processing prior to dispatch. Pre-payment may be processed online by visiting the website listed below. Select the "Pay Online" button, located in the upper right corner of the page. Please forward the online payment to your salesman via e-mail to confirm your order.
19. This quote was composed with the best information available at the time of creation and is subject to change without notice. It is an estimate of the projected costs and is not a fixed amount. Issuance of a purchase order, scheduling of equipment, or any payment prior to work being executed, shall not be construed as a representation by Bragg that the actual costs of the Work shall not exceed the pre-paid, and or quoted amount. Bragg retains the right to bill for the full actual costs of the Work, as determined by Bragg upon completion.
20. Accounts with balances exceeding 90 days may be pursued legally for remedy. If Bragg so chooses to pursue unpaid balances



**Quote Number:** P-7903

**Quoted out of:** Phoenix

**Date of Quotation:** 1/27/2023

**Bragg Contact:** Cerny, Paul  
**Phone Number:** (602) 284-2546  
**E-Mail:** paul.cerny@braggcrane.com

through legal actions, including, but not limited to, the use of a collection service, for goods or services rendered, you understand and agree to waive your rights to a trial by jury and to the extent permitted by law, you agree to pay all expenses incurred by Bragg Companies in relation to collection, enforcement or protection of your rights and remedies. Expenses include, but are not limited to, attorney's fees, court costs and other legal expenses.



5145 W. Madison St.  
Phoenix, AZ 85043

Date 11/7/21

Due Date 12/7/21

MGC CONTRACTORS INC  
PO BOX 61748  
PHOENIX, AZ 85082-1748

<b>Job Information</b>	
CLOSEST ADDRESS: 38675 N REYNOSA SAN TAN, ARIZONA OCOTILLO & SCHNEPF	
P.O. 19-378	Allstate Job # <b>190530</b>
<b>Rental Duration</b>	07-07 MONTHLY

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.



CUT HERE - RETURN TOP PORTION WITH YOUR PAYMENT.

Terms Net 30

Quantity	Description	Rate	Amount
1	42' MONTHLY FENCE RENTAL 7TH - 7TH	85.00	85.00
	Sales Tax	8.60%	7.32

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.

<b>Invoice #</b>	<b>Customer P.O.</b>	<b>19-378</b>	<b>Total</b>	\$92.32
<b>109672</b>	<b>Allstate Job #</b>	<b>190530</b>	<b>Less Credits</b>	\$0.00
			<b>Balance Due</b>	<b>\$92.32</b>
			<b>Due Date</b>	<b>12/7/21</b>
<b>Pay on line at <a href="http://www.allstatefenceaz.com">http://www.allstatefenceaz.com</a></b>			<b>Rental Duration</b>	07-07 MONTHLY

IN CONSIDERATION OF THIS INVOICE, LESSEE AGREE'S TO THE TERMS OF ALLSTATE'S RENTAL CONTRACT. PAYMENT TERMS ARE NET 30 O.A.C. SHOULD LESSEE DEFAULT ON ANY TERMS, LESSOR MAY REMOVE EQUIPMENT WHERE EVER IT MAY BE FOUND AND NOT BE RESPONSIBLE FOR ANY CLAIMS FOR DAMAGES, MISSING ITEMS OR INJURY CAUSED BY THE REMOVAL OF THE EQUIPMENT.



5145 W. Madison St.  
Phoenix, AZ 85043

Date 12/7/21

Due Date 1/6/22

MGC CONTRACTORS INC  
PO BOX 61748  
PHOENIX, AZ 85082-1748

<b>Job Information</b>	
CLOSEST ADDRESS: 38675 N REYNOSA SAN TAN, ARIZONA OCOTILLO & SCHNEPF	
P.O. 19-378	Allstate Job # <b>190530</b>
<b>Rental Duration</b>	07-07 MONTHLY

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Terms

Net 30

Quantity	Description	Rate	Amount
1	42' MONTHLY FENCE RENTAL 7TH - 7TH	85.00	85.00
	Sales Tax	8.60%	7.32

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<b>Invoice #</b>	<b>Customer P.O.</b>	<b>19-378</b>	<b>Total</b>	\$92.32
<b>109953</b>	<b>Allstate Job #</b>	<b>190530</b>	<b>Less Credits</b>	\$0.00
			<b>Balance Due</b>	<b>\$92.32</b>
			<b>Due Date</b>	<b>1/6/22</b>
<b>Pay on line at <a href="http://www.allstatefenceaz.com">http://www.allstatefenceaz.com</a></b>			<b>Rental Duration</b>	<b>07-07 MONTHLY</b>

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5145 W. Madison St.  
Phoenix, AZ 85043

Date 1/7/22

Due Date 2/6/22

MGC CONTRACTORS INC  
PO BOX 61748  
PHOENIX, AZ 85082-1748

<b>Job Information</b>	
CLOSEST ADDRESS: 38675 N REYNOSA SAN TAN, ARIZONA OCOTILLO & SCHNEPF	
P.O. 19-378	Allstate Job # <b>190530</b>
<b>Rental Duration</b>	07-07 MONTHLY

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CUT HERE - RETURN TOP PORTION WITH YOUR PAYMENT.

Terms Net 30

Quantity	Description	Rate	Amount
1	42' MONTHLY FENCE RENTAL 7TH - 7TH	85.00	85.00
	Sales Tax	8.60%	7.32

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<b>Invoice #</b>	<b>Customer P.O.</b>	<b>19-378</b>	<b>Total</b>	<b>\$92.32</b>
<b>110275</b>	<b>Allstate Job #</b>	<b>190530</b>	<b>Less Credits</b>	<b>\$0.00</b>
			<b>Balance Due</b>	<b>\$92.32</b>
			<b>Due Date</b>	<b>2/6/22</b>
<b>Pay on line at <a href="http://www.allstatefenceaz.com">http://www.allstatefenceaz.com</a></b>			<b>Rental Duration</b>	<b>07-07 MONTHLY</b>

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5145 W. Madison St.  
Phoenix, AZ 85043

Date 2/7/22

Due Date 3/9/22

MGC CONTRACTORS INC  
PO BOX 61748  
PHOENIX, AZ 85082-1748

<b>Job Information</b>	
CLOSEST ADDRESS: 38675 N REYNOSA SAN TAN, ARIZONA OCOTILLO & SCHNEPF	
P.O. 19-378	Allstate Job # <b>190530</b>
<b>Rental Duration</b>	07-07 MONTHLY

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Terms Net 30

Quantity	Description	Rate	Amount
1	42' MONTHLY FENCE RENTAL 7TH - 7TH	85.00	85.00
	Sales Tax	8.60%	7.32

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<b>Invoice #</b>	<b>Customer P.O.</b>	<b>19-378</b>	<b>Total</b>	\$92.32
<b>110571</b>	<b>Allstate Job #</b>	<b>190530</b>	<b>Less Credits</b>	\$0.00
			<b>Balance Due</b>	<b>\$92.32</b>
			<b>Due Date</b>	<b>3/9/22</b>
<b>Pay on line at <a href="http://www.allstatefenceaz.com">http://www.allstatefenceaz.com</a></b>			<b>Rental Duration</b>	07-07 MONTHLY

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5145 W. Madison St.  
Phoenix, AZ 85043

Date 3/7/22

Due Date 4/6/22

MGC CONTRACTORS INC  
PO BOX 61748  
PHOENIX, AZ 85082-1748

<b>Job Information</b>	
CLOSEST ADDRESS: 38675 N REYNOSA SAN TAN, ARIZONA OCOTILLO & SCHNEPF	
P.O. 19-378	Allstate Job # <b>190530</b>
<b>Rental Duration</b>	07-07 MONTHLY

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Terms Net 30

Quantity	Description	Rate	Amount
1	42' MONTHLY FENCE RENTAL 7TH - 7TH	85.00	85.00
	Sales Tax	8.60%	7.32

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<b>Invoice #</b>	<b>Customer P.O.</b>	<b>19-378</b>	<b>Total</b>	\$92.32
<b>110852</b>	<b>Allstate Job #</b>	<b>190530</b>	<b>Less Credits</b>	\$0.00
			<b>Balance Due</b>	<b>\$92.32</b>
			<b>Due Date</b>	<b>4/6/22</b>
<b>Pay on line at <a href="http://www.allstatefenceaz.com">http://www.allstatefenceaz.com</a></b>			<b>Rental Duration</b>	<b>07-07 MONTHLY</b>

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5145 W. Madison St.  
Phoenix, AZ 85043

Date 4/7/22

Due Date 5/7/22

MGC CONTRACTORS INC  
PO BOX 61748  
PHOENIX, AZ 85082-1748

<b>Job Information</b>	
CLOSEST ADDRESS: 38675 N REYNOSA SAN TAN, ARIZONA OCOTILLO & SCHNEPF	
P.O. 19-378	Allstate Job # <b>190530</b>
<b>Rental Duration</b>	07-07 MONTHLY

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Terms Net 30

Quantity	Description	Rate	Amount
1	42' MONTHLY FENCE RENTAL 7TH - 7TH	85.00	85.00
	Sales Tax	8.60%	7.32

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<b>Invoice #</b>	<b>Customer P.O.</b>	<b>19-378</b>	<b>Total</b>	\$92.32
<b>111180</b>	<b>Allstate Job #</b>	<b>190530</b>	<b>Less Credits</b>	\$0.00
			<b>Balance Due</b>	<b>\$92.32</b>
			<b>Due Date</b>	<b>5/7/22</b>
<b>Pay on line at <a href="http://www.allstatefenceaz.com">http://www.allstatefenceaz.com</a></b>			<b>Rental Duration</b>	07-07 MONTHLY

IN CONSIDERATION OF THIS INVOICE, LESSEE AGREE'S TO THE TERMS OF ALLSTATE'S RENTAL CONTRACT. PAYMENT TERMS ARE NET 30 O.A.C. SHOULD LESSEE DEFAULT ON ANY TERMS, LESSOR MAY REMOVE EQUIPMENT WHERE EVER IT MAY BE FOUND AND NOT BE RESPONSIBLE FOR ANY CLAIMS FOR DAMAGES, MISSING ITEMS OR INJURY CAUSED BY THE REMOVAL OF THE EQUIPMENT.



5145 W. Madison St.  
Phoenix, AZ 85043

Date 5/7/22

Due Date 6/6/22

MGC CONTRACTORS INC  
PO BOX 61748  
PHOENIX, AZ 85082-1748

<b>Job Information</b>	
CLOSEST ADDRESS: 38675 N REYNOSA SAN TAN, ARIZONA OCOTILLO & SCHNEPF	
P.O. 19-378	Allstate Job # <b>190530</b>
<b>Rental Duration</b>	07-07 MONTHLY

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Terms Net 30

Quantity	Description	Rate	Amount
1	42' MONTHLY FENCE RENTAL 7TH - 7TH	85.00	85.00
	Sales Tax	8.60%	7.32

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.

<b>Invoice #</b>	<b>Customer P.O.</b>	<b>19-378</b>	<b>Total</b>	\$92.32
<b>111498</b>	<b>Allstate Job #</b>	<b>190530</b>	<b>Less Credits</b>	\$0.00
			<b>Balance Due</b>	<b>\$92.32</b>
			<b>Due Date</b>	<b>6/6/22</b>
<b>Pay on line at <a href="http://www.allstatefenceaz.com">http://www.allstatefenceaz.com</a></b>			<b>Rental Duration</b>	07-07 MONTHLY

IN CONSIDERATION OF THIS INVOICE, LESSEE AGREE'S TO THE TERMS OF ALLSTATE'S RENTAL CONTRACT. PAYMENT TERMS ARE NET 30 O.A.C. SHOULD LESSEE DEFAULT ON ANY TERMS, LESSOR MAY REMOVE EQUIPMENT WHERE EVER IT MAY BE FOUND AND NOT BE RESPONSIBLE FOR ANY CLAIMS FOR DAMAGES, MISSING ITEMS OR INJURY CAUSED BY THE REMOVAL OF THE EQUIPMENT.



5145 W. Madison St.  
Phoenix, AZ 85043

Date 6/7/22

Due Date 7/7/22

MGC CONTRACTORS INC  
PO BOX 61748  
PHOENIX, AZ 85082-1748

<b>Job Information</b>	
CLOSEST ADDRESS: 38675 N REYNOSA SAN TAN, ARIZONA OCOTILLO & SCHNEPF	
P.O. 19-378	Allstate Job # <b>190530</b>
<b>Rental Duration</b>	07-07 MONTHLY

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.



CUT HERE - RETURN TOP PORTION WITH YOUR PAYMENT.

Terms Net 30

Quantity	Description	Rate	Amount
1	42' MONTHLY FENCE RENTAL 7TH - 7TH	85.00	85.00
	Sales Tax	8.60%	7.32

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.

<b>Invoice #</b>	<b>Customer P.O.</b>	<b>19-378</b>	<b>Total</b>	\$92.32
<b>111798</b>	<b>Allstate Job #</b>	<b>190530</b>	<b>Less Credits</b>	\$0.00
			<b>Balance Due</b>	<b>\$92.32</b>
			<b>Due Date</b>	<b>7/7/22</b>
<b>Pay on line at <a href="http://www.allstatefenceaz.com">http://www.allstatefenceaz.com</a></b>			<b>Rental Duration</b>	07-07 MONTHLY

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5145 W. Madison St.  
Phoenix, AZ 85043

Date 7/7/22

Due Date 8/6/22

MGC CONTRACTORS INC  
PO BOX 61748  
PHOENIX, AZ 85082-1748

<b>Job Information</b>	
CLOSEST ADDRESS: 38675 N REYNOSA SAN TAN, ARIZONA OCOTILLO & SCHNEPF	
P.O. 19-378	Allstate Job # <b>190530</b>
<b>Rental Duration</b>	07-07 MONTHLY

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.



CUT HERE - RETURN TOP PORTION WITH YOUR PAYMENT.

Terms Net 30

Quantity	Description	Rate	Amount
1	42' MONTHLY FENCE RENTAL 7TH - 7TH	85.00	85.00
	Sales Tax	8.60%	7.32

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.

<b>Invoice #</b>	<b>Customer P.O.</b>	<b>19-378</b>	<b>Total</b>	\$92.32
<b>112118</b>	<b>Allstate Job #</b>	<b>190530</b>	<b>Less Credits</b>	\$0.00
			<b>Balance Due</b>	<b>\$92.32</b>
			<b>Due Date</b>	<b>8/6/22</b>
<b>Pay on line at <a href="http://www.allstatefenceaz.com">http://www.allstatefenceaz.com</a></b>			<b>Rental Duration</b>	07-07 MONTHLY

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5145 W. Madison St.  
Phoenix, AZ 85043

Date 8/7/22

Due Date 9/6/22

MGC CONTRACTORS INC  
PO BOX 61748  
PHOENIX, AZ 85082-1748

<b>Job Information</b>	
CLOSEST ADDRESS: 38675 N REYNOSA SAN TAN, ARIZONA OCOTILLO & SCHNEPF	
P.O. 19-378	Allstate Job # <b>190530</b>
<b>Rental Duration</b>	07-07 MONTHLY

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.



CUT HERE - RETURN TOP PORTION WITH YOUR PAYMENT.

Terms Net 30

Quantity	Description	Rate	Amount
1	42' MONTHLY FENCE RENTAL 7TH - 7TH	85.00	85.00
	Sales Tax	8.60%	7.32

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.

<b>Invoice #</b>	<b>Customer P.O.</b>	<b>19-378</b>	<b>Total</b>	\$92.32
<b>112478</b>	<b>Allstate Job #</b>	<b>190530</b>	<b>Less Credits</b>	\$0.00
			<b>Balance Due</b>	<b>\$92.32</b>
			<b>Due Date</b>	<b>9/6/22</b>
<b>Pay on line at <a href="http://www.allstatefenceaz.com">http://www.allstatefenceaz.com</a></b>			<b>Rental Duration</b>	07-07 MONTHLY

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5145 W. Madison St.  
Phoenix, AZ 85043

Date 9/7/22

Due Date 10/7/22

MGC CONTRACTORS INC  
PO BOX 61748  
PHOENIX, AZ 85082-1748

<b>Job Information</b>	
CLOSEST ADDRESS: 38675 N REYNOSA SAN TAN, ARIZONA OCOTILLO & SCHNEPF	
P.O. 19-378	Allstate Job # <b>190530</b>
<b>Rental Duration</b>	07-07 MONTHLY

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.



CUT HERE - RETURN TOP PORTION WITH YOUR PAYMENT.

Terms Net 30

Quantity	Description	Rate	Amount
1	42' MONTHLY FENCE RENTAL 7TH - 7TH	85.00	85.00
	Sales Tax	8.60%	7.32

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.

<b>Invoice #</b>	<b>Customer P.O.</b>	<b>19-378</b>	<b>Total</b>	\$92.32
<b>112796</b>	<b>Allstate Job #</b>	<b>190530</b>	<b>Less Credits</b>	\$0.00
			<b>Balance Due</b>	<b>\$92.32</b>
			<b>Due Date</b>	<b>10/7/22</b>
<b>Pay on line at <a href="http://www.allstatefenceaz.com">http://www.allstatefenceaz.com</a></b>			<b>Rental Duration</b>	07-07 MONTHLY

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5145 W. Madison St.  
Phoenix, AZ 85043

Date 10/7/22

Due Date 11/6/22

MGC CONTRACTORS INC  
PO BOX 61748  
PHOENIX, AZ 85082-1748

<b>Job Information</b>	
CLOSEST ADDRESS: 38675 N REYNOSA SAN TAN, ARIZONA OCOTILLO & SCHNEPF	
P.O. 19-378	Allstate Job # <b>190530</b>
<b>Rental Duration</b>	07-07 MONTHLY

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.



CUT HERE - RETURN TOP PORTION WITH YOUR PAYMENT.

Terms Net 30

Quantity	Description	Rate	Amount
1	42' MONTHLY FENCE RENTAL 7TH - 7TH	85.00	85.00
	Sales Tax	8.60%	7.32

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.

<b>Invoice #</b>	<b>Customer P.O.</b>	<b>19-378</b>	<b>Total</b>	\$92.32
<b>113088</b>	<b>Allstate Job #</b>	<b>190530</b>	<b>Less Credits</b>	\$0.00
			<b>Balance Due</b>	<b>\$92.32</b>
			<b>Due Date</b>	<b>11/6/22</b>
<b>Pay on line at <a href="http://www.allstatefenceaz.com">http://www.allstatefenceaz.com</a></b>			<b>Rental Duration</b>	07-07 MONTHLY

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5145 W. Madison St.  
Phoenix, AZ 85043

Date 11/7/22

Due Date 12/7/22

MGC CONTRACTORS INC  
PO BOX 61748  
PHOENIX, AZ 85082-1748

<b>Job Information</b>	
CLOSEST ADDRESS: 38675 N REYNOSA SAN TAN, ARIZONA OCOTILLO & SCHNEPF	
P.O. 19-378	Allstate Job # <b>190530</b>
<b>Rental Duration</b>	07-07 MONTHLY

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.



CUT HERE - RETURN TOP PORTION WITH YOUR PAYMENT.

Terms Net 30

Quantity	Description	Rate	Amount
1	42' MONTHLY FENCE RENTAL 7TH - 7TH	85.00	85.00
	Sales Tax	8.60%	7.32

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.

<b>Invoice #</b>	<b>Customer P.O.</b>	<b>19-378</b>	<b>Total</b>	\$92.32
<b>113404</b>	<b>Allstate Job #</b>	<b>190530</b>	<b>Less Credits</b>	\$0.00
			<b>Balance Due</b>	<b>\$92.32</b>
			<b>Due Date</b>	<b>12/7/22</b>
<b>Pay on line at <a href="http://www.allstatefenceaz.com">http://www.allstatefenceaz.com</a></b>			<b>Rental Duration</b>	07-07 MONTHLY

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5145 W. Madison St.  
Phoenix, AZ 85043

Date 12/7/22

Due Date 1/6/23

MGC CONTRACTORS INC  
PO BOX 61748  
PHOENIX, AZ 85082-1748

<b>Job Information</b>	
CLOSEST ADDRESS: 38675 N REYNOSA SAN TAN, ARIZONA OCOTILLO & SCHNEPF	
P.O. 19-378	Allstate Job # <b>190530</b>
<b>Rental Duration</b>	07-07 MONTHLY

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.



CUT HERE - RETURN TOP PORTION WITH YOUR PAYMENT.

Terms Net 30

Quantity	Description	Rate	Amount
1	42' MONTHLY FENCE RENTAL 7TH - 7TH	85.00	85.00
	Sales Tax	8.60%	7.32

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.

<b>Invoice #</b>	<b>Customer P.O.</b>	<b>19-378</b>	<b>Total</b>	\$92.32
<b>113732</b>	<b>Allstate Job #</b>	<b>190530</b>	<b>Less Credits</b>	\$0.00
			<b>Balance Due</b>	<b>\$92.32</b>
			<b>Due Date</b>	<b>1/6/23</b>
<b>Pay on line at <a href="http://www.allstatefenceaz.com">http://www.allstatefenceaz.com</a></b>			<b>Rental Duration</b>	07-07 MONTHLY

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5145 W. Madison St.  
Phoenix, AZ 85043

Date 1/7/23

Due Date 2/6/23

MGC CONTRACTORS INC  
PO BOX 61748  
PHOENIX, AZ 85082-1748

<b>Job Information</b>	
CLOSEST ADDRESS: 38675 N REYNOSA SAN TAN, ARIZONA OCOTILLO & SCHNEPF	
P.O. 19-378	Allstate Job # <b>190530</b>
<b>Rental Duration</b>	07-07 MONTHLY

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.



CUT HERE - RETURN TOP PORTION WITH YOUR PAYMENT.

Terms Net 30

Quantity	Description	Rate	Amount
1	42' MONTHLY FENCE RENTAL 7TH - 7TH	85.00	85.00
	Sales Tax	8.60%	7.32

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.

<b>Invoice #</b>	<b>Customer P.O.</b>	<b>19-378</b>	<b>Total</b>	\$92.32
<b>114040</b>	<b>Allstate Job #</b>	<b>190530</b>	<b>Less Credits</b>	\$0.00
			<b>Balance Due</b>	<b>\$92.32</b>
			<b>Due Date</b>	<b>2/6/23</b>
<b>Pay on line at <a href="http://www.allstatefenceaz.com">http://www.allstatefenceaz.com</a></b>			<b>Rental Duration</b>	07-07 MONTHLY

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5145 W. Madison St.  
Phoenix, AZ 85043

Date 2/7/23

Due Date 3/9/23

MGC CONTRACTORS INC  
PO BOX 61748  
PHOENIX, AZ 85082-1748

<b>Job Information</b>	
CLOSEST ADDRESS: 38675 N REYNOSA SAN TAN, ARIZONA OCOTILLO & SCHNEPF	
P.O. 19-378	Allstate Job # <b>190530</b>
<b>Rental Duration</b>	07-07 MONTHLY

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.



CUT HERE - RETURN TOP PORTION WITH YOUR PAYMENT.

Terms

Net 30

Quantity	Description	Rate	Amount
1	42' MONTHLY FENCE RENTAL 7TH - 7TH	85.00	85.00
	Sales Tax	8.60%	7.32

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.

<b>Invoice #</b>	<b>Customer P.O.</b>	<b>19-378</b>	<b>Total</b>	\$92.32
<b>114358</b>	<b>Allstate Job #</b>	<b>190530</b>	<b>Less Credits</b>	\$0.00
			<b>Balance Due</b>	<b>\$92.32</b>
			<b>Due Date</b>	<b>3/9/23</b>
<b>Pay on line at <a href="http://www.allstatefenceaz.com">http://www.allstatefenceaz.com</a></b>			<b>Rental Duration</b>	07-07 MONTHLY

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5145 W. Madison St.  
Phoenix, AZ 85043

Date 3/7/23

Due Date 4/6/23

MGC CONTRACTORS INC  
PO BOX 61748  
PHOENIX, AZ 85082-1748

<b>Job Information</b>	
CLOSEST ADDRESS: 38675 N REYNOSA SAN TAN, ARIZONA OCOTILLO & SCHNEPF	
P.O. 19-378	Allstate Job # <b>190530</b>
<b>Rental Duration</b>	07-07 MONTHLY

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.



CUT HERE - RETURN TOP PORTION WITH YOUR PAYMENT.

Terms Net 30

Quantity	Description	Rate	Amount
1	42' MONTHLY FENCE RENTAL 7TH - 7TH	85.00	85.00
	Sales Tax	8.60%	7.32

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.

<b>Invoice #</b>	<b>Customer P.O.</b>	<b>19-378</b>	<b>Total</b>	\$92.32
<b>114669</b>	<b>Allstate Job #</b>	<b>190530</b>	<b>Less Credits</b>	\$0.00
			<b>Balance Due</b>	<b>\$92.32</b>
			<b>Due Date</b>	<b>4/6/23</b>
<b>Pay on line at <a href="http://www.allstatefenceaz.com">http://www.allstatefenceaz.com</a></b>			<b>Rental Duration</b>	07-07 MONTHLY

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5145 W. Madison St.  
Phoenix, AZ 85043

Date 4/7/23

Due Date 5/7/23

MGC CONTRACTORS INC  
PO BOX 61748  
PHOENIX, AZ 85082-1748

<b>Job Information</b>	
CLOSEST ADDRESS: 38675 N REYNOSA SAN TAN, ARIZONA OCOTILLO & SCHNEPF	
P.O. 19-378	Allstate Job # <b>190530</b>
<b>Rental Duration</b>	07-07 MONTHLY

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.



CUT HERE - RETURN TOP PORTION WITH YOUR PAYMENT.

Terms Net 30

Quantity	Description	Rate	Amount
1	42' MONTHLY FENCE RENTAL 7TH - 7TH	85.00	85.00
	Sales Tax	8.60%	7.32

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.

<b>Invoice #</b>	<b>Customer P.O.</b>	<b>19-378</b>	<b>Total</b>	\$92.32
<b>114984</b>	<b>Allstate Job #</b>	<b>190530</b>	<b>Less Credits</b>	\$0.00
			<b>Balance Due</b>	<b>\$92.32</b>
			<b>Due Date</b>	<b>5/7/23</b>
<b>Pay on line at <a href="http://www.allstatefenceaz.com">http://www.allstatefenceaz.com</a></b>			<b>Rental Duration</b>	07-07 MONTHLY

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5145 W. Madison St.  
Phoenix, AZ 85043

Date 5/7/23

Due Date 6/6/23

MGC CONTRACTORS INC  
PO BOX 61748  
PHOENIX, AZ 85082-1748

<b>Job Information</b>	
CLOSEST ADDRESS: 38675 N REYNOSA SAN TAN, ARIZONA OCOTILLO & SCHNEPF	
P.O. 19-378	Allstate Job # <b>190530</b>
<b>Rental Duration</b>	07-07 MONTHLY

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.



CUT HERE - RETURN TOP PORTION WITH YOUR PAYMENT.

Terms Net 30

Quantity	Description	Rate	Amount
1	42' MONTHLY FENCE RENTAL 7TH - 7TH	85.00	85.00
	Sales Tax	8.60%	7.32

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.

<b>Invoice #</b>	<b>Customer P.O.</b>	<b>19-378</b>	<b>Total</b>	\$92.32
<b>115303</b>	<b>Allstate Job #</b>	<b>190530</b>	<b>Less Credits</b>	\$0.00
			<b>Balance Due</b>	<b>\$92.32</b>
			<b>Due Date</b>	<b>6/6/23</b>
<b>Pay on line at <a href="http://www.allstatefenceaz.com">http://www.allstatefenceaz.com</a></b>			<b>Rental Duration</b>	07-07 MONTHLY

IN CONSIDERATION OF THIS INVOICE, LESSEE AGREE'S TO THE TERMS OF ALLSTATE'S RENTAL CONTRACT. PAYMENT TERMS ARE NET 30 O.A.C. SHOULD LESSEE DEFAULT ON ANY TERMS, LESSOR MAY REMOVE EQUIPMENT WHERE EVER IT MAY BE FOUND AND NOT BE RESPONSIBLE FOR ANY CLAIMS FOR DAMAGES, MISSING ITEMS OR INJURY CAUSED BY THE REMOVAL OF THE EQUIPMENT.



5145 W. Madison St.  
Phoenix, AZ 85043

Date 6/7/23

Due Date 7/7/23

MGC CONTRACTORS INC  
PO BOX 61748  
PHOENIX, AZ 85082-1748

<b>Job Information</b>	
38675 N REYNOSA SAN TAN, ARIZONA OCOTILLO & SCHNEPF	
P.O. 19-378	Allstate Job # <b>190530</b>
<b>Rental Duration</b>	07-07 MONTHLY

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.



CUT HERE - RETURN TOP PORTION WITH YOUR PAYMENT.

Terms Net 30

Quantity	Description	Rate	Amount
1	42' MONTHLY FENCE RENTAL 7TH - 7TH	85.00	85.00
	Sales Tax	8.60%	7.32

\*\*NO PRORATIONS FOR EARLY REMOVAL. PICK UPS MUST BE CALLED IN PRIOR TO NEXT RENTAL PERIOD. A PICK UP CONFIRMATION # WILL BE GIVEN.

<b>Invoice #</b>	<b>Customer P.O.</b>	<b>19-378</b>	<b>Total</b>	\$92.32
<b>115586</b>	<b>Allstate Job #</b>	<b>190530</b>	<b>Less Credits</b>	\$0.00
			<b>Balance Due</b>	<b>\$92.32</b>
			<b>Due Date</b>	<b>7/7/23</b>
<b>Pay on line at <a href="http://www.allstatefenceaz.com">http://www.allstatefenceaz.com</a></b>			<b>Rental Duration</b>	07-07 MONTHLY

IN CONSIDERATION OF THIS INVOICE, LESSEE AGREE'S TO THE TERMS OF ALLSTATE'S RENTAL CONTRACT. PAYMENT TERMS ARE NET 30 O.A.C. SHOULD LESSEE DEFAULT ON ANY TERMS, LESSOR MAY REMOVE EQUIPMENT WHERE EVER IT MAY BE FOUND AND NOT BE RESPONSIBLE FOR ANY CLAIMS FOR DAMAGES, MISSING ITEMS OR INJURY CAUSED BY THE REMOVAL OF THE EQUIPMENT.



TOWN OF  
**QUEEN CREEK**  
 ARIZONA

**TO:** HONORABLE MAYOR AND TOWN COUNCIL

**FROM:** MOHAMED YOUSSEF, PUBLIC WORKS DIRECTOR

**RE:** CONSIDERATION AND POSSIBLE APPROVAL OF A COOPERATIVE PURCHASE AGREEMENT WITH TOTER, LLC USING THE CITY OF TUCSON CONTRACT #226024-02 FOR THE FIRST YEAR OF PURCHASE OF RESIDENTIAL TRASH AND RECYCLING CARTS IN AN AMOUNT NOT TO EXCEED \$350,000 ANNUALLY. (FY 23/24 BUDGETED ITEM)

**DATE:** September 6, 2023

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**Suggested Action:**

Motion to approve Cooperative Purchase Agreement with Toter, LLC using the City of Tucson contract #226024-02 in an amount not to exceed \$350,000 annually for the purchase of residential trash and recycling carts. (FY 23/24 Budgeted Item)

**Relevant Council Goal(s):**

Effective Government

**Discussion:**

The Town of Queen Creek currently utilizes the Cooperative Contract #2020-061 with the City of Tucson and Omnia Partners for trash and recycling cart purchases. These purchases will include new carts and warranty carts that are out of the 12-year warranty.

The Town has utilized Toter carts since the inception of the solid waste and recycling program in 2010. Toter carts have a 12-year warranty and an established record of reliability and longevity. Additionally, because the carts have an expected life of 15-18 years, the Town has been able to realize considerable savings in terms of cart replacements and decreased customer service complaints. Therefore, staff is recommending continuing with Toter carts and utilizing the Cooperative Contract from the City of Tucson.

**Fiscal Impact:**

The total not to exceed the amount for the contract #226024-02 is \$350,000 for FY23/24. Sufficient funding for this is included in the FY23/24 Solid Waste budget. In preparation for each of the (4) future annual renewal periods of this contract, all future funding will continue to be identified and budgeted as necessary for the life of the contract.

**Alternatives:**

Council could choose to not enter into this agreement with Toter, LLC and could direct staff to begin our own competitive bid process; however, because the Town does not purchase a significant number of carts annually, we would be unlikely to secure pricing lower than what is available under the City of Tucson contract.

**Attachment(s):**

1. [Cooperative Purchase Agreement.pdf](#)



# COOPERATIVE PURCHASE AGREEMENT

**Town Contract Number:** \_\_\_\_\_

THIS AGREEMENT (The “Agreement”) is made and entered into effective as of September 6, 2023, 2023 (the “Effective Date”), by and between the Town of Queen Creek, Arizona, an Arizona municipal corporation (“Town”), and Toter LLC, a North Carolina Limited Liability Corporation (“Vendor”). The Town and the Vendor are sometimes referred to in this Agreement collectively as the “Parties” and each individually as a “Party.”

## **RECITALS:**

WHEREAS, the Town requires refuse and recycling container solutions and related products, equipment, and services; and

WHEREAS, refuse and recycling container solutions and related products, equipment, and services; is available through a cooperative contract with City of Tucson and Omnia Partners; and

WHEREAS, The Parties wish to enter into an Agreement pursuant to the terms and conditions of that outside contract number CONTRACT #226024-02 and all subsequent revisions, between City of Tucson and Omnia Partners and the Vendor (the “Original Contract”) Such action is authorized under A.R.S. §41-2632 and is pursuant to the terms of the Maricopa County multi-agency purchasing cooperative. All capitalized terms used without definition in this Agreement shall have the definitions ascribed to them in the Original Contract.

## **AGREEMENTS:**

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

1. Reaffirmation of Original Contract. The Original Contract shall remain in full force and effect, and all terms and conditions of the Original Contract are hereby incorporated by reference into this Agreement, creating an agreement identical in terms between the Town and the Vendor. In the event of any conflict between this Agreement and the Original Contract, the terms of this Agreement shall prevail. In the Original Contract, the terms “City of Tucson” or “City” shall be deemed to be and refer to the Town, and the term “Vendor” shall be deemed to be and refer to the Vendor under this Agreement. The amount paid under this Agreement shall be on an as needed basis and in accordance with the Town’s Purchasing Policy and Procedures.

2. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, binding on all of the Parties. The Parties agree that this Agreement may be transmitted between them via email. The Parties intend that the email signatures constitute

original signatures and that an emailed agreement containing the signatures of all the Parties is binding upon the Parties.

3. Compliance with Federal and State Laws.

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

3.2 Pursuant to the provisions of A.R.S. §41-4401, the Contractor warrants to the Town that the Contractor and all its subcontractors are in compliance with all Federal Immigration laws and regulations that relate to their employees and with the E-Verify Program under A.R.S. §23-214(A).

A breach of this warranty by the Contractor or any of its subcontractors will be deemed a material breach of this Contract and may subject the Contractor or subcontractor to penalties up to and including termination of this Contract or any subcontract.

The Town retains the legal right to inspect the papers of any employee of the Contractor or any subcontractor who works on this Contract to ensure that the Contractor or any subcontractor is complying with the warranty given above.

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

The Town will not consider the Contractor or any of its subcontractors in material breach of this Contract if the Contractor and its subcontractors establish that they have complied with the employment verification provisions prescribed by 8 USCA §1324(a) and (b) of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214(A). The "E-Verify Program" means the employment verification pilot program as jointly administered by the United States Department of Homeland Security and the Social Security Administration or any of its successor programs.

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

3.3 This Agreement is subject to cancellation for conflicts of interest pursuant to A.R.S. § 38-511.

3.4 Israel Boycott Provision. To the extent applicable Vendor certifies to Town that it is not currently engaged in and agrees for the duration of the contract not to engage in a boycott of Israel as defined in A.R.S. § 35-393.

4. A.R.S. § 35-394 CERTIFICATION. Pursuant to A.R.S. § 35-394, Contractor hereby certifies to Town and agrees for the duration of this Contract that Contractor will not use:

1) the forced labor of ethnic Uyghurs in the People's Republic of China; 2) any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; and/or 3) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China. If Contractor becomes aware during the term of the Contract that Contractor is not in compliance with the above written certification, Contractor shall notify Town within five business days after becoming aware of the noncompliance. If Contractor does not provide Town with a written certification that Contractor has remedied the noncompliance within one hundred eighty days after notifying Town of the noncompliance, this Contract will terminate, except that if this Contract termination date occurs before the end of the remedy period, this Contract terminates on the Contract termination date.

5. All warranties, representations and indemnifications by Vendor shall survive the completion or termination of this Agreement.

7. The Vendor shall provide the Services described in Exhibit #A attached hereto and incorporated herein. Unless expressly excluded, in writing, in the Agreement, the Services shall include any and all services reasonably contemplated, normally included, and necessary to complete the Services set forth in the Scope of Services described in Exhibit #A.

**THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK**

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

Town of Queen Creek, an Arizona municipal corporation

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

By: \_\_\_\_\_  
Mayor Julia Wheatley

By: \_\_\_\_\_  
Town Manager Bruce Gardner

Attest: \_\_\_\_\_  
Town Clerk Maria Gonzalez

Approved as to form:

By: \_\_\_\_\_  
Dickinson Wright PLLC  
Town Attorneys

Toter LLC

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

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

## EXHIBIT A

### TOWN OF QUEEN CREEK SCOPE OF WORK

#### SUPPLIES AND PRICING LIST

FOB Destination: The supplies shall be FOB destination and delivery to:  
Waste Connections / Town of Queen Creek, 3755 S Royal Palm Rd, Apache Junction, AZ85119

- The confirmation of the delivery date of the carts and components will be provided to the delivery contact that is notated on the customer order confirmation providing at least **72 hours of the delivery**. This will provide ample time for staffing and equipment availability.
- Any Bill of Lading documentation (BOL) that is not presented at the destination upon delivery, the delivery will not be accepted until a BOL is obtained.
- The BOL will be detailed providing the following information: Component Description, Quantity of Component(s), Body Color(s), Lid color(s), serial number range(s), and the quantities and components of the 1% spare parts.

96 gallon refuse / recycling containers per specifications  
EVR II Series Nestable Carts, Mfg Model Toter LLC, Model 79296 Unit Price per City/OMNIA Contract

64 gallon refuse / recycling containers per specifications  
EVR II Series Nestable Carts, Mfg Model Toter LLC, Model 79264 Unit Price Per City/OMNIA Contract

**RFID Tag** (Price per container) \$0.75

- Toter shall provide fully encapsulated RFID tag in the container. The RFID tag must have minimal operations temperate rating of -35 degrees F to 185 degrees F (-35-85C) and a minimum read distance of ten (10) feet at an operating frequency of 860-960 Mhz. Device must be Ultra High Frequency (UHF) Electronic Product Code (EPC) Class 1 Generation 2.

Unit prices shall include all freight (FOB destination), insurance, warranty costs, and any other applicable cost excluding taxes.

#### SPECIAL TERMS AND CONDITIONS

##### **Warranty Coverage**

Toter warrants the cart bodies to be free of operational defects in material and workmanship under normal use and service for a period of 12 years which is the standard manufacturer warranty and container components (lids, wheels, axles and fasteners) are warranted for 10 years.

- **WARRANTY.** The Town of Queen Creek will provide a Warranty List Report of all cart body serial numbers and pictures that represent 10% of parts claimed for warranty, which will be uploaded to Dropbox for review. All warranty cart bodies will be deemed as damaged. A

Damaged Lid Report, with the total number of lids deemed cracked, will also be included.

- The Warranty Settlement Form provided by Toter must include a MS Excel document attachment for any containers or lids stating why carts or lids have been rejected for warranty.
- All container bodies delivered shall be warrantied for a minimum period of twelve (12) years from the date of acceptance against any and all defects in material and workmanship. Defects include, but not limited to, cracking, chipping, peeling, distortion, failures at attachment, weathering degradation, defective or insufficient material, poor manufacturing, and low ultraviolet resistance.
- Any component failure, such as c-clamps and wheels, shall require part for part warranty replacement at no cost to the Town of Queen Creek.
- Toter shall not be responsible for damage or loss caused by fire, vandalism or theft, occurring after delivery, distribution, and acceptance.
- Toter expressly warrants all items to be new, free from defects in design, material and workmanship, and to be fit and sufficient for their intended purpose.
- The warranty terms set forth herein shall be applied in full to Toter.
- Toter's Regional Sales Manager will coordinate with the Town's designated staff member quarterly or annually, which will be determined by the Town of Queen Creek, to complete an on-site visit of cart review to identify and photograph the trends in cart failures, and any challenges that arise with delivery and storage of the cart process.
- A Serial Number Spreadsheet Report must be submitted seven business days after the order is completed. The report must be submitted for both cart orders and warranties. The report must be in MS Excel format and include the following:
  - Serial numbers of carts delivered
  - RFID number
  - Cart type (Trash or Recycle)
  - Purchase date
  - Purchase price
  - Warranty start date
  - Warranty end date

### **Spare Parts**

Toter to furnish 1% spare parts with each shipment which consist of handle assemblies, wheels, axles and assemblies, lid and hinge assemblies, plus all associated fasteners and brackets per pricing as listed on City/Omnia Price Listing.

### **Delivery Requirements**

Toter will meet the Town's delivery requirements of new orders and warranties 30 to 60 days after Toter's receipt of Purchase Order, Order Confirmation, Markings Approvals Terms and/or warranty claim approvals.

### **Production Reserves System**

To ensure the Town's roll cart needs are met with prompt delivery timeframes, Toter will set a production reserves system for the Town's annually anticipated cart needs. In the production reserves system, in advance of orders, Toter will enter the Town's anticipated orders into our actual company production schedule at the timeframe that Toter would need to produce the order to meet the Town's delivery requirements.

Toter and the Town will communicate on an annual and quarterly basis to establish, review and adjust any plans for future orders. Production reserves does not replace the provision of purchase orders for those reserved carts. Delivery of orders are required 30 to 60 days after order confirmation is sent for approval.



TOWN OF  
**QUEEN CREEK**  
 ARIZONA

**TO:** HONORABLE MAYOR AND TOWN COUNCIL

**THROUGH:** BRUCE GARDNER, TOWN MANAGER

**FROM:** MARNIE SCHUBERT, COMMUNITY SERVICES DIRECTOR

**RE:** CONSIDERATION AND POSSIBLE APPROVAL OF FY 2023-24 BUDGET AMENDMENTS TOTALING \$392,800 IN EXPENDITURE REALLOCATIONS FROM CONTINGENCY TO ACCOMMODATE ADVANCE ORDERS OF VEHICLES AND EQUIPMENT DUE TO LONG-LEAD ORDER TIMES AND SUPPLY CHAIN ISSUES, AND TO ALLOW THE TOWN MANAGER TO SIGN ALL NECESSARY CONTRACTS AND AGREEMENTS.

**DATE:** September 6, 2023

---

**Suggested Action:**

Motion to approve FY 2023-24 budget amendments totaling \$392,800 in expenditure reallocations from contingencies to accommodate advance orders of materials and equipment due to long-lead order times and supply chain issues, and to allow the Town Manager to sign all necessary contracts and agreements.

**Relevant Council Goal(s):**

Effective Government: KRA Financial Stability

**Discussion:**

The Town's new Recreation & Aquatic facilities are scheduled to open Fall 2024. Due to continued supply chain issues, the vehicles associated with the new facilities need to be ordered now to ensure they arrive by the time the facilities open due.

For the past two years, global supply chain issues have impacted the Town's ability to acquire vehicles, supplies, and critical infrastructure in a timely manner. In many cases, the lead times from order to delivery for equipment and materials is anywhere from six to 24 months.

Due to these supply chain issues and long lead times, staff is requesting authorization to order items now that would normally have been included in next year's budget. Current manufacturer ordering windows for the vehicles requested have closed, however, staff anticipates a second ordering window Fall 2023 where the orders can be placed.

These purchases will require increases to contract spending authority on existing contracts above the levels previously approved by the Town Council. The increased amount is shown by vendor on Attachment 1.

Staff anticipates ordering the items from the vendors identified on Attachment 1, however, in some cases staff is finding that vendors will not hold their quoted prices and quantities for very long because the vendors themselves are facing product and shipping cost increases and shortages. Staff is requesting that the Town Council allow for purchases from another approved vendor/contract based on availability and price, if necessary, and to allow the Town Manager to sign the final contracts and agreements once quotes and commitments from the vendors are secured. Any change



in vendor will not be allowed if the contract price exceeds the amount shown on Attachment 1.

**Fiscal Impact:**

The budget amendments reallocate \$392,800 of expenditure authority from contingency. The proposed amendment does not increase or decrease the total adopted budget; rather, these changes reallocate expenditure authority from contingency to accommodate purchase orders that need to be issued now.

Town Council approval of this request will also increase spending authority on certain existing vendor contracts as noted in Attachment 1.

Staff expects to bring another long-lead request for additional supplies and equipment to the Town Council in December once we have better information about new staffing and equipment needs for the FY 2024-25 budget.

**Alternatives:**

The Town Council could choose to not approve some or all of these budget reallocations and contract spending increases. Staff would remove any item not approved and request the items be included in the FY 2024-25 budget. Staff would then order those items that are included in the final FY 2024-25 budget at the end of May 2024. This would delay delivery of these items until June 2025 or later and significantly impact staff's ability to maintain the new Recreation & Aquatic facilities after they open.

**Attachment(s):**

1. [Attachment 1 - Long Lead Items Requested.pdf](#)

Vendor	Qty	Description	Unit Cost	Cost Estimate	Lead time	Contract #	Current Contract Authority	Additional Contract Authority Needed	New Contract Authority
<b>Items Required for Recreation &amp; Aquatic Facilities:</b>									
	1	3/4 ton extended cab, long bed	\$56,216	\$67,000	12				
Courtesy	2	CHV 2500 Box (2) (Like Facilities crew)	\$141,816	\$168,000	12	State of AZ	\$0	\$364,000	\$364,000
Chevrolet	1	Chevrolet Traverse	\$55,654	\$66,000	12	#CTR059315			
	1	CHV Mini Van (1)	\$52,821	\$63,000	12				
A to Z Equipment	1	Scissor Lift 32'	\$26,100	\$28,800	6-12	Sourcewell #020923-TER	\$32,000	\$28,800	\$60,800



TOWN OF  
**QUEEN CREEK**  
ARIZONA

8.1

**TO:** HONORABLE MAYOR AND TOWN COUNCIL

**THROUGH:** BRUCE GARDNER, TOWN MANAGER

**FROM:** SCOTT MCCARTY, FINANCE DIRECTOR

**RE:** CONSIDERATION AND POSSIBLE APPROVAL OF FY 23-24 CARRY-FORWARD BUDGET REALLOCATIONS OF \$145,013,115 FOR CONTRACTS AND PURCHASE ORDERS THAT HAVE BEEN ISSUED BUT ARE NOT YET COMPLETE, AND \$114,118,108 OF REMAINING PROJECT BUDGETS THAT HAVE RECEIVED PREVIOUS BUDGET AUTHORIZATION BUT ARE NOT YET COMMITTED OR UNDER CONTRACT, FOR A TOTAL CARRY-FORWARD REALLOCATION REQUEST OF \$259,131,223.

**DATE:** September 6, 2023

---

**Suggested Action:**

To approve FY 23-24 carry-forward budget reallocations of \$145,013,115 for contracts and purchase orders that have been issued but are not yet complete, and \$114,118,108 of remaining project budgets that have received previous budget authorization but are not yet committed or under contract, for a total carry-forward reallocation request of \$259,131,223.

**Relevant Council Goal(s):**

- Effective Government: KRA Financial Management, Financial Sustainability

**Discussion:**

The Town's policies require the Town Council to approve reallocation of budget authority from contingencies for any reason, including carry-forward budget reallocations. Following are examples of carry-forward expenses:

- Purchases that have been legally obligated by an executed contract but the work has not been completed or the goods received by the end of the fiscal year.
- Projects that have been authorized under prior budget approvals by the Town Council that are underway but not yet complete.
- Projects that were approved in a prior adopted budget but at fiscal year-end the project or service was not yet started or under contract.

When the FY 23-24 annual budget was being developed, staff did not know at that time how much of the FY 22-23 project budgets would need to be carried forward to cover project expenses in the new year. The adopted FY 23-24 budget therefore included estimates for these needs in the CIP and Operating Contingency budgets, knowing that we would eventually bring a reallocation request to the Town Council to add budget authority for the actual amounts needed to keep these projects moving. This report makes that request for FY 23-24. These reallocations do not increase the FY 23-24 budget but merely reallocate spending authority from contingencies so that these projects can continue or the purchases can be completed.

Attachment A summarizes the requested reallocation amounts by fund. These reallocations are made of two components: existing contracts and purchase orders, and remaining authorized budget that has not yet been committed.

Existing Contracts. These are the most common carry-forward items each year as they represent purchases and projects that have been legally obligated by an executed contract but the work was not completed or the goods received by the end of FY 22-23. Of the \$145 million total in this category, \$136 million is for infrastructure projects in the Town’s CIP program. Another \$7.4 million is for long-lead vehicles and equipment that were approved for pre-ordering in FY 21-22 and FY 22-23 but have not yet been delivered, including ambulances, police vehicles, and equipment for the new Frontier Family Park. Staff expects delivery of these items in FY 23-24. Attachment B lists each individual purchase order by fund, project, and vendor.

Remaining Authorized Budget. These adjustments represent budget authority that the Town Council has previously approved but which has not yet been encumbered with a purchase order. Attachment C lists each project and the amount that staff recommends for carry-forward to FY 23-24. These projects are further divided into “Priority Projects” and “Other Projects.”

In prior years, the Town’s practice was to carry forward all remaining budgets for all CIP projects regardless of the amount or the status of the project, including projects that had not yet started. In recent years, the large number and size of the Town’s aggressive infrastructure programs have caused the carry-forward amounts to grow each year. This is because CIP projects are rarely completed in one year but state law requires “budget authority” to enter into construction contracts, so the annual budgets must include estimates for these carry-forward amounts. This growth in carry-forward has been one driver to the increases to the Town’s overall total budget each year.

For the FY 23-24 budget, the Town Council approved a new approach to handling CIP carry-forward amounts. With this approach, only those projects identified as “Priority Projects” are to be fully funded in the FY 23-24 budget, including estimates of carry-forward amounts. These Priority Projects are:

1. Police Master Plan Projects / Joint PD-Fire Facility
2. Parks Master Plan Phase I and Related Projects
3. State Lands Infrastructure (Roads, Water, and Wastewater)
4. Water / Wastewater Projects Funded by Pinal County
5. Water Resources

As shown in the first column of Attachment C, requested carry-forward budget authority for these Priority Projects totals \$97.2 million.

The new approach to CIP carry-forward requires that all other Non-Priority CIP projects will be funded only when they are ready to move forward, and Town Council action will be required to fund the project from the CIP Contingency budget.

At this time, CIP staff has identified \$16.9 million of projects that are underway and require additional budget authority to continue moving forward in FY 23-24. These projects and the requested amounts are shown in the second column of Attachment C.

As a result of the new approach to CIP carry-forward, the requested reauthorization amount this year is \$82.4 million less than it would have been if the Town had continued its practice of carrying forward all remaining CIP budgets. This result validates the new approach as a tool to keeping the Town’s overall total budget lower while still providing sufficient budget authority to complete the Town’s important CIP projects.

**Fiscal Impact:**

The total budget reallocation from contingency to various expenditure line items and project budgets

for all categories and projects totals \$259.1 million, of which \$145.0 million is for existing contracts and purchase orders, \$97.2 million is for remaining budget authority for Priority Projects, and \$16.9 million is for certain Non-Priority Projects that are already underway but require additional budget authority to complete.

After these reallocations, the Town will have a total of \$68 million remaining in the Town's FY 23-24 CIP contingency budgets and 18.5 million remaining in the Town's operating contingency budgets.

These reallocations do not increase the FY 23-24 budget but merely reallocate spending authority from contingencies so that these projects can continue or the purchases can be completed.

**Alternatives:**

The Town Council could choose to exclude any of the projects that have not yet started. Any project excluded would not move forward. For projects and PO's already underway, the Town Council could choose to cancel a PO or halt a project.

**Attachment(s):**

1. [Attachment A - Carry-Forward Summary by Fund and Category](#)
2. [Attachment B - Existing Contracts and Purchase Orders Detail](#)
3. [Attachment C - Remaining Project Budgets](#)

**ATTACHMENT A - CARRY-FORWARD SUMMARY BY FUND AND CATEGORY**

<b>Fund</b>	<b>Contracts and PO's Under Contract</b>	<b>Remaining Uncommitted Project Budgets - Priority Projects</b>	<b>Remaining Uncommitted Project Budgets - Other Projects</b>	<b>Total</b>
<b>CIP Funds:</b>				
Drainage & Transportation	\$ 32,249,289	\$ 33,188,217	\$ 16,117,621	\$ 81,555,127
General CIP	76,438,897	56,165,543	-	132,604,440
Water CIP	26,062,054	4,354,389	773,247	31,189,690
Wastewater CIP	1,294,729	3,519,091	-	4,813,820
	<u>\$ 136,044,968</u>	<u>\$ 97,227,240</u>	<u>\$ 16,890,868</u>	<u>\$ 250,163,076</u>
<b>Operating Funds:</b>				
General Fund	2,603,143	-	-	2,603,143
Streets/HURF	933,031	-	-	933,031
Emergency Services Fund	3,626,551	-	-	3,626,551
HPEC Fund	283,301	-	-	283,301
Water Operating Fund	1,357,079	-	-	1,357,079
Wastewater Operating Fund	18,498	-	-	18,498
Solid Waste Fund	82,694	-	-	82,694
Parks Impact Fee Fund	12,328	-	-	12,328
Transportation Impact Fee Fund	12,328	-	-	12,328
Public Safety Impact Fee Fund	12,328	-	-	12,328
Fire Impact Fee Fund	12,328	-	-	12,328
Water Capacity Fee Fund	7,268	-	-	7,268
Wastewater Capacity Fee Fund	7,268	-	-	7,268
	<u>\$ 8,968,146</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 8,968,146</u>
<b>Total</b>	<b>\$ 145,013,115</b>	<b>\$ 97,227,240</b>	<b>\$ 16,890,868</b>	<b>\$ 259,131,223</b>

# ATTACHMENT B - EXISTING CONTRACTS AND PURCHASE ORDERS TO CARRY-FORWARD FROM FY 22-23 TO FY 23-24

FUND	DEPARTMENT	NET AMOUNT	PROJECT	PROJECT DESC	PO NUMBER	VENDOR NAME	COMMENT/DESC
305	Drainage & Transportation	13,672	A0115	OCOTILLO: 226TH TO IRONWOOD	20190427	EPS GROUP INC	ENGINEERING SERVICES FOR FINAL
		88	A0115	OCOTILLO: 226TH TO IRONWOOD	20210456	MAKINEN PROFESSIONAL SERVICES	DR 1354-20 Public Outreach ser
		90,938	A0115	OCOTILLO: 226TH TO IRONWOOD	20210712	SPEEDIE & ASSOCIATES	QA TESTING A0115 2017-027 PROJ
		505	A0115	OCOTILLO: 226TH TO IRONWOOD	20210676	SUNLAND ASPHALT	A0115 OCOTILLO RD SUNLAND IFB
		11,069,084	A0116	OCOTILLO: SOSSAMAN TO HAWES	20230804	DCS CONTRACTING, INC	A0116 OCOTILLO RD IMPROVEMENTS
		400	A0116	OCOTILLO: SOSSAMAN TO HAWES	20230665	PIONEER TITLE AGENCY	A0116 OCOTILL RD EMINENT DOMAI
		1,158,183	A0116	OCOTILLO: SOSSAMAN TO HAWES	20210434	QUEEN CREEK IRRIGATION DISTRICT	ENGINEERING DESIGN SERVICES FO
		87	A0116	OCOTILLO: SOSSAMAN TO HAWES	20210599	SOLAR TRAFFIC CONTROLS, LLC	SINGLE RADAR SIGN INSTALL
		308,929	A0116	OCOTILLO: SOSSAMAN TO HAWES	20230973	SRP	A0116 OCOTILLO RD: SOSSAMAN RD
		39,356	A0116	OCOTILLO: SOSSAMAN TO HAWES	20231198	SRP	A0116 OCOTILLO RD: SOSSAMAN RD
		95,961	A0116	OCOTILLO: SOSSAMAN TO HAWES	20190448	STANLEY CONSULTANTS INC	ENGINEERING DESIGN SERVICES -
		344	A0116	OCOTILLO: SOSSAMAN TO HAWES	20220594	TERRANEXT LLC	PHASE I ENVIRONMENTAL SITE ASS
		9,178	A0116	OCOTILLO: SOSSAMAN TO HAWES	20231235	TERRANEXT LLC	A0116 SOSSAMAN RD TO HAWES RD
		57,061	A0207	ELLSWORTH: RITTENHOUSE TO UPRR-N	20200484	WSP USA ENVIRONMENT AND INFRASTRUCTURE IN	DESIGN OF OLD ELLSWORTH RD RAI
		81,080	A0210	QUEEN CREEK RD: ELLSWORTH TO 206TH	20220303	QUEEN CREEK IRRIGATION DISTRICT	PIPELINE RELOCATION FOR A0210
		8,700	A0401	HAWES RD-RITTENHOUSE TO OCOTILLO	20220969	MAKINEN PROFESSIONAL SERVICES	A0401 PUBLIC OUTREACH SERVICES
		4,000	A0401	HAWES RD-RITTENHOUSE TO OCOTILLO	20220981	PIONEER TITLE AGENCY	TITLE REPORTS FOR PROJECT A040
		401,762	A0401	HAWES RD-RITTENHOUSE TO OCOTILLO	20220725	STANLEY CONSULTANTS INC	ROADWAY IMPROVEMENT A0401 HAWES
		55	A0602	CHANDLER HGTS-HAWES TO SOSSAMAN	20210711	KIMLEY-HORN AND ASSOCIATES, INC.	A0602 CON 2016-114PRJOR 7 DRAI
		142,320	A0602	CHANDLER HGTS-HAWES TO SOSSAMAN	20220479	KIMLEY-HORN AND ASSOCIATES, INC.	ENGINEERING SERVICES FOR DESIG
		6,255	A0602	CHANDLER HGTS-HAWES TO SOSSAMAN	20221086	MAKINEN PROFESSIONAL SERVICES	A0602 PUBLIC OUTREACH SERVICES
		1,481	A0603	CHANDLER HTS:SOSSAMAN TO POWER	20210139	STANTEC CONSULTING SERVICES INC	DESIGN SERVICES FOR A0603
		374,999	A0604	CHANDLER HTS: RECKER TO POWER	20210608	HUNTER CONTRACTING CO	A1404,A0604,A0605 DR 1372-20 C
		4,630	A0604	CHANDLER HTS: RECKER TO POWER	20210821	MAKINEN PROFESSIONAL SERVICES	TC2019-008 PUBLIC OUTREACH SVS
		6,450	A0604	CHANDLER HTS: RECKER TO POWER	20210644	STANTEC CONSULTING SERVICES INC	POST DESIGN SERVICES A0604,A06
		20,769	A0605	SIGNAL:CHANDLER HTS AT 180TH	20210608	HUNTER CONTRACTING CO	A1404,A0604,A0605 DR 1372-20 C
		2,536,027	A0801	SIGNAL BUTTE: OCOTILLO TO QC RD	20231121	AJP ELECTRIC	A0801 IFB 23-018 SIGNAL BUTTE
		34,822	A0801	SIGNAL BUTTE: OCOTILLO TO QC RD	20230981	ATEK ENGINEERING CONSULTANTS LLC	A0801 SIGNAL BUTTE RD, APPLEBY
		13,848	A0801	SIGNAL BUTTE: OCOTILLO TO QC RD	20210827	EPS GROUP INC	CN2016-119 DR1265-19 A0801 EPS
		8,540	A0801	SIGNAL BUTTE: OCOTILLO TO QC RD	20230936	MAKINEN PROFESSIONAL SERVICES	A0801 SIGNAL BUTTE RD, APPLEBY
		73,204	A0801	SIGNAL BUTTE: OCOTILLO TO QC RD	20231136	QWEST CORPORATION DBA CENTURYLINK QC	A0801 QC SIGNAL BUTTE INTERSEC
		7,557	A0801	SIGNAL BUTTE: OCOTILLO TO QC RD	20230914	SRP	A0801 SIGNAL BUTTE RD, APPLEBY
		75,000	A0904	SOSSAMAN RAILROAD CROSSING @ GERMAN	20230697	UNION PACIFIC RAILROAD	A0904 PRELIMINARY ENGINEERING
		1,073,181	A0904	SOSSAMAN RAILROAD CROSSING @ GERMAN	20230528	WSP USA ENVIRONMENT AND INFRASTRUCTURE IN	A0904 SOSSOMAN & GERMANN INTER
		9,243	A1001	QUEEN CREEK RD:ELLSWORTH TO CRISMON	20220776	ACS SERVICES LLC	A1001 QUALITY ASSURANCE MATERI
		583,873	A1001	QUEEN CREEK RD:ELLSWORTH TO CRISMON	20220742	DCS CONTRACTING, INC	CONSTRUCTION SRVC A1001 (A1002
		4,433	A1001	QUEEN CREEK RD:ELLSWORTH TO CRISMON	20220672	DIBBLE & ASSOCIATES	POST DESIGN SERVICES RESOLUTI
		1,990	A1001	QUEEN CREEK RD:ELLSWORTH TO CRISMON	20221121	MAKINEN PROFESSIONAL SERVICES	A1001 PUBLIC OUTREACH SERVICES
		204,397	A1005	CRISMON: CLOUD TO RIGGS	20230713	RITTOCH-POWELL ASSOCIATES	A1005 CRISMON ROAD WIDENING
		58,501	A1006	CLOUD & ELLSWORTH RD DECEL LANES	20230702	WESTWOOD PROFESSIONAL SERVICES INC	A1006 CIVIL ENGINEERING SURVEY
		159,653	A1404	POWER: BROOKS FARM TO CHAND HGTS	20210608	HUNTER CONTRACTING CO	A1404,A0604,A0605 DR 1372-20 C
		5,964	A1404	POWER: BROOKS FARM TO CHAND HGTS	20210811	MAKINEN PROFESSIONAL SERVICES	TOWN CT2019-008 PUBLIC OUTREAC
		7,079	A1404	POWER: BROOKS FARM TO CHAND HGTS	20210644	STANTEC CONSULTING SERVICES INC	POST DESIGN SERVICES A0604,A06
		6,753	A1405	POWER: CHANDLER HTS TO RIGGS	20221122	MAKINEN PROFESSIONAL SERVICES	A1405 COMMUNITY OUTREACH SERVI
		400	A1405	POWER: CHANDLER HTS TO RIGGS	20230507	PIONEER TITLE AGENCY	TITLE REPORTS FOR A1405
		55,682	A1405	POWER: CHANDLER HTS TO RIGGS	20220855	STANTEC CONSULTING SERVICES INC	A1405 ROADWAY AND DRAINAGE IMP
		10,000	A1406	POWER: RIGGS TO HUNT HWY	20221123	MAKINEN PROFESSIONAL SERVICES	A1406 COMMUNITY OUTREACH SERVI
		537,011	A1406	POWER: RIGGS TO HUNT HWY	20221008	T Y LIN INTERNATIONAL	A1406 FINAL DESIGN OF POWER RD
		16,744	A1505	MERIDIAN: COMBS TO QC WASH	20220419	ACS SERVICES LLC	QC CONSTRUCTION MATERIALS TEST
		102,573	A1505	MERIDIAN: COMBS TO QC WASH	20220516	DCS CONTRACTING, INC	HALF- STREET CONSTRUCTION A1505
		4,693	A1505	MERIDIAN: COMBS TO QC WASH	20190532	MAKINEN PROFESSIONAL SERVICES	PUBLIC OUTREACH -MERIDIAN-GERM
		28,007	A1505	MERIDIAN: COMBS TO QC WASH	20190623	T Y LIN INTERNATIONAL	DESIGN SERVICES - MERIDIAN ROA
		1,775,990	A1507	MERIDIAN ROAD: QC ROAD TO GERMANN	20221052	B & F CONTRACTING, INC.	A1507 INSTALL IRRIGATION PIIII
		2,099,449	A1507	MERIDIAN ROAD: QC ROAD TO GERMANN	20220624	J BANICKI CONSTRUCTION INC	PROJECT A1507 MERIDIAN RD, QC
		7,169	A1507	MERIDIAN ROAD: QC ROAD TO GERMANN	20231094	PALEOWEST LLC	A1507 MERIDIAN RD :COMBS-QC WA
		42,234	A1507	MERIDIAN ROAD: QC ROAD TO GERMANN	20220625	QUALITY TESTING LLC	QUALITY ASSURANCE TESTING - ME
		99,889	A1507	MERIDIAN ROAD: QC ROAD TO GERMANN	20210651	QUEEN CREEK IRRIGATION DISTRICT	PLANNING 7 ENGINEERING A1507
		194,525	A2001	RYAN: CRISMON TO 220TH	20230043	ATWELL LLC	A2001/A1702 RYAN RD AND 220TH
		5,100	A2001	RYAN: CRISMON TO 220TH	20231012	WSP USA ENVIRONMENT AND INFRASTRUCTURE IN	PROJECT A2001 LAND REVIEW RYAN
		20,713	AR050	TOWN CENTER: ALDECOA-MUNOZ-SUMMERS	20230552	ATEK ENGINEERING CONSULTANTS LLC	AR050 MATERIALS TESTING FOR TO
		100,602	AR050	TOWN CENTER: ALDECOA-MUNOZ-SUMMERS	20220497	DIBBLE & ASSOCIATES	TOWN CENTER INFRASTRUCTURE PRO
		7,030	AR050	TOWN CENTER: ALDECOA-MUNOZ-SUMMERS	20230548	MAKINEN PROFESSIONAL SERVICES	AR050 MAKPRO PUBLIC OUTREACH S
		5,050,348	AR050	TOWN CENTER: ALDECOA-MUNOZ-SUMMERS	20230750	NESBITT CONTRACTING CO INC	AR050 TOWN CENTER
		93,893	AR050	TOWN CENTER: ALDECOA-MUNOZ-SUMMERS	20231234	QWEST CORPORATION DBA CENTURYLINK QC	AR050 TOWN CENTER -UNDERGROUND
		255,242	AR050	TOWN CENTER: ALDECOA-MUNOZ-SUMMERS	20221106	SRP	AR050 UNDERGROUND CONSTRUCTION
		57,763	AR100	ASLD INFRASTRUCTURE IMPROVEMENTS	20231015	ACS SERVICES LLC	AR100 STATE LAND INFRASTRUCTUR
		53,172	AR100	ASLD INFRASTRUCTURE IMPROVEMENTS	20231085	CONSULTANT ENGINEERING INC.	AR100 STATE LAND INFRASTRUCTUR
		113,264	AR100	ASLD INFRASTRUCTURE IMPROVEMENTS	20221107	HAYDON BUILDING CORP	AR100 ASLD INFRASTRUCTURE IMPR
		199,871	AR100	ASLD INFRASTRUCTURE IMPROVEMENTS	20221108	HAYDON BUILDING CORP	AR100 ASLD INFRASTRUCTURE IMPR
		356,261	AR100	ASLD INFRASTRUCTURE IMPROVEMENTS	20220926	MARC TAYLOR INC	AR100 CO-OP PURCHASE AGREEMENT
		15,899	AR100	ASLD INFRASTRUCTURE IMPROVEMENTS	20231150	SPEEDIE & ASSOCIATES	AR100 STATE LAND INFRASTRUCTUR
		155,097	AR100	ASLD INFRASTRUCTURE IMPROVEMENTS	20220856	STANLEY CONSULTANTS INC	A2025 ARTERIAL ROADWAY WIDENIN
		1,120,066	AR100	ASLD INFRASTRUCTURE IMPROVEMENTS	20220879	T Y LIN INTERNATIONAL	AR100 ASLD INFRASTRUCTURE IMPR
		337,824	D0013	VIA JARDINES WASH CROSSING	20230867	ENTELLUS INC	D0013 VIA DEL JARDIN WASH CROS
		397,791	FB004	FIBER MASTER PLAN	20231232	KIMLEY-HORN AND ASSOCIATES, INC.	FB004 TOWNWIDE FIBER ASSESSMEN
		3,677	I0037	TS: GARY RD & GRANGE PARKWAY	20230726	ATEK ENGINEERING CONSULTANTS LLC	I0037 GARY AND GRANGE TRAFFIC
		3,032	I0037	TS: GARY RD & GRANGE PARKWAY	20230547	MAKINEN PROFESSIONAL SERVICES	I0037 GARY AND GRANGE TRAFFIC
		3,000	I0037	TS: GARY RD & GRANGE PARKWAY	20230480	NEW MAGMA IRRIGATION & DRAINAGE DISTRICT	I0037 BUILD THE NEW SIGNALIZED
		42,000	I0038	GERMANN RD & 196TH ST	20230431	JOHN THOMAS INC	I0038 GERMANN & 196TH TRAFFIC
		118,340	I0038	GERMANN RD & 196TH ST	20230379	LEE ENGINEERING	I0038 TRAFFIC SIGNAL DESIGN 19
		4,585	I0038	GERMANN RD & 196TH ST	20230469	ROADWAY ELECTRIC LLC	I0038 GERMANN & 196TH TRAFFIC
<b>305 Total</b>		<b>32,249,289</b>					

**ATTACHMENT B - EXISTING CONTRACTS AND PURCHASE ORDERS TO CARRY-FORWARD FROM FY 22-23 TO FY 23-24**

FUND	DEPARTMENT	NET AMOUNT	PROJECT	PROJECT DESC	PO NUMBER	VENDOR NAME	COMMENT/DESC
310	CIP/Special Projects	555	FP004	FLAG POLES PROJECT	20230343	PERLMAN ARCHITECTS OF ARIZONA, INC.	FP004 ELECTICAL, STRUCTURAL,
		650	HP301	HPEC RV STALLS EXPANSION	20230618	SUNRISE ENGINEERING	CIVIL ENGINEERING SERVICES HOR
		20,757	MF009	FIRE STATION #5	20200702	PERLMAN ARCHITECTS OF ARIZONA, INC.	DESIGN PROF SERVICES PROJECT
		5,946	MF009	FIRE STATION #5	20220400	QUALITY TESTING LLC	SPECIAL INSPECTION & MATERIAL
		82,851	MF009	FIRE STATION #5	20210294	WILLMENG CONSTRUCTION INC	CMAR CONTRACT FOR PRE-CON SERV
		35,560	MF010	FIRE STATION #2 PERMANENT FACILITY	20200700	PERLMAN ARCHITECTS OF ARIZONA, INC.	DESIGN PROFESSIONAL SERVICES F
		10,886	MF010	FIRE STATION #2 PERMANENT FACILITY	20220399	QUALITY TESTING LLC	SPECIAL INSPECTION & MATERIAL
		76,347	MF010	FIRE STATION #2 PERMANENT FACILITY	20210293	WILLMENG CONSTRUCTION INC	CMAR CONTRACT FOR PRE-CONSTRUC
		4,535	MF012	STREET SWEEPER WASHOUT FACILITY	20231023	ATEK ENGINEERING CONSULTANTS LLC	MF012 HEAVY EQUIPMENT WASHOUT
		9,558	MF012	STREET SWEEPER WASHOUT FACILITY	20230692	HUNTER CONTRACTING CO	MF012 CONST OF HEAVY EQUIPMENT
		2,368	MF012	STREET SWEEPER WASHOUT FACILITY	20221044	STANLEY CONSULTANTS INC	MF012 STREET SWEEPER WASHOUT D
		363,236	MF018	PW FIELD OPS FACILITY PHASE 2	20230611	DIBBLE & ASSOCIATES	MF018 FIELD OPERATIONS FACILIT
		2,236,573	MF019	PUBLIC SAFETY COMPLEX #1 PD/FIRE	20231051	ARRINGTON WATKINS ARCHITECTS, LLC	MF019 DESIGN CONTRACT QC PUBLI
		37,345	MF019	PUBLIC SAFETY COMPLEX #1 PD/FIRE	20230455	PERLMAN ARCHITECTS OF ARIZONA, INC.	MF011 PROFESSIONAL DESIGN SERV
		5,456	P0615	MANSEL CARTER PHASE 2	20230527	HAYDON BUILDING CORP	P0615 MANSEL CARTER PHASE II C
		10,908,441	P0615	MANSEL CARTER PHASE 2	20231093	HAYDON BUILDING CORP	P0615 MANSEL CARTER PHASE II G
		106,471	P0615	MANSEL CARTER PHASE 2	20220818	J2 ENGINEERING AND ENVIRONMENTAL DESIGN	P0615 ENGINEERING, ARCHITECTUR
		40,609	P0620	FRONTIER FAMILY PARK DRAINAGE	20231092	CONSULTANT ENGINEERING INC.	P0620 FRONTIER FAMILY PARK DRA
		4,788,144	P0620	FRONTIER FAMILY PARK DRAINAGE	20230866	HAWKKE LLC	P0620 FRONTIER FAMILY PARK DRA
		50,445	P0620	FRONTIER FAMILY PARK DRAINAGE	20200363	J2 ENGINEERING AND ENVIRONMENTAL DESIGN	DESIGN EAST PARK FLOOD CONTROL
		4,000	P0620	FRONTIER FAMILY PARK DRAINAGE	20230877	MAKINEN PROFESSIONAL SERVICES	P0620 FRONTIER FAMILY PARK DRA
		57,785	P0620	FRONTIER FAMILY PARK DRAINAGE	20230891	NINYO & MOORE	P0620 FRONTIER FAMILY PARK DRA
		206,979	P0620	FRONTIER FAMILY PARK DRAINAGE	20220843	QUEEN CREEK IRRIGATION DISTRICT	P0620 EAST PARK DRAINAGE IMPRO
		61,158	P0620	FRONTIER FAMILY PARK DRAINAGE	20230724	SRP	P0620 12KV RELOCATION
		57,242	P0625	FRONTIER FAMILY PARK	20230822	COMPUNET INC	P0625 CONF EQUIP AT FRONTIER F
		42,358	P0625	FRONTIER FAMILY PARK	20231095	CONSULTANT ENGINEERING INC.	P0625 FRONTIER FAMILY PARK PRO
		13,329	P0625	FRONTIER FAMILY PARK	20230931	ENDSOLUTION COMM. LLC DBA NATL CABLING TEC	P0625 COMMUNICATIONS INFRASTRU
		221,089	P0625	FRONTIER FAMILY PARK	20230477	HUNTER CONTRACTING CO	P0625 FRONTIER FAMILY PARK PRE
		2,001,579	P0625	FRONTIER FAMILY PARK	20230497	HUNTER CONTRACTING CO	P0625 FRONTIER FAMILY PARK GMP
		27,977,134	P0625	FRONTIER FAMILY PARK	20230772	HUNTER CONTRACTING CO	P0625 CMAR- GMP 2 CONSTRUCTION
		11,349,190	P0625	FRONTIER FAMILY PARK	20231123	HUNTER CONTRACTING CO	P0625 FRONTIER FAMILY PARK GMP
		1,045,365	P0625	FRONTIER FAMILY PARK	20230662	J2 ENGINEERING AND ENVIRONMENTAL DESIGN	P0625 DESIGN SERVICES FOR EAST
		5,000	P0625	FRONTIER FAMILY PARK	20230682	MAKINEN PROFESSIONAL SERVICES	P0625 PUBLIC OUTREACH FRONTIER
		67,298	P0625	FRONTIER FAMILY PARK	20230677	NINYO & MOORE	P0625 FRONTIER FAMILY PARK MAT
		582	P0625	FRONTIER FAMILY PARK	20231154	SAFARI MICRO INC	WIRELESS ACCESS POINTS AT FRONT
		4,150	P0625	FRONTIER FAMILY PARK	20230823	SENTINEL TECHNOLOGIES INC	P0625 SWITCHES FOR GROUNDS/RAN
		17,303	P0625	FRONTIER FAMILY PARK	20231011	SENTINEL TECHNOLOGIES INC	P0625 FRONTIER FAMILY PARK COM
		17,104	P0625	FRONTIER FAMILY PARK	20231062	SRP	P0625 FRONTIER FAMILY PARK CON
		292,299	RQ030	COMBINED REC-AQUATIC CENTER	20221012	DWL ARCHITECTS & PLANNERS INC	DESIGN OF AQUATIC AND MULTI-GE
		42,575	RQ030	COMBINED REC-AQUATIC CENTER	20230703	HAYDON BUILDING CORP	RQ030 FRONTIER FAM PARK AQUATI
		13,383,732	RQ030	COMBINED REC-AQUATIC CENTER	20230912	HAYDON BUILDING CORP	RQ030 AQUATIC AND REC CENTER G
		38,161	TE100	QC WASH TRAIL: CRISMON-RITTENHOUSE	20210333	WSP USA ENVIRONMENT AND INFRASTRUCTURE IN	QC WASH MULTI-USE PATH PH1 DES
		11,075	TE101	QC WASH TRAIL: RITTENHOUSE-MERIDIAN	20210756	RAILPROS FIELD SERVICES INC	TE 101 RR COORDINATION SERVICE
		33,397	TE101	QC WASH TRAIL: RITTENHOUSE-MERIDIAN	20220371	UNION PACIFIC RAILROAD	UPRR Reimbursement Agreement -
		4,962	TE101	QC WASH TRAIL: RITTENHOUSE-MERIDIAN	20210653	WSP USA ENVIRONMENT AND INFRASTRUCTURE IN	WOOD INC. ENG SERV. TE101 \$863
		9,763	TE101	QC WASH TRAIL: RITTENHOUSE-MERIDIAN	20220877	WSP USA ENVIRONMENT AND INFRASTRUCTURE IN	TE101 QC WASH MULTIUSE PATH RI
		8,165	TE201	SONOQUI WASH - HAWES:CRISMON CONSTR	20220414	ATC GROUP SERVICES LLC DBA ATLAS TECHNICAL	QUALITY ASSURANCE TESTING FOR
		10,498	TE201	SONOQUI WASH - HAWES:CRISMON CONSTR	20220426	KIMLEY-HORN AND ASSOCIATES, INC.	POST DESIGN CONSTRUCTION SERVI
		446,403	TE201	SONOQUI WASH - HAWES:CRISMON CONSTR	20220413	NESBITT CONTRACTING CO INC	TE201 SONOQUI WASH TRAIL IMPRO
		7,294	TE201	SONOQUI WASH - HAWES:CRISMON CONSTR	20230663	SRP	TE201 SONOQUI WASH TRAIL IMPRO
		215,195	XX054	GROUNDS MAINTENANCE FACILITY	20230674	M R TANNER DEVELOP AND CONSTRUCTION INC	XX054 QUEEN CREEK PARK AND GRO
<b>310 Total</b>		<b>76,438,897</b>					
223	Water-Capital	2,457,541	A0116	OCOTILLO: SOSSAMAN TO HAWES	20230804	DCS CONTRACTING, INC	A0116 OCOTILLO RD IMPROVEMENTS
		7,451	AR050	TOWN CENTER: ALDECOA-MUNOZ-SUMMERS	20230552	ATEK ENGINEERING CONSULTANTS LLC	AR050 MATERIALS TESTING FOR TO
		2,057	AR050	TOWN CENTER: ALDECOA-MUNOZ-SUMMERS	20220497	DIBBLE & ASSOCIATES	TOWN CENTER INFRASTRUCTURE PRO
		4,000	AR050	TOWN CENTER: ALDECOA-MUNOZ-SUMMERS	20230548	MAKINEN PROFESSIONAL SERVICES	AR050 MAKPRO PUBLIC OUTREACH S
		380,782	AR050	TOWN CENTER: ALDECOA-MUNOZ-SUMMERS	20230750	NESBITT CONTRACTING CO INC	AR050 TOWN CENTER
		9,751,668	AR100	ASLD INFRASTRUCTURE IMPROVEMENTS	20221107	HAYDON BUILDING CORP	AR100 ASLD INFRASTRUCTURE IMPR
		1	AR100	ASLD INFRASTRUCTURE IMPROVEMENTS	20220856	STANLEY CONSULTANTS INC	A2025 ARTERIAL ROADWAY WIDENIN
		3,590,759	P0625	FRONTIER FAMILY PARK	20230497	HUNTER CONTRACTING CO	P0625 FRONTIER FAMILY PARK GMP
		509,117	P0625	FRONTIER FAMILY PARK	20230772	HUNTER CONTRACTING CO	P0625 CMAR- GMP 2 CONSTRUCTION
		1,668	P0625	FRONTIER FAMILY PARK	20230767	INSTRUMENTATION AND CONTROLS LLC	P0625 FRONTIER FAMILY PARK WEL
		9,180	P0625	FRONTIER FAMILY PARK	20230677	NINYO & MOORE	P0625 FRONTIER FAMILY PARK MAT
		241,638	P0625	FRONTIER FAMILY PARK	20231184	SWAIN ELECTRIC, INC.	P0625 FRONTIER FAMILY PARK WEL
		64,268	P0625	FRONTIER FAMILY PARK	20231195	VERTECH INDUSTRIAL SYSTEMS, LLC	P0625 FRONTIER FAMILY PARK SCA
		6,059	WA020	BARNEY WELL,RESERVOIR, BOOSTER	20190308	CLEAR CREEK ASSOCIATES PLC	BARNEY FARMS LAKE WELL & BARNE
		4,036	WA020	BARNEY WELL,RESERVOIR, BOOSTER	20220360	CONTRACTORS WEST INC.	FIBER INSTALL - BARNEY FARMS
		8,544	WA020	BARNEY WELL,RESERVOIR, BOOSTER	20190606	HILGARTWILSON LLC	BARNEY FARMS STORAGE TANK AND
		2,053	WA020	BARNEY WELL,RESERVOIR, BOOSTER	20210171	HILGARTWILSON LLC	CONSTRUCTION MGMT SVCS BARNEY
		19,509	WA020	BARNEY WELL,RESERVOIR, BOOSTER	20210490	HILGARTWILSON LLC	PROJ ORDER 15 - BARNEY FARMS S
		35,990	WA020	BARNEY WELL,RESERVOIR, BOOSTER	20230541	HILGARTWILSON LLC	BARNEY TANK PHASE 4 - CONST MG
		11,140	WA020	BARNEY WELL,RESERVOIR, BOOSTER	20200774	MGC CONTRACTORS INC	BARNEY TANK
		123,707	WA020	BARNEY WELL,RESERVOIR, BOOSTER	20210787	MGC CONTRACTORS INC	BARNEY FARMS RESERVOIR & BPS P
		337,809	WA020	BARNEY WELL,RESERVOIR, BOOSTER	20220561	MGC CONTRACTORS INC	BARNEY FARMS PHASE 3 - RESERVO
		308,367	WA020	BARNEY WELL,RESERVOIR, BOOSTER	20221033	MGC CONTRACTORS INC	BARNEY FARMS RESERVOIR BPS PHA
		15,016	WA020	BARNEY WELL,RESERVOIR, BOOSTER	20190597	SUNRISE ENGINEERING	ENGINEERING SERVICES: BARNEY F
		7,229	WA020	BARNEY WELL,RESERVOIR, BOOSTER	20210371	SWAIN ELECTRIC, INC.	BARNEY TANK ELECTRICAL BUILDIN
		14	WA020	BARNEY WELL,RESERVOIR, BOOSTER	20230378	VERTECH INDUSTRIAL SYSTEMS, LLC	BARNEY TANK PLC RE DESIGN AND
		178,198	WA031	GERMANN: KENWORTHY TO SCHEPF 24" TL	20231155	WSP USA ENVIRONMENT AND INFRASTRUCTURE IN	KENWORTHY RD WATER LINE WA262,
		26,523	WA037	BELL ROAD PUMP STATION	20230802	MGC CONTRACTORS INC	WA037 BELL PUMP ROAD PUMP STAT
		3,200	WA037	BELL ROAD PUMP STATION	20220745	SUNRISE ENGINEERING	BELL ROAD PUMP DESIGN
		4,040	WA037	BELL ROAD PUMP STATION	20230992	VERTECH INDUSTRIAL SYSTEMS, LLC	INSTALLATION OF COMMUNICATION



**ATTACHMENT B - EXISTING CONTRACTS AND PURCHASE ORDERS TO CARRY-FORWARD FROM FY 22-23 TO FY 23-24**

FUND	DEPARTMENT	NET AMOUNT	PROJECT	PROJECT DESC	PO NUMBER	VENDOR NAME	COMMENT/DESC
		48,951	WA107	NEW UTILITIES BILLING SOFTWARE	20190281	HARRIS COMPUTER SYSTEM	BALANCE ON CONTRACT FOR NEW BI
		79,644	WA202	HARVEST TANK & SITE PHASE 1	20190605	HILGARTWILSON LLC	HARVEST STORAGE TANK AND BOOST
		758	WA202	HARVEST TANK & SITE PHASE 1	20220720	HILGARTWILSON LLC	CONST MGMT SERVICES PHASE 1 -
		58,988	WA202	HARVEST TANK & SITE PHASE 1	20220721	HILGARTWILSON LLC	CONST MGMT SERVICES PHASE 2 -
		186,645	WA202	HARVEST TANK & SITE PHASE 1	20220573	MGC CONTRACTORS INC	HARVEST TANK PHASE 1
		7,852	WA202	HARVEST TANK & SITE PHASE 1	20220778	NINYO & MOORE	HARVEST - MATERIAL TESTING & S
		463,236	WA208	HARVEST TANK & SITE PHASE 2	20231115	MGC CONTRACTORS INC	HARVEST PHASE 2 - LONG LEAD IT
		180,422	WA209	HARVEST TANK & SITE PHASE 3	20230882	MGC CONTRACTORS INC	HARVEST PHASE 3 - LONG LEAD EL
		2,653,493	WA250	SCHNEPF: QC WASH PAST COMBS	20231196	MGC CONTRACTORS INC	WA250 SCHNEPF ROAD WATERLINE
		30	WA250	SCHNEPF: QC WASH PAST COMBS	20200705	SUNRISE ENGINEERING	ENGINEERING SVC - SCHNEPF ROAD
		55	WA250	SCHNEPF: QC WASH PAST COMBS	20230987	WINWATER WORKS PHOENIX AZ CO	C909 & DIP PIPE - SCHNEPF, LAR
		561,799	WA262	SCHNEPF: 10" TRANS COMBS-HASHKNIFE	20231155	WSP USA ENVIRONMENT AND INFRASTRUCTURE IN	KENWORTHY RD WATER LINE WA262,
		25,207	WA270	SCHNEPF: COMBS TO HASHKNIFE	20210337	HILGARTWILSON LLC	ENG SVC SCHNEPF ROAD WATER &
		34,921	WA271	SCHNEPF: HASHKNIFE TO SKYLINE	20210337	HILGARTWILSON LLC	ENG SVC SCHNEPF ROAD WATER &
		878,087	WA273	LAREDO 750' EAST OF SCHNEPF	20231197	MGC CONTRACTORS INC	WA273 CONSTRUCTION OF LAREDO
		1,019	WA276	DIVERSIFIED: UPFIT WELL #1	20230990	FERGUSON ENTERPRISES INC	QUAIL RANCH WELL SITE PARTS -
		5,916	WA276	DIVERSIFIED: UPFIT WELL #1	20220640	SUNRISE ENGINEERING	QUAIL RANCH WELL EQUIPPING (DW
		106,606	WA276	DIVERSIFIED: UPFIT WELL #1	20230529	SW WATERWORKS CONTRACTORS PM LLC DBA PUI	QUAIL RANCH WELL - UPGRADE PUM
		598,203	WA276	DIVERSIFIED: UPFIT WELL #1	20230532	SWAIN ELECTRIC, INC.	QUAIL RANCH WELL ELECTRICAL -
		13,901	WA276	DIVERSIFIED: UPFIT WELL #1	20230743	TW ASSOCIATES DBA MISCOWATER	ROTORK ASSEMBLIES FOR WELL SIT
		25,985	WA276	DIVERSIFIED: UPFIT WELL #1	20231203	VERTECH INDUSTRIAL SYSTEMS, LLC	SCADA PROGRAMMING - QUAIL RANC
		6,118	WA277	DIVERSIFIED: UPFIT COMBS RANCH WELL	20220409	SUNRISE ENGINEERING	COMBS RANCH WELL EQUIPPING - W
		89,919	WA277	DIVERSIFIED: UPFIT COMBS RANCH WELL	20210531	SW WATERWORKS CONTRACTORS PM LLC DBA PUI	COMBS RANCH WELL PUMP
		1,248	WA277	DIVERSIFIED: UPFIT COMBS RANCH WELL	20220611	VERTECH INDUSTRIAL SYSTEMS, LLC	SCADA CONTROL PANEL - COMBS RA
		6,205	WA288	UTILITIES ADMIN BUILDING (FOF)	20210838	SUNRISE ENGINEERING	WASH OUT BAY DESIGN
		103,294	WA290	HOME PLACE EAST WELL	20220754	SW WATERWORKS CONTRACTORS PM LLC DBA PUI	HOMEPLACE EAST WELL - CLEAN AN
		41,328	WA290	HOME PLACE EAST WELL	20230454	SW WATERWORKS CONTRACTORS PM LLC DBA PUI	HOMEPLACE EAST WELL LINER - WI
		239,702	WA290	HOME PLACE EAST WELL	20230453	SWAIN ELECTRIC, INC.	HOMEPLACE EAST ELECTRICAL - WI
		13,901	WA290	HOME PLACE EAST WELL	20230743	TW ASSOCIATES DBA MISCOWATER	ROTORK ASSEMBLIES FOR WELL SIT
		43,666	WA290	HOME PLACE EAST WELL	20231087	VERTECH INDUSTRIAL SYSTEMS, LLC	SCADA PANELS - HOMEPLACE WELLS
		217,031	WA291	HOME PLACE NORTH WELL	20230543	SW WATERWORKS CONTRACTORS PM LLC DBA PUI	HOMEPLACE NORTH LINER - WA291
		204,536	WA291	HOME PLACE NORTH WELL	20230544	SW WATERWORKS CONTRACTORS PM LLC DBA PUI	HOMEPLACE NORTH PUMP - WA291 -
		252,312	WA291	HOME PLACE NORTH WELL	20230546	SWAIN ELECTRIC, INC.	HOMEPLACE NORTH ELECTRICAL INS
		13,901	WA291	HOME PLACE NORTH WELL	20230743	TW ASSOCIATES DBA MISCOWATER	ROTORK ASSEMBLIES FOR WELL SIT
		43,666	WA291	HOME PLACE NORTH WELL	20231087	VERTECH INDUSTRIAL SYSTEMS, LLC	SCADA PANELS - HOMEPLACE WELLS
		40,982	WA291	HOME PLACE NORTH WELL	20231088	VERTECH INDUSTRIAL SYSTEMS, LLC	SCADA PANEL - WALES RANCH LAKE
		102,094	WA292	HOME PLACE SOUTH WELL	20220718	SW WATERWORKS CONTRACTORS PM LLC DBA PUI	HOMEPLACE SOUTH WELL PUMP AND
		27,367	WA292	HOME PLACE SOUTH WELL	20230545	SW WATERWORKS CONTRACTORS PM LLC DBA PUI	HOMEPLACE SOUTH LINER - WA292
		53,143	WA292	HOME PLACE SOUTH WELL	20230986	SW WATERWORKS CONTRACTORS PM LLC DBA PUI	HOMEPLACE SOUTH SOUND ENCLOSUR
		254,363	WA292	HOME PLACE SOUTH WELL	20230531	SWAIN ELECTRIC, INC.	HOMEPLACE SOUTH - ELECTRICAL I
		13,901	WA292	HOME PLACE SOUTH WELL	20230743	TW ASSOCIATES DBA MISCOWATER	ROTORK ASSEMBLIES FOR WELL SIT
		43,666	WA292	HOME PLACE SOUTH WELL	20231087	VERTECH INDUSTRIAL SYSTEMS, LLC	SCADA PANELS - HOMEPLACE WELLS
		178,198	WA294	HOME PLACE IRR: KENWORTHY-SCHNEPF	20231155	WSP USA ENVIRONMENT AND INFRASTRUCTURE IN	KENWORTHY RD WATER LINE WA262,
		28,230	WA295	QUAIL RUN: SKYLINE TO ROLL.RIDGE RD	20231056	SUNRISE ENGINEERING	ENGINEERING SERVICES - QUAIL R
<b>223 Total</b>		<b>26,062,054</b>					
<b>203</b>	<b>Wastewater-Capital</b>						
		7,568	AR050	TOWN CENTER: ALDECOA-MUNOZ-SUMMERS	20220497	DIBBLE & ASSOCIATES	TOWN CENTER INFRASTRUCTURE PRO
		238	AR050	TOWN CENTER: ALDECOA-MUNOZ-SUMMERS	20230548	MAKINEN PROFESSIONAL SERVICES	AR050 MAKPRO PUBLIC OUTREACH S
		606,308	AR050	TOWN CENTER: ALDECOA-MUNOZ-SUMMERS	20230750	NESBITT CONTRACTING CO INC	AR050 TOWN CENTER
		491,113	P0625	FRONTIER FAMILY PARK	20230497	HUNTER CONTRACTING CO	P0625 FRONTIER FAMILY PARK GMP
		2,040	P0625	FRONTIER FAMILY PARK	20230677	NINYO & MOORE	P0625 FRONTIER FAMILY PARK MAT
		5,943	WW071	WATER RESOURCES MASTER PLAN	20190557	CLEAR CREEK ASSOCIATES PLC	RECHARGE CAPACITY ASSESSMENT
		17,158	WW071	WATER RESOURCES MASTER PLAN	20200191	CLEAR CREEK ASSOCIATES PLC	HYDROLOGIC CONSULTING SERVICES
		2,659	WW075	UTILITIES CORP YARD & IMPROVEMENTS	20210838	SUNRISE ENGINEERING	WASH OUT BAY DESIGN
		19,675	WW100	RITTENHOUSE & UPRR @ ACERO APPTS	20220945	MGC CONTRACTORS INC	WW100 RITTENHOUSE & UPRR SANIT
		7,900	WW100	RITTENHOUSE & UPRR @ ACERO APPTS	20220973	OG ENGINEERING LLC	RITTENHOUSE & UPRR SANITARY SE
		127,965	WW100	RITTENHOUSE & UPRR @ ACERO APPTS	20220919	SUNRISE ENGINEERING	RESOLUTION #1443-22 PROJECT #W
		6,162	WW103	WALES GRAVEL PIT	20231237	AMERICAN FENCE COMPANY	FENCE RENTAL - KENWORTHY PIT -
<b>203 Total</b>		<b>1,294,729</b>					
<b>TOTAL CIP FUNDS</b>		<b>136,044,968</b>					
<b>101</b>	<b>General Fund</b>						
	Centralized Services	13,226	-	PENSION ANALYSIS	20220783	THOMAS A SGOUROS JR DBA MANUAL WRITING N	Pension analysis consultant
	Centralized Services	25,752	-	RECREATION FEE ANALYSIS/UPDATE	20231049	BERRYDUNN	COOPERATIVE AGREEMENT P&R COST
	Town Manager	15,083	-	CONFERENCE ROOM EXPANSION	20231228	SD CRANE BUILDERS INC	CONFERENCE ROOM EXPANSION
	Town Manager	8,388	-	SAGE CONF. RM REMODEL	20231241	COMPUNET INC	SAGE CONF. RM REMODEL
	Finance & Adm	19,080	-	BIENNIAL IMPACT FEE AUDIT	20230855	HEINFELD, MEECH & CO.	Biennial Audit FY21-22
	Information Technology	31,290	IT046	ACCELA SPECIAL PROJECTS	20230773	TRUEPOINT SOLUTIONS LLC	CIP MODULE & RECORD STRUCTURE
	Information Technology	18,600	IT046	ACCELA SPECIAL PROJECTS	20231194	E-PLAN, INC.	CIP MODULE/RECORD PROJECT
	Information Technology	6,043	IT051	CARTEGRAPH SPECIAL PROJECT	20230658	CARTEGRAPH SYSTEMS INC	FACILITIES WORK ORDER SYSTEM P
	Information Technology	33,170	IT051	CARTEGRAPH SPECIAL PROJECT	20231176	OPENGOV PROFESSIONAL	FOUNDATIONS WORK ORDER SYSTEM PROJ
	Information Technology	11,550	IT052	TRAFFIC SPECIAL PROJECT	20230774	TRUEPOINT SOLUTIONS LLC	TRAFFIC CONTROL PERMIT
	Information Technology	1,225	IT052	TRAFFIC SPECIAL PROJECT	20230861	ETECH CONSULTING LLC	VELOSIMO EPR CONNECTOR CONFIG
	Facilities Maintenance	66,481	XX048	NEW VEHICLE - NEW FTE	20231209	COURTESY CHEVROLET	FY24 LONG LEADS VEHICLES - COU

**ATTACHMENT B - EXISTING CONTRACTS AND PURCHASE ORDERS TO CARRY-FORWARD FROM FY 22-23 TO FY 23-24**

FUND	DEPARTMENT	NET AMOUNT	PROJECT	PROJECT DESC	PO NUMBER	VENDOR NAME	COMMENT/DESC
	Fleet Maintenance	32,743	-	VEHICLE UPFITTING	20230168	PRIDE OUTFITTING, LLC	VEHICLE UPFITTING
	Fleet Maintenance	310,602	PM100	PARKS START UP	20230816	BINGHAM EQUIPMENT COMPANY	KUBOTA L6060HST - 4WD HST TRAC
	Fleet Maintenance	894,778	PM100	PARKS START UP	20230829	SIMPSON NORTON CORP	NEW EQUIPMENT FOR FROINTER FAM
	Fleet Maintenance	164,930	PM100	PARKS START UP	20230830	SIMPSON NORTON CORP	HARPER TURBO VAC TV60 RE
	Fleet Maintenance	261,263	XX066	EQUIPMENT-REPLACEMENT	20230828	SIMPSON NORTON CORP	LONG LEAD REPLACEMENT EQUIP FY
	Fleet Maintenance	213,151	PM100	PARKS START UP	20230819	RWC INTERNATIONAL LTD	DUMP TRUCK FOR FRONTIER FAMILY
	Fleet Maintenance	58,983	PM100	PARKS START UP	20231209	COURTESY CHEVROLET	FY24 LONG LEADS VEHICLES - COU
	Fleet Maintenance	51,917	XX048	NEW VEHICLE - NEW FTE	20230069	COURTESY CHEVROLET	NEW TOWN VEHICLES FY23
	Fleet Maintenance	60,578	XX048	NEW VEHICLE - NEW FTE	20231209	COURTESY CHEVROLET	FY24 LONG LEADS VEHICLES - COU
	Fleet Maintenance	69,614	XX063	NEW VEHICLES - REPLACEMENTS	20231238	COURTESY CHEVROLET	FY24 LONG LEADS VEHICLES
	Engineering	8,449	-	CIVIL ENGINEERING STANDARD UPDATE	20210773	SUNRISE ENGINEERING	CIVIL ENGINEERING STANDARD UPD
	Stormwater	7,614	-	STORMWATER SERVICES	20230720	BURNS & MCDONNELL ENGINEERING COMPANY IN	STORMWATER SERVICES
	Stormwater	17,668	-	PROFESSIONAL ENG SVC FOR QC WASH	20230660	SUNRISE ENGINEERING	PROFESSIONAL ENG SVC FOR QC WA
	Stormwater	13,058	RU001	RATE STUDY - UTILITIES & TRASH/REC	20220733	STANTEC CONSULTING SERVICES INC	UTILITY RATE STUDY
	Parks & Grounds Maintenance	163,162	XX065	EQUIPMENT-NEW	20231059	R.D. OFFUTT COMPANY	2 - JOHN DEERE 210 TRACTOR
	Recreational Programs	24,745	-	LIGHTNING DETECTION SYSTEMS	20231242	PERRY WEATHER INC	Lightning detection systems
<b>101 Total</b>		<b>2,603,143</b>					
<b>401</b>	<b>Street Maintenance</b>						
		23,604	-	EQUIPMENT-NEW	20220424	RWC INTERNATIONAL LTD	2022 HV607 SBA (HV607) STREETS
		163,162	XX065	EQUIPMENT-NEW	20231059	R.D. OFFUTT COMPANY	2 - JOHN DEERE 210 TRACTOR
		148,558	-	EQUIPMENT-NEW	20220424	RWC INTERNATIONAL LTD	2022 HV607 SBA (HV607) STREETS
		156,597	XX048	NEW VEHICLE - NEW FTE	20231209	COURTESY CHEVROLET	FY24 LONG LEADS VEHICLES - COU
		24,566	-	ENGINEERING SERVICES	20231142	T Y LIN INTERNATIONAL	ENGINEERING SERVICES FOR ROADW
		416,544	HF001	HURF DEL RES FY23	20231186	VSS INTERNATIONAL INC	ASPHALT SERVICES
<b>401 Total</b>		<b>933,031</b>					
<b>447</b>	<b>Emergency Services Fund</b>						
	Police Administration	151,000	XX048	NEW VEHICLE - NEW FTE	20220982	THE ARMORED GROUP LLC	ARMORED FORD TRANIST T350 TACT
	Police Administration	496,413	XX048	NEW VEHICLE - NEW FTE	20231209	COURTESY CHEVROLET	FY24 LONG LEADS VEHICLES - COU
	Police Support Svcs	39,971	G1003	PD-AZDEMA GRANT	20231170	PRIDE OUTFITTING, LLC	QCPD VAN UPFITTING - VICTIM SE
	Police Support Svcs	5,237	G1003	PD-AZDEMA GRANT	20231170	PRIDE OUTFITTING, LLC	QCPD VAN UPFITTING - VICTIM SE
	Police Support Svcs	559,783	XX048	NEW VEHICLE - NEW FTE	20231209	COURTESY CHEVROLET	FY24 LONG LEADS VEHICLES - COU
	Police Patrol	90,914	XX065	EQUIPMENT-NEW	20231027	LZ DELTA LLC DBA GO AZ MOTORCYCLES SCOTTSDA	3 BMW MOTORCYCLES - QCPD
	Police Patrol	92,481	XX048	NEW VEHICLE - NEW FTE	20231209	COURTESY CHEVROLET	FY24 LONG LEADS VEHICLES - COU
	Police Patrol	115,502	XX048	NEW VEHICLE - NEW FTE	20231226	COURTESY CHEVROLET	FY24 LONG LEAD 1500 TRUCK K-9
	Fire Operating	6,495	-	PERSONAL PROTECTIVE GEAR	20231188	AARDVARK	TACTICAL OPERATORS KIT
	Fire Operating	20,020	-	PERSONAL PROTECTIVE GEAR	20231189	AARDVARK	PERSONAL PROTECTIVE GEAR FOR S
	Fire Prevention	54,622	XX048	NEW VEHICLE - NEW FTE	20231209	COURTESY CHEVROLET	FY24 LONG LEADS VEHICLES - COU
	Resource Mgmt	2,927	-	VEHICLE UPFITTING	20230484	CHALMERS FORD INC DBA MHQ OF ARIZONA	UPFITTING OF NEW REMS VEHICLE
	Resource Mgmt	41,260	-	VEHICLE UPFITTING	20230492	CHALMERS FORD INC DBA MHQ OF ARIZONA	UPFITTING OF NEW BATTALION CHI
	Resource Mgmt	18,666	-	VEHICLE UPFITTING	20230493	CHALMERS FORD INC DBA MHQ OF ARIZONA	UPFITTING OF NEW BRUSH TRUCK
	Resource Mgmt	86,106	XX063	NEW VEHICLES - REPLACEMENTS	20221103	RWC INTERNATIONAL LTD	VEHICLE PURCHASE - QCFMD BRUSH
	Resource Mgmt	51,333	XX063	NEW VEHICLES - REPLACEMENTS	20231209	COURTESY CHEVROLET	FY24 LONG LEADS VEHICLES - COU
	ETS	20,537	-	NEW AMBULANCES	20230495	ZOLL MEDICAL CORP	CARDIAC MONITORS FOR AMBULANCE
	ETS	44,813	-	NEW AMBULANCES	20230640	MOTOROLA INC	(5) MOBILE RADIOS FOR NEW AMBO
	ETS	93,973	-	NEW AMBULANCES	20230711	INFINITY FIRE COMM. DBA IFC RADIOS & SAFETY SC	PORTABLE RADIOS FOR NEW AMBOS
	ETS	1,634,500	-	NEW AMBULANCES	20220979	PROFESSIONAL SALES AND SERVICE LC	ACQUISITION OF FIVE (5) AMBULA
<b>447 Total</b>		<b>3,626,551</b>					
<b>475</b>	<b>HPEC</b>						
		59,991	HP115	HPEC CONCESSIONS A/C REPLACEMENT	20231236	MIDSTATE MECHANICAL INC	EQUESTRIAN CENTER CONCESSION S
		59,978	XX065	EQUIPMENT-NEW	20231050	R.D. OFFUTT COMPANY	HPEC - JOHN DEERE 5100E TRACTO
		66,817	XX066	EQUIPMENT-REPLACEMENT	20231091	A TO Z EQUIPMENT RENTAL	HPEC - SKID STEER NEW HOLLAND
		96,515	-	GENIE TELEHANDLER	20230367	A TO Z EQUIPMENT RENTAL	GENIE TELEHANDLER
<b>475 Total</b>		<b>283,301</b>					
<b>220</b>	<b>Water Operating Fund</b>						
		169,409	-	VALVE TRUCK EQUIPMENT	20230366	BALAR EQUIPMENT	VALVE TURNER EQUIPMENT FOR NEW
		68,552	RU001	RATE STUDY - UTILITIES & TRASH/REC	20220733	STANTEC CONSULTING SERVICES INC	UTILITY RATE STUDY
		12,576	RU001	RATE STUDY - UTILITIES & TRASH/REC	20220315	THOMAS A SGOUROS JR DBA MANUAL WRITING N	PO 20200666 - QUEEN CREEK WATE
		169,889	WA305	WELL SITE UPGRADES	20230451	SWAIN ELECTRIC, INC.	MAIN PLANT WELL NEW SESE AND T
		84,625	WA305	WELL SITE UPGRADES	20230671	SWAIN ELECTRIC, INC.	SHEA SOUTH REPLACE MCC
		40,037	XX036	VEHICLE REPLACEMENTS - WATER	20231113	COURTESY CHEVROLET	LONG LEADS VEHICLES - 2023 CHE
		58,330	XX036	VEHICLE REPLACEMENTS - WATER	20231209	COURTESY CHEVROLET	FY24 LONG LEADS VEHICLES - COU
		405,646	XX036	VEHICLE REPLACEMENTS - WATER	20231032	DON SANDERSON FORD INC	UTILITIES - 2 CRANE TRUCKS
		237,854	XX036	VEHICLE REPLACEMENTS - WATER	20220427	RWC INTERNATIONAL LTD	TRUCK 76 REPLACEMENT - REPAIRS
		38,744	XX048	NEW VEHICLE - NEW FTE	20231113	COURTESY CHEVROLET	LONG LEADS VEHICLES - 2023 CHE
		71,419	XX048	NEW VEHICLE - NEW FTE	20231209	COURTESY CHEVROLET	FY24 LONG LEADS VEHICLES - COU
<b>220 Total</b>		<b>1,357,079</b>					
201	Wastewater Operating Fund	18,498	RU001	RATE STUDY - UTILITIES & TRASH/REC	20220733	STANTEC CONSULTING SERVICES INC	UTILITY RATE STUDY
<b>201 Total</b>		<b>18,498</b>					
<b>215</b>	<b>Solid Waste Fund</b>						
		53,474	XX048	NEW VEHICLE - NEW FTE	20231209	COURTESY CHEVROLET	FY24 LONG LEADS VEHICLES - COU
		8,705	RU001	RATE STUDY - UTILITIES & TRASH/REC	20220733	STANTEC CONSULTING SERVICES INC	UTILITY RATE STUDY
		20,516	-	PILOT PROJECT - SMART TRASH BINS	20230806	WAXIE SANITARY SUPPLY	Waxie compartmental trash and
<b>215 Total</b>		<b>82,694</b>					
<b>Impact &amp; Capacity Fee Funds</b>							
420	Parks	12,328	-	IMPACT & CAPACITY FEE UPDATE	20220041	MGT OF AMERICA DBA MGT OF AMERICA CONSUL	IMPACT & CAPACITY FEE UPDATE
435	Transportation	12,328	-	IMPACT & CAPACITY FEE UPDATE	20220041	MGT OF AMERICA DBA MGT OF AMERICA CONSUL	IMPACT & CAPACITY FEE UPDATE
445	Public Safety	12,328	-	IMPACT & CAPACITY FEE UPDATE	20220041	MGT OF AMERICA DBA MGT OF AMERICA CONSUL	IMPACT & CAPACITY FEE UPDATE
450	Fire	12,328	-	IMPACT & CAPACITY FEE UPDATE	20220041	MGT OF AMERICA DBA MGT OF AMERICA CONSUL	IMPACT & CAPACITY FEE UPDATE
222	Water	7,268	-	IMPACT & CAPACITY FEE UPDATE	20220041	MGT OF AMERICA DBA MGT OF AMERICA CONSUL	IMPACT & CAPACITY FEE UPDATE
202	Wastewater	7,268	-	IMPACT & CAPACITY FEE UPDATE	20220041	MGT OF AMERICA DBA MGT OF AMERICA CONSUL	IMPACT & CAPACITY FEE UPDATE
<b>Impact &amp; Capacity Fee Funds Total</b>		<b>63,849</b>					
<b>GRAND TOTAL - ALL FUNDS</b>		<b>145,013,115</b>					

**ATTACHMENT C - REMAINING PROJECT BUDGETS**

<b>Fund</b>	<b>Project</b>	<b>Remaining Uncommitted Project Budgets - Priority Projects</b>	<b>Remaining Uncommitted Project Budgets - Other Projects</b>	<b>Total</b>
<b>Drainage &amp; Transportation:</b>				
305	AR100 - ASLD INFRASTRUCTURE IMPROVEMENTS	33,188,217	-	33,188,217
305	A0116 - OCOTILLO: SOSSAMAN TO HAWES	-	3,332,516	3,332,516
305	A0401 - HAWES RD-RITTENHOUSE TO OCOTILLO	-	756,470	756,470
305	A0801 - SIGNAL BUTTE: OCOTILLO TO QC RD	-	1,396,996	1,396,996
305	A1001 - QUEEN CREEK RD:ELLSWORTH TO CRISMON	-	317,807	317,807
305	A1005 - CRISMON: CLOUD TO RIGGS	-	13,890	13,890
305	A1005 - CRISMON: CLOUD TO RIGGS	-	5,230,764	5,230,764
305	A1404 - POWER: BROOKS FARM TO CHAND HGTS	-	98,150	98,150
305	A1404 - POWER: BROOKS FARM TO CHAND HGTS	-	1,850	1,850
305	A1405 - POWER: CHANDLER HTS TO RIGGS	-	60,000	60,000
305	A1505 - MERIDIAN: COMBS TO QC WASH	-	50,000	50,000
305	A1507 - MERIDIAN ROAD: QC ROAD TO GERMANN	-	1,937,151	1,937,151
305	A1507 - MERIDIAN ROAD: QC ROAD TO GERMANN	-	562,849	562,849
305	D0013 - VIA JARDINES WASH CROSSING	-	119,399	119,399
305	I0038 - GERMANN RD & 196TH ST	-	1,500,000	1,500,000
305	FB004 - FIBER ASSESSMENT	-	39,779	39,779
305	SLW01 - STATE LANDS WASTEWATER STUDY	-	700,000	700,000
		<b>33,188,217</b>	<b>16,117,621</b>	<b>49,305,838</b>
<b>General CIP:</b>				
310	MF016 - FIRE PUMPER TRUCK	95,619	-	95,619
310	MF019 - PUBLIC SAFETY COMPLEX #1 PD/FIRE	49,601	-	49,601
310	P0615 - MANSEL CARTER PHASE 2	821,284	-	821,284
310	P0620 - FRONTIER FAMILY PARK DRAINAGE	823,490	-	823,490
310	P0625 - FRONTIER FAMILY PARK	4,338,515	-	4,338,515
310	RQ030 - COMBINED REC-AQUATIC CENTER	50,037,034	-	50,037,034
		<b>56,165,543</b>	<b>-</b>	<b>56,165,543</b>
<b>Water CIP:</b>				
223	AR100 - ASLD INFRASTRUCTURE IMPROVEMENTS	1,200,769	-	1,200,769
223	P0625 - FRONTIER FAMILY PARK	1,848	-	1,848
223	WA031 - GERMANN: KENWORTHY TO SCHEPF 24" TL	53,383	-	53,383
223	WA263 - KENWORTHY: REDFERN TO GERMANN	167,915	-	167,915
223	WA290 - HOME PLACE EAST WELL	175,316	-	175,316
223	WA292 - HOME PLACE SOUTH WELL	311,732	-	311,732
223	WA294 - HOME PLACE IRR: KENWORTHY-SCHNEPF	2,443,425	-	2,443,425
223	A0116 - OCOTILLO: SOSSAMAN TO HAWES	-	274,516	274,516
223	WA037 - BELL ROAD PUMP STATION	-	148,321	148,321
223	WA250 - SCHNEPF: QC WASH PAST COMBS	-	262,603	262,603
223	WA273 - LAREDO 750' EAST OF SCHNEPF	-	87,808	87,808
		<b>4,354,389</b>	<b>773,247</b>	<b>5,127,636</b>
<b>Wastewater CIP</b>				
203	AR100 - ASLD INFRASTRUCTURE IMPROVEMENTS	3,519,091	-	3,519,091
<b>TOTAL CIP FUNDS</b>		<b>97,227,240</b>	<b>16,890,868</b>	<b>114,118,108</b>



TOWN OF  
**QUEEN CREEK**  
 ARIZONA

**TO:** HONORABLE MAYOR AND TOWN COUNCIL

**THROUGH:** BRUCE GARDNER, TOWN MANAGER

**FROM:** DAVE LIPINSKI, PE, CIP DEPARTMENT DIRECTOR, ROBERT SACHS, REAL ESTATE PROGRAM MANAGER

**RE:** CONSIDERATION AND POSSIBLE APPROVAL OF ANNEXATION ORDINANCE 816-23 EXTENDING AND INCREASING THE CORPORATE LIMITS OF THE TOWN OF QUEEN CREEK, MARICOPA COUNTY, STATE OF ARIZONA, PURSUANT TO THE PROVISIONS OF A.R.S. SECTION 9-471.02 BY ANNEXING CERTAIN COUNTY RIGHT-OF-WAY CONTIGUOUS TO THE EXISTING TOWN LIMITS, GENERALLY DESCRIBED AS A PORTION OF CHANDLER HEIGHTS ROAD RIGHT-OF-WAY FROM RECKER ROAD TO SIX HUNDRED (600) FEET WEST OF POWER ROAD, LOCATED IN SECTION 19, TOWNSHIP 2 SOUTH, RANGE 7 EAST, MARICOPA COUNTY.

**DATE:** September 6, 2023

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**Suggested Action:**

To approve Ordinance 816-23, extending and increasing the corporate limits of the Town of Queen Creek, Maricopa County, State of Arizona, pursuant to the provisions of A.R.S. section 9-471.02 by annexing certain County right-of-way contiguous to the existing Town limits, generally described as a portion of the Chandler Heights Road right-of-way from Recker Road to Six Hundred (600) feet west of Power Road, located in Section 19, Township 2 South, Range 7 East, Maricopa County.

**Relevant Council Goal(s):**

Superior Infrastructure - Capital Improvement Program

**Discussion:**

The Town of Queen Creek entered into an Intergovernmental Agreement (IGA) with the Town of Gilbert and Maricopa County to widen Chandler Heights Road and build a traffic signal. The Town of Queen Creek agreed to annex 55 feet on the north side of Chandler Heights Road, then in Maricopa County, and after the Town of Gilbert de-annexes, 55 feet on the south side of Chandler Heights Road. This annexation ordinance authorizes the annexation of 55 feet that was previously within Maricopa County limits and completes the project goals and obligations undertaken in the IGA #C-64-19-231-M-00. This resolution will have the effect of placing the entire right-of-way for Chandler Heights Road from Power Road to Recker Road into the Town of Queen Creek.

**Fiscal Impact:**

There is no fiscal impact to annexing the parcel, as the Town is already obligated to maintain the road once construction is complete.

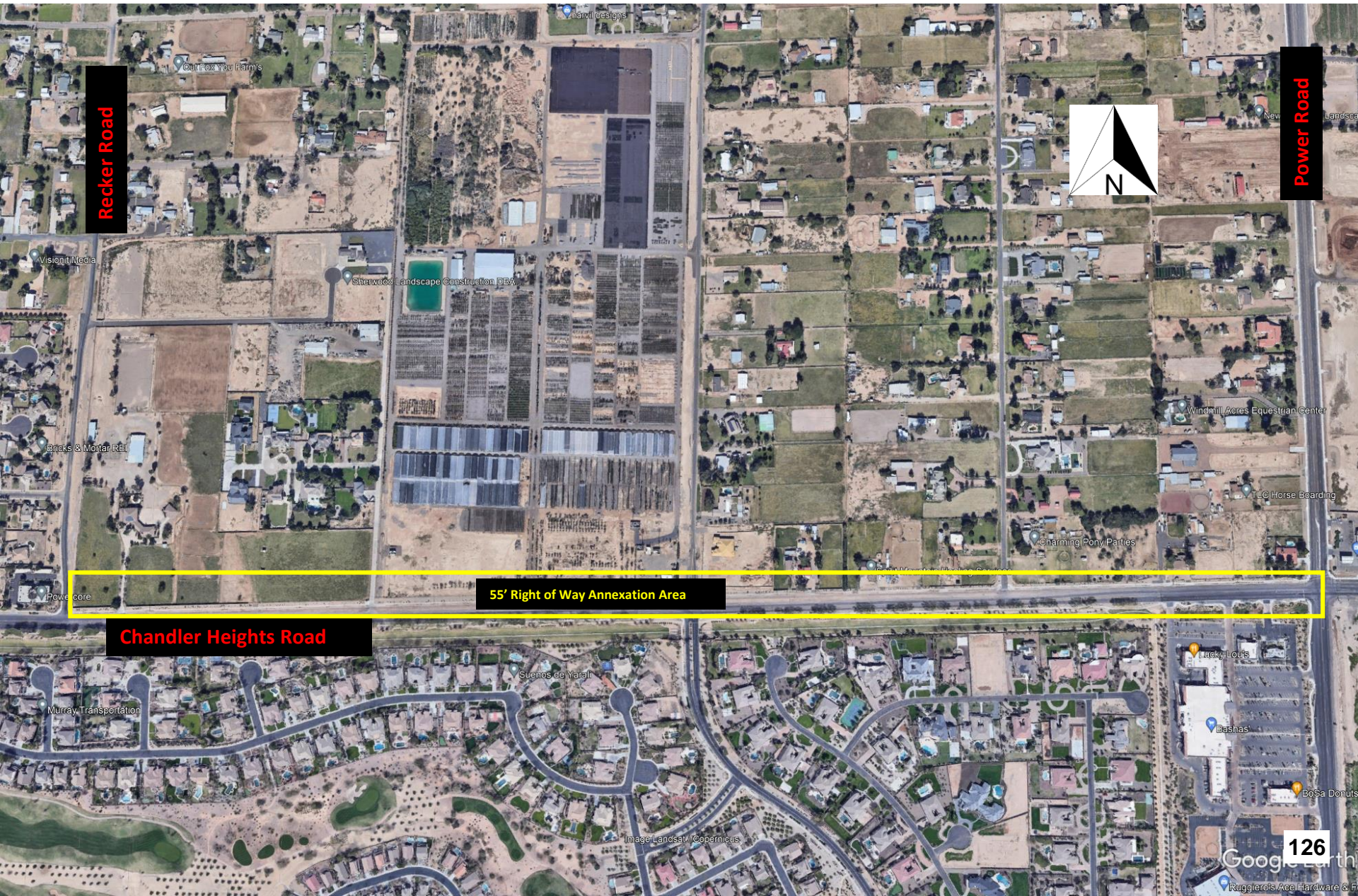
**Alternatives:**

The Town Council could decide not to annex the 55 feet. This would result in issues of maintenance and operations responsibilities between Queen Creek, Maricopa County and the Town of Gilbert. Additionally, this would not be per the terms of Queen Creek obligations under the Intergovernmental Agreement signed with Gilbert and Maricopa County.

**Attachment(s):**

1. Chandler Heights Annexation Location Exhibit.pdf
2. IGA #C-64-19-231-M-00 Between MCDOT, Town of Gilbert, and Town of Queen Creek
3. Annexation Ordinance with Exhibit A Legal Description Chandler Heights Road Right-of-Way North Half Street

# Chandler Heights Right of Way Annexation Area



Recker Road

Power Road



55' Right of Way Annexation Area

Chandler Heights Road

126

Google Earth

**INTERGOVERNMENTAL AGREEMENT BETWEEN MARICOPA COUNTY,  
TOWN OF QUEEN CREEK AND TOWN OF GILBERT FOR IMPROVEMENTS OF  
CHANDLER HEIGHTS ROAD FROM RECKER ROAD  
TO 600 FEET WEST OF POWER ROAD**

TT0631

(C-64-19-231 -M-00)

This Intergovernmental Agreement (**Agreement**) is between the County of Maricopa, a political subdivision of the State of Arizona (**Maricopa County**), the Town of Queen Creek, a municipal corporation (**Queen Creek**), the Town of Gilbert, a municipal corporation (**Gilbert**). The County and Town are collectively referred to as the **Parties** or individually as a **Party**.

This Agreement shall become effective as of the date it is approved by the Maricopa County Board of Supervisors and shall be filed with the Maricopa County Recorder pursuant to Arizona Revised Statutes (**A.R.S.**) §11-952, as amended.

**STATUTORY AUTHORIZATION**

1. A.R.S. Section 11-251 and Sections 28-6701 *et seq.* authorize the County to lay out, maintain, control and manage public roads within the County.
2. A.R.S. Sections 11-951 *et seq.* authorize public agencies to enter into Intergovernmental Agreements for the provision of services or for joint or cooperative action.
3. A.R.S. Section 9-240 authorizes the Town to lay out and improve new streets, avenues and alleys.

**BACKGROUND**

4. Chandler Heights Road is a three-lane undivided roadway from Recker Road to 182<sup>nd</sup> Street, transitioning to 5 lanes east of 182<sup>nd</sup> Street to Power Road. Chandler Heights is owned and maintained by the Parties from Recker Road to Power Road.
5. There are existing half-street improvements constructed with the Gilbert Seville Subdivision, currently a single travel lane in each direction with a striped median. The existing areas south of the south curb have been fully established with sidewalk, landscaping, streetlights, and a drainage channel.
6. The northwest and northeast corners of the Chandler Heights Road and 180<sup>th</sup> Street (Seville Boulevard) intersection lie within Maricopa County right-of-way and the southwest and southeast corners of the intersection lie within Gilbert right-of-way.

7. Gilbert assessed the intersection of Chandler Heights Road and 180<sup>th</sup> Street (Seville Boulevard) and determined that the intersection meets traffic signal warrants based on the warrant conditions from the 2009 Manual on Uniform Traffic Control Devices (MUTCD).
8. Queen Creek has contracted for design services to widen Chandler Heights Road to a five (5) lane section (two lanes in each direction and a striped median) with turn lanes, raised medians and traffic signals at the 180<sup>th</sup> Street / Seville Boulevard intersection, curb, gutter, drainage, bike lanes, sidewalks, street lighting, utility relocations. All of the elements provided in this paragraph comprise the **Project**.
9. Based on the cost estimate, the County has agreed to \$2,690,062 as its financial contribution. The County's cost share includes design fees and construction costs for the portion of the Project currently owned and operated by the County.
10. Based on the cost estimate, the Gilbert has agreed to \$3,004,062 as its financial contribution. Gilbert's cost share includes design fees and construction costs for the portion of the Project currently owned and operated by Gilbert.
11. The Project will be designed in fiscal years 2019 and 2020 and is expected to start construction in fiscal year 2021.
12. Maricopa County's financial participation shall be limited to aspects of the Project that are essential for the establishment of a safe roadway. Maricopa County will not financially participate in Queen Creek's or Gilbert's Project Enhancements such as landscaping, irrigation, street lighting, visual mitigation, decorative pavers, or street furniture which shall be the sole responsibility of the Queen Creek and/or Gilbert.

### **PURPOSE OF THE AGREEMENT**

13. The purpose of this Intergovernmental Agreement is to identify and define the responsibilities of Maricopa County, Queen Creek and Gilbert for various elements of the Project which include, but are not limited to, cost sharing, design, permitting, environmental clearances, right-of-way acquisitions, utilities, construction and construction management, operation and maintenance, and annexation of the Project and Project Area.

### **TERMS OF THE AGREEMENT**

#### **14. Responsibilities of Maricopa County:**

- 14.1 Maricopa County shall issue no cost permits to Queen Creek for the Project and related work conducted within the County's jurisdictional boundaries.
- 14.2 Maricopa County shall be financially responsible for dedicated time by their staff as it relates to this Project. The cost shall not be credited toward the County's Project Cost share obligation.



- 14.3 Maricopa County shall not review Project plans for compliance with Queen Creek or Gilbert's design standards and shall not be liable for design deficiencies.
- 14.4 Maricopa County shall cost share in the Project, not to include any Queen Creek and Gilbert requested Project Enhancements as described in Paragraph 11 of this Agreement. The County's total cost share contribution includes design fees and construction costs for the portion of the Project currently owned and operated by the County and is currently estimated to be \$2,690,062.
- 14.5 The County shall review Change Order(s) requests and provide a response within fifteen (15) working days.
- 14.6 Not before July 1, 2021 and upon the completion of annexation of Chandler Heights Road from Recker Road to Power Road and receipt of an invoice from Queen Creek and upon the substantial completion of the Project and receipt of a detailed statement and certification of the applicable costs of Project improvements, including any change orders related to the construction contract, and all necessary backup documentation including lien releases from Queen Creek, the County shall remit payment to Queen Creek within thirty (30) days for the County's cost share of the design fees and construction costs. This payment shall not include any administrative expenses related to Queen Creek's project management costs.
- 14.7 Maricopa County shall retain sole discretion to notify Queen Creek of any advanced availability of funds and may remit payment to the Queen Creek prior to fiscal year 2022.
- 14.8 Maricopa County shall consent to and approve the annexation by Queen Creek of all the Project Area located within the unincorporated area of Maricopa County that is improved as part of the Project, including, but not limited to, such additional property needed for the Project as is acquired by Maricopa County for public roadway, whether by purchase, condemnation or dedication.

**15. Responsibilities of Queen Creek:**

- 15.1 Upon execution of this Agreement, Queen Creek shall act as the lead agency and shall assume responsibility and liability for the design, utilities and utility relocation, construction and construction management, inspection, operation, maintenance and other aspects of the Project until the completion of the annexation.
- 15.2 Upon execution of this Agreement, Queen Creek shall indemnify and hold Maricopa County and Gilbert harmless; and will assume all liability for the design, installation, inspection, operation and maintenance of the road improvements and the traffic signal prior to and after the completion of the Project.
- 15.3 Queen Creek shall be financially responsible for dedicated time by their staff as it relates to this Project. The cost shall not be credited toward Queen Creek's Project Cost share obligation.

- 15.4 Queen Creek shall apply for no-cost permits, as applicable, for any Project-related work that lies within unincorporated Maricopa County or Gilbert boundaries.
- 15.5 Queen Creek shall be responsible for traffic control during construction of the Project, and shall notify Maricopa County and Gilbert in advance of approving any lane closures and/or roadway restrictions. If roadway improvements, including permanent traffic elements, or traffic control extend to other Maricopa County or Gilbert roadways beyond the Project, Queen Creek shall apply to Maricopa County or Gilbert for separate construction and/or traffic control permits.
- 15.6 Not before July 1, 2021 and upon completion of the Project and annexation of Chandler Heights Road from Recker Road to Power Road, Queen Creek shall invoice the County for Maricopa County's total design and construction cost share currently estimated at \$2,690,062.
- 15.7 Upon substantial completion of the Project, Queen Creek shall invoice Gilbert for Gilbert's total design and construction cost share currently estimated to be \$3,004,062.
- 15.8 Queen Creek will complete the Project design plans in accordance with the Queen Creek's design standards.
- 15.9 Queen Creek shall provide design plans for the Chandler Heights Road and 180th Street (Seville Boulevard) intersection for Gilbert's review.
- 15.10 Upon execution of this Agreement, Queen Creek shall assume responsibility for the design, utilities and utility relocation, construction and construction management, inspection, operation and maintenance of Chandler Heights Road from Power Road to the east ROW line of Recker Road, including the intersection and traffic signal at 180<sup>th</sup> Street (Seville Boulevard).
- 15.11 Queen Creek will complete the respective annexation of Chandler Heights Road from Recker Road to Power Road within 180 days of substantial completion of the Project.

**16. Responsibilities of Gilbert:**

- 16.1 Gilbert shall issue no cost permits to Queen Creek for the Project and related work conducted within Gilbert's jurisdictional boundaries.
- 16.2 Gilbert shall be financially responsible for dedicated time by their staff as it relates to this Project. The cost shall not be credited toward Gilbert's Project Cost share obligation.
- 16.3 Gilbert shall review Change Order(s) requests and provide a response within fifteen (15) working days.

- 16.4 Gilbert's cost share contribution shall include design fees and all construction costs for the portion of Chandler Heights Road that is currently owned and operated by Gilbert from Recker Road to 600 feet west of Power Road. Gilbert shall cost share in the Project. Gilbert's total cost share contribution is currently estimated to be \$3,004,062.
- 16.5 Upon the completion of Queen Creek's annexation of Gilbert's portion of Chandler Heights Road from Recker Road to Power Road and upon the substantial completion of the Project and receipt of a detailed statement and certification of the applicable costs of Project improvements, including any change orders related to the construction contract, and all necessary backup documentation including lien releases from Queen Creek, Gilbert shall remit payment to Queen Creek within thirty (30) days for Gilbert's cost share of the design fees and construction costs. This payment shall not include any administrative expenses related to Queen Creek's project management costs.

### **GENERAL TERMS AND CONDITIONS**

17. By entering into this Agreement, the Parties agree that to the extent permitted by law, each Party will indemnify, defend and save the other Parties harmless, including any of the Parties' departments, agencies, officers, employees, elected officials or agents, from and against all loss, expense, damage or claim of any nature whatsoever which is caused by any activity, condition or event arising out of the negligent performance or nonperformance by the indemnifying Party of any of the provisions of this Agreement. By entering into this Agreement, each Party indemnifies the other against all liability, losses and damages of any nature for or on account of any injuries or death of persons or damages to or destruction of property arising out of or in any way connected with the performance or nonperformance of this Agreement, except such injury or damage as shall have been caused or contributed to by the negligence of that other Party. The damages which are the subject of this indemnity shall include but not be limited to the damages incurred by any Party, its departments, agencies, officers, employees, elected officials or agents. In the event of an action, the damages which are the subject of this indemnity shall include costs, expenses of litigation and reasonable attorney's fees.
18. This Agreement shall become effective as of the date it is approved by all Parties including the Maricopa County Board of Supervisors and remain in full force and effect until all stipulations previously indicated have been satisfied, except that it may be amended only upon written Agreement by all Parties. Any Party may terminate this Agreement upon furnishing the other Parties with a written notice at least thirty (30) days prior to the effective termination date.
19. This Agreement shall be subject to the provisions of A.R.S. Section 38-511.
20. The Parties warrant that they are in compliance with A.R.S. Section 41-4401 and further acknowledge that:
- 20.1 Any contractor or subcontractor who is contracted by a Party to perform work on the Project shall warrant their compliance with all federal immigration laws and

regulations that relate to their employees and their compliance with A.R.S. Section 23-214(A), and shall keep a record of the verification for the duration of the employee's employment or at least three (3) years, whichever is longer.

- 20.2 Any breach of the warranty shall be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract.
- 20.3 The Parties retain the legal right to inspect the papers of any contractor or subcontractor employee who works on the Project to ensure that the contractor or subcontractor is complying with the warranty above and that the contractor agrees to make all papers and employment records of said employee available during normal working hours in order to facilitate such an inspection.
- 20.4 Nothing in this Agreement shall make any contractor or subcontractor an agent or employee of the Parties to this Agreement.
21. Each Party to this Agreement warrants that neither it nor any contractor or vendor under contract with the Party to provide goods or services toward the accomplishment of the objectives of this Agreement is suspended or debarred by any federal agency which has provided funding that will be used in the Project described in this Agreement.
22. Each of the following shall constitute a material breach of this Agreement and an event of default ("Default") hereunder: A Party's failure to observe or perform any of the material covenants, conditions or provisions of this Agreement to be observed or performed by that Party ("Defaulting Party"), where such failure shall continue for a period of thirty (30) days after the Defaulting Party receives written notice of such failure from the non-defaulting Party provided, however, that such failure shall not be a Default if the Defaulting Party has commenced to cure the Default within such thirty (30) day period and thereafter is diligently pursuing such cure to completion, but the total aggregate cure period shall not exceed ninety (90) days unless the Parties agree in writing that additional time is reasonably necessary under such circumstances to cure such default. In the event a Defaulting Party fails to perform any of its material obligations under this Agreement and is in Default pursuant to this Section, the non-defaulting Party, at its option, may terminate this Agreement. Further, upon the occurrence of any Default and at any time thereafter, the non-defaulting Party may, but shall not be required to, exercise any remedies now or hereafter available to it at law or in equity.
23. All notices required under this agreement to be given in writing shall be sent to:

Maricopa County Department of Transportation  
Intergovernmental Relations Branch  
2901 W. Durango Street  
Phoenix, Arizona 85009

Town of Queen Creek  
Public Works Director  
22350 S. Ellsworth Road  
Queen Creek, Arizona 85142

Town of Gilbert  
Public Works Director  
50 E. Civic Center Drive  
Gilbert, Arizona 85296

All notices required or permitted by this Agreement or applicable law shall be in writing and may be delivered in person (by hand or courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, and shall be deemed sufficiently given if served in a manner specified in this paragraph. Each Party may by written notice to the other Parties specify a different address for notice. Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail, the notice shall be deemed given 72 hours after the notice is addressed as required in this paragraph and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantee next day delivery shall be deemed given 24 hours after delivery of the notice to the Postal Service or courier.

24. This Agreement does not imply authority to perform any tasks, or accept any responsibility, not expressly stated in this Agreement.
25. This Agreement does not create a duty or responsibility unless the intention to do so is clearly and unambiguously stated in this Agreement.
26. This Agreement does not grant authority to control the subject roadway, except to the extent necessary to perform the tasks expressly undertaken pursuant to this Agreement.
27. Any funding provided for in this Agreement, other than in the current fiscal year, is contingent upon being budgeted and appropriated by the Maricopa County Board of Supervisors, Queen Creek Town Council and Gilbert Town Council in such fiscal year. This Agreement may be terminated by any Party at the end of any fiscal year due to non-appropriation of funds.
28. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assignees. No Party shall assign its interest in this Agreement without the prior written consent of the other Parties.
29. This Agreement and all Exhibits attached to this Agreement set forth all of the covenants, promises, agreements, conditions and understandings between the Parties to this Agreement, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between the Parties other than as set forth in this Agreement, and those agreements which are executed contemporaneously with this Agreement. This Agreement shall be construed as a whole and in accordance with its fair meaning and without regard to any presumption or other rule requiring construction against the Party drafting this Agreement. This Agreement cannot be modified or changed except by a written instrument executed by all of the Parties hereto. Each Party has reviewed this Agreement and has had the opportunity to have it reviewed by legal counsel.

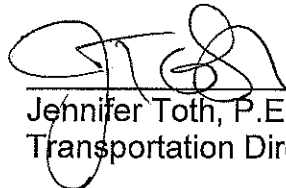
30. The waiver by any Party of any right granted to it under this Agreement is not a waiver of any other right granted under this Agreement, nor may any waiver be deemed to be a waiver of a subsequent right obtained by reason of the continuation of any matter previously waived.
31. Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law, but if any provision shall be invalid or prohibited under the law, such provision shall be ineffective to the extent of such prohibition or invalidation but shall not invalidate the remainder of such provision or the remaining provisions.
32. Except as otherwise provided in this Agreement, all covenants, agreements, representations and warranties set forth in this Agreement or in any certificate or instrument executed or delivered pursuant to this Agreement shall survive the expiration or earlier termination of this Agreement for a period of one (1) year.
33. Nothing contained in this Agreement shall create any partnership, joint venture or other agreement between the Parties hereto. Except as expressly provided in this Agreement, no term or provision of this Agreement is intended or shall be for the benefit of any person or entity not a party to this Agreement, and no such other person or entity shall have any right or cause of action under this Agreement.
34. Time is of the essence concerning this Agreement. Unless otherwise specified in this Agreement, the term "day" as used in this Agreement means calendar day. If the date for performance of any obligation under this Agreement or the last day of any time period provided in this Agreement falls on a Saturday, Sunday or legal holiday, then the date for performance or time period shall expire at the close of business on the first day thereafter which is not a Saturday, Sunday or legal holiday.
35. Sections and other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
36. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute the same instrument. Faxed, copied and scanned signatures are acceptable as original signatures.
37. The Parties agree to execute and/or deliver to each other such other instruments and documents as may be reasonably necessary to fulfill the covenants and obligations to be performed by such Party pursuant to this Agreement.
38. The Parties hereby agree that the venue for any claim arising out of or in any way related to this Agreement shall be Maricopa County, Arizona.
39. This Agreement shall be governed by the laws of the State of Arizona.

***End of Agreement - Signature Page Follows***


IN WITNESS WHEREOF, the Parties have executed this Agreement.

**MARICOPA COUNTY**

**Recommended by:**

 05/10/2019  
\_\_\_\_\_  
Jennifer Toth, P.E. Date  
Transportation Director

**Approved and Accepted by:**

 JUL 31 2019  
\_\_\_\_\_  
Chairman Date  
Board of Supervisors

**Attest by:**

 JUL 31 2019  
\_\_\_\_\_  
Clerk of the Board Date

**APPROVAL OF DEPUTY COUNTY ATTORNEY**

I hereby state that I have reviewed the proposed Intergovernmental Agreement and declare the Agreement to be in proper form and within the powers and authority granted to the County by the Board of Supervisors under the laws of the State of Arizona.

 7.25.19  
\_\_\_\_\_  
Deputy County Attorney Date

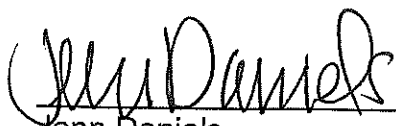





IN WITNESS WHEREOF, the Parties have executed this Agreement.

TOWN OF GILBERT

**Approved and Accepted by:**

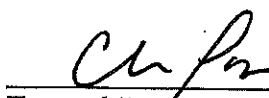
 6/6/19  
Jenn Daniels Date  
Mayor

**Attest by:**

 6/6/19  
Town Clerk Date

**APPROVAL OF TOWN ATTORNEY**

I hereby state that I have reviewed the proposed Intergovernmental Agreement and declare the Agreement to be in proper form and within the powers and authority granted to the Gilbert Town Council under the laws of the State of Arizona.

 6/6/19  
Town Attorney Date

**ORDINANCE 816-23**

**AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF QUEEN CREEK EXTENDING AND INCREASING THE CORPORATE LIMITS OF THE TOWN OF QUEEN CREEK, MARICOPA COUNTY, STATE OF ARIZONA, PURSUANT TO THE PROVISIONS OF TITLE 9, CHAPTER 4, ARTICLE 7, ARIZONA REVISED STATUTES BY ANNEXING CERTAIN TERRITORY CONTIGUOUS TO THE EXISTING TOWN LIMITS.**

**WHEREAS**, pursuant to Maricopa County’s approval of the incorporation of the Town of Queen Creek, a legal description was prepared, submitted, and approved, in which certain existing right-of-way and roadway corridors were not included within the incorporated limits of the Town of Queen Creek; and

**WHEREAS**, Arizona state law (ARS Section 9-471(N)) provides that a county right-of-way or roadway may be annexed to an adjacent town by mutual consent of the governing bodies of the county and town if the property annexed is adjacent to the annexing town for the entire length of the annexation and if the town and county each approve the proposed annexation as a published agenda item at a regular public meeting of their governing bodies; and

**WHEREAS**, the territory legally described in Exhibit “A” and depicted in Exhibit “B” to this Ordinance is contiguous to the Town, is not now embraced within its limits, and is adjacent to the Town for the entire length of annexation; and

**WHEREAS**, the Mayor and Common Council of the Town of Queen Creek, Arizona, are desirous of extending and increasing the corporate limits of the Town to include said territory; and

**WHEREAS**, The Towns of Queen Creek and Gilbert and Maricopa County entered into Intergovernmental Agreement #C-64-19-231-M-00 on June 5, 2019, whereby the Town of Queen Creek agreed to annex a portion of the Chandler Heights Road right-of-way from Recker Road to Six Hundred (600) feet west of Power Road; and

**WHEREAS**, Exhibit “A” sets forth a true and correct description of all the exterior boundaries of the entire area proposed to be annexed to the Town of Queen Creek, and attached thereto are accurate maps of the territory desired to be annexed; and

**WHEREAS**, the provisions of Section 9-471, Arizona Revised Statutes, and amendments thereto, have been fully observed.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF QUEEN CREEK, ARIZONA, AS FOLLOWS:**

SECTION 1. That a copy of this Ordinance, together with an accurate map of the territory hereby annexed to the Town of Queen Creek, Arizona, certified by the Clerk of the Town, be forthwith filed with the Maricopa County Clerk for publication as an agenda item at the next regular public meeting of Maricopa County governing body.

SECTION 2. That upon approval of the proposed annexation as a published agenda item at a regular public meeting of Maricopa County governing body, the following described territory is hereby annexed to the Town of Queen Creek, Arizona, and that the present corporate limits are hereby extended and increased to include the territory described in Exhibit "A" and depicted in Exhibit "B" contiguous to the present Town limits, to wit:

SEE EXHIBITS "A" AND "B" ATTACHED HERETO

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Queen Creek, Arizona, this 6th day of September, 2023.

FOR THE TOWN OF QUEEN CREEK:

ATTESTED TO:

\_\_\_\_\_  
Julia Wheatley, Mayor

\_\_\_\_\_  
Maria Gonzalez, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:

\_\_\_\_\_  
Bruce Gardner, Town Manager

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

EXHIBIT A

LEGAL DESCRIPTION OF AREA TO BE ANNEXED

EXHIBIT B

DEPICTION OF AREA TO BE ANNEXED

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**CHANDLER HEIGHTS ROAD RIGHT-OF-WAY**  
**NORTH HALF STREET**

THAT PORTION OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 6 EAST OF THE GILA AND SALT RIVER MERIDIAN, IN THE TOWN OF GILBERT AND IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF MARICOPA, STATE OF ARIZONA, DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE NORTHEAST CORNER OF SECTION 25 IN SAID TOWNSHIP 2 SOUTH, RANGE 6 EAST, FROM WHICH THE NORTH QUARTER CORNER OF SECTION 25 BEARS SOUTH 87°26'55" WEST 2677.46 FEET;

THENCE ALONG THE NORTH LINE OF SAID SECTION 25, ALSO BEING THE CENTERLINE OF CHANDLER HEIGHTS ROAD, SOUTH 87°26'55" WEST 691.86 FEET TO A POINT OF INTERSECTION OF SAID NORTH LINE AND SAID CENTERLINE WITH THE NORTHERLY PROLONGATION OF THE EASTERLY LINE OF THOSE LANDS SHOWN ON A MAP OF THE FINAL PLAT OF SEVILLE PARCEL 12, RECORDED IN BOOK 561, PAGE 07, IN THE OFFICE OF THE COUNTY RECORDER OF SAID MARICOPA COUNTY, SAID INTERSECTION BEING THE **TRUE POINT OF BEGINNING**;

THENCE LEAVING SAID NORTH LINE AND SAID CENTERLINE, ALONG SAID NORTHERLY PROLONGATION, NORTH 00°13'37" WEST 55.05 FEET, TO THE NORTHERLY RIGHT-OF-WAY LINE OF SAID CHANDLER HEIGHTS ROAD AS SHOWN ON A MAP OF BROOKS FARMS RECORDED IN BOOK 141, PAGE 47, IN THE OFFICE OF THE COUNTY RECORDER OF SAID MARICOPA COUNTY;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE SOUTH 87°26'55" WEST 596.54 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY, AND HAVING A TANGENT LENGTH OF 20.00 FEET, THE NORTHERLY TERMINUS OF SAID CURVE BEING A POINT OF TANGENCY WITH THE EASTERLY RIGHT-OF-WAY LINE OF 182<sup>ND</sup> STREET, AS SHOWN ON SAID MAP OF BROOKS FARMS;

THENCE ALONG SAID CURVE NORTHWESTERLY 30.88 FEET THROUGH A CENTRAL ANGLE OF 92°38'17" TO SAID POINT OF TANGENCY;

THENCE NON-TANGENT FROM SAID CURVE, SOUTH 87°26'45" WEST 60.06 FEET TO A POINT IN THE WESTERLY RIGHT-OF-WAY LINE OF SAID 182<sup>ND</sup> STREET, SAID POINT BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY AND HAVING A TANGENT LENGTH OF 20.00 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 89°54'48" EAST, THE SOUTHERLY TERMINUS OF LAST SAID CURVE BEING A POINT OF TANGENCY WITH SAID NORTHERLY RIGHT-OF-WAY LINE OF CHANDLER HEIGHTS ROAD AS SHOWN ON SAID MAP OF BROOKS FARMS;

THENCE ALONG SAID CURVE SOUTHWESTERLY 31.93 FEET THROUGH A CENTRAL ANGLE OF 87°21'43" TO LAST SAID POINT OF TANGENCY;

THENCE TANGENT FROM SAID CURVE, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, SOUTH 87°26'55" WEST 1,228.58 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY AND HAVING A TANGENT LENGTH OF 20.00 FEET, THE NORTHERLY TERMINUS OF SAID CURVE BEING A POINT OF TANGENCY WITH THE EASTERLY RIGHT-OF-WAY LINE OF 180<sup>TH</sup> STREET, AS SHOWN ON SAID MAP OF BROOKS FARMS;

THENCE ALONG SAID CURVE NORTHWESTERLY 30.86 FEET THROUGH A CENTRAL ANGLE OF 92°43'00" TO LAST SAID POINT OF TANGENCY;



Stantec Consulting Services Inc.  
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Chandler, AZ 85226  
Tel: (480) 687-6100  
www.stantec.com

Client/Project  
Maricopa County

CHANDLER HEIGHTS ROAD RIGHT-OF-WAY  
NORTH HALF STREET

Project No.  
181710476

Title  
EXHIBIT "A"  
LEGAL DESCRIPTION

Revision

Date

2023.08.24

Sheet

Figure No.

1 of 6

142

EXHIBIT "A"  
LEGAL DESCRIPTION

CHANDLER HEIGHTS ROAD RIGHT-OF-WAY  
NORTH HALF STREET

THENCE NON-TANGENT FROM SAID CURVE, SOUTH 79°03'28" WEST 81.53 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SAID 180<sup>TH</sup> STREET, SAID WESTERLY RIGHT-OF-WAY LINE BEING PARALLEL WITH AND 80.00 FEET WESTERLY FROM SAID EASTERLY RIGHT-OF-WAY LINE OF 180<sup>TH</sup> STREET;

THENCE SOUTH 43°45'30" WEST 11.68 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF SAID CHANDLER HEIGHTS ROAD, SAID NORTHERLY RIGHT-OF-WAY LINE BEING PARALLEL WITH AND 55.00 FEET NORTHERLY FROM THE CENTERLINE OF SAID CHANDLER HEIGHTS ROAD, ALSO BEING THE NORTH LINE OF SECTION 25, AS SHOWN ON FINAL PLAT OF SEVILLE PARCEL 10A RECORDED IN BOOK 555, PAGES 13 AND 14, IN THE OFFICE OF THE COUNTY RECORDER OF SAID MARICOPA COUNTY;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE SOUTH 87°27'32" WEST 2,588.89 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF RECKER ROAD, SAID EASTERLY RIGHT-OF-WAY LINE BEING PARALLEL WITH AND 40.00 FEET EASTERLY FROM THE CENTERLINE OF RECKER ROAD, AS SHOWN ON SAID FINAL PLAT OF SEVILLE PARCEL 10A;

THENCE ALONG THE SOUTHWESTERLY PROLONGATION OF LAST SAID PARALLEL LINE SOUTH 00°18'42" WEST 55.07 FEET TO THE CENTERLINE OF SAID CHANDLER HEIGHTS ROAD AS SHOWN ON SAID FINAL PLAT OF SEVILLE PARCEL 10A, FROM WHICH THE NORTHWEST CORNER OF SAID SECTION 25 BEARS SOUTH 87°27'32" WEST 40.05 FEET;

THENCE ALONG SAID CENTERLINE NORTH 87°27'32" EAST 2,637.14 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION 25;

THENCE CONTINUING ALONG SAID CENTERLINE NORTH 87°26'55" EAST 1,985.60 FEET TO THE **TRUE POINT OF BEGINNING.**

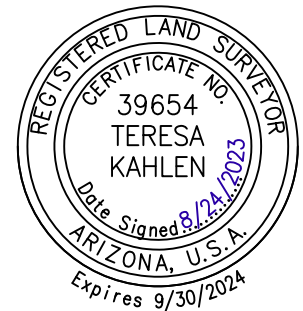
CONTAINING 256,851 SQUARE FEET (5.896 ACRES), MORE OR LESS.

*Teresa Kahlen*

8/24/2023

TERESA KAHLEN RLS NO. 39654

DATE



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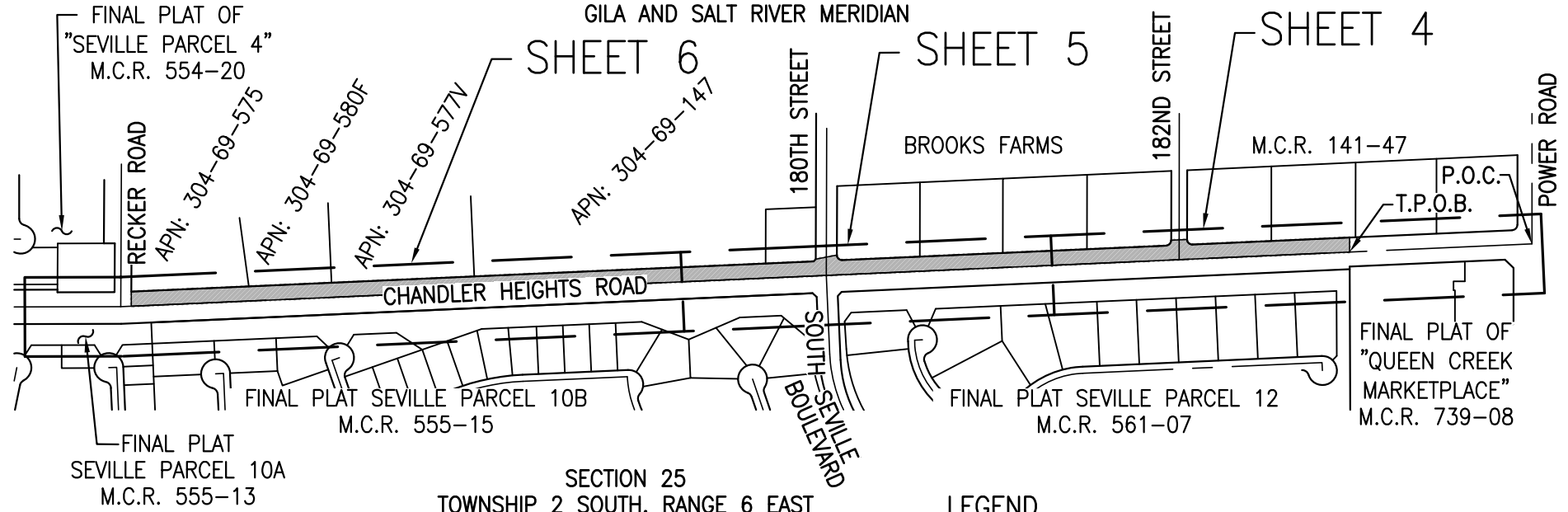
Client/Project  
Maricopa County  
  
CHANDLER HEIGHTS ROAD RIGHT-OF-WAY  
NORTH HALF STREET

Project No.  
181710476

Title  
EXHIBIT "A"  
LEGAL DESCRIPTION

Revision	_____	Date	2023.08.24
Sheet	2 of 6	Figure No.	_____

SECTION 24  
TOWNSHIP 2 SOUTH, RANGE 6 EAST  
GILA AND SALT RIVER MERIDIAN



SECTION 25  
TOWNSHIP 2 SOUTH, RANGE 6 EAST  
GILA AND SALT RIVER MERIDIAN

**LEGEND**

- INDICATES LIMITS OF SHEET
- RIGHT-OF-WAY TO BE ANNEXED
- APN ASSESSOR PARCEL NUMBER
- C/L CENTERLINE
- M.C.R. MARICOPA COUNTY RECORDER
- (R) RADIAL
- R/W RIGHT-OF-WAY
- P.O.C. POINT OF COMMENCEMENT
- T.P.O.B. TRUE POINT OF BEGINNING

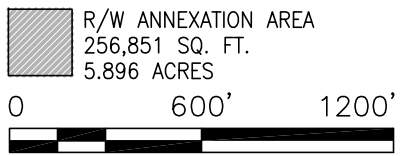
LINE TABLE		
NO.	BEARING	LENGTH
L1	N00°13'37"W	65.05'
L2	N00°13'37"W	55.05'
L3	S87°26'45"W	60.06'
L4	S79°03'28"W	81.53'
L5	S43°45'30"W	11.68'
L6	N42°27'14"E	21.22'
L7	N87°27'28"E	80.00'

LINE TABLE		
NO.	BEARING	LENGTH
L8	S47°32'28"E	21.21'
L9	N02°32'28"W	65.00'
L10	S00°18'42"W	55.07'
L11	S00°18'42"W	65.08'
L12	S01°20'34"E	65.01'
L13	N87°27'32"E	112.88'
L14	N87°27'32"E	40.05'

CURVE TABLE				
NO.	DELTA	RADIUS	LENGTH	TANGENT
C1	Δ=92°38'17"	19.10'	30.88'	20.00'
C2	Δ=87°21'43"	20.94'	31.93'	20.00'
C3	Δ=92°43'00"	19.07'	30.86'	20.00'



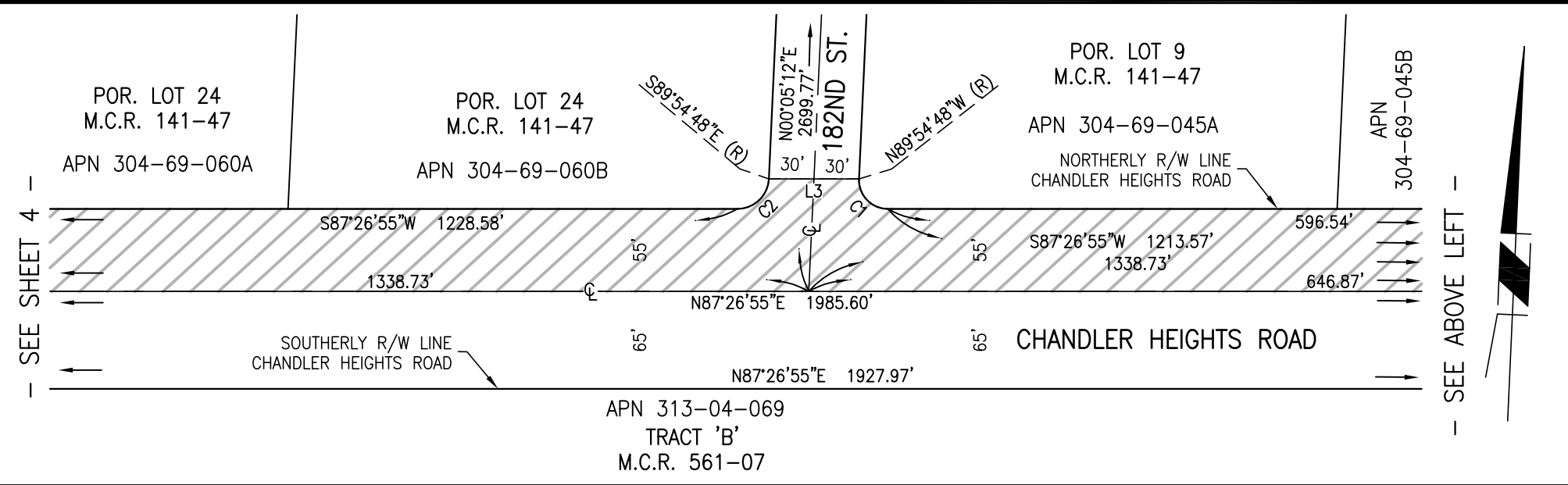
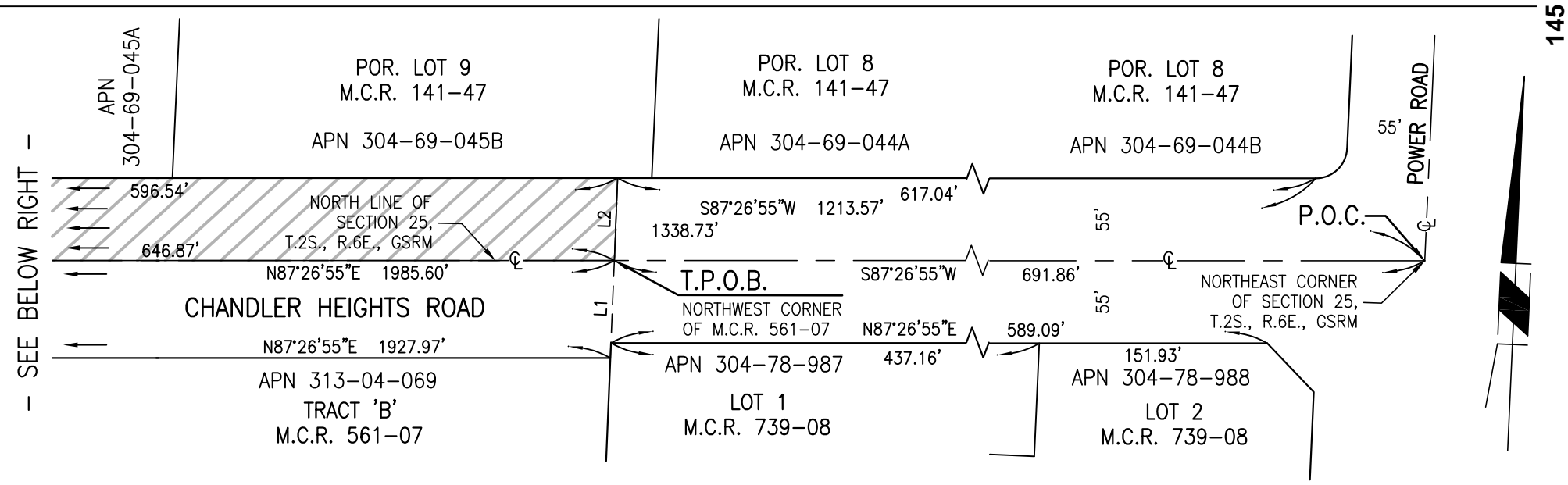
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Client/Project  
**Maricopa County**  
  
CHANDLER HEIGHTS ROAD RIGHT-OF-WAY  
NORTH HALF STREET  
  
Project No.  
181710476

Title  
**EXHIBIT "B"**  
**MAP INDEX**  
  
Revision \_\_\_\_\_ Date 2023.08.24  
Sheet \_\_\_\_\_ Figure No. \_\_\_\_\_  
3 of 6




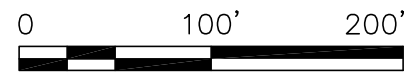


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**NOTES**

SEE SHEET 2 FOR SHEET INDEX, DATA TABLES AND LEGEND.

 R/W ANNEXATION AREA  
 256,851 SQ. FT.  
 5.896 ACRES



Client/Project  
 Maricopa County

CHANDLER HEIGHTS ROAD RIGHT-OF-WAY  
 NORTH HALF STREET

Project No.  
 181710476

Title  
 EXHIBIT "B"  
 MAP DETAIL

Revision

Sheet  
 4 of 6

Date  
 2023.08.24

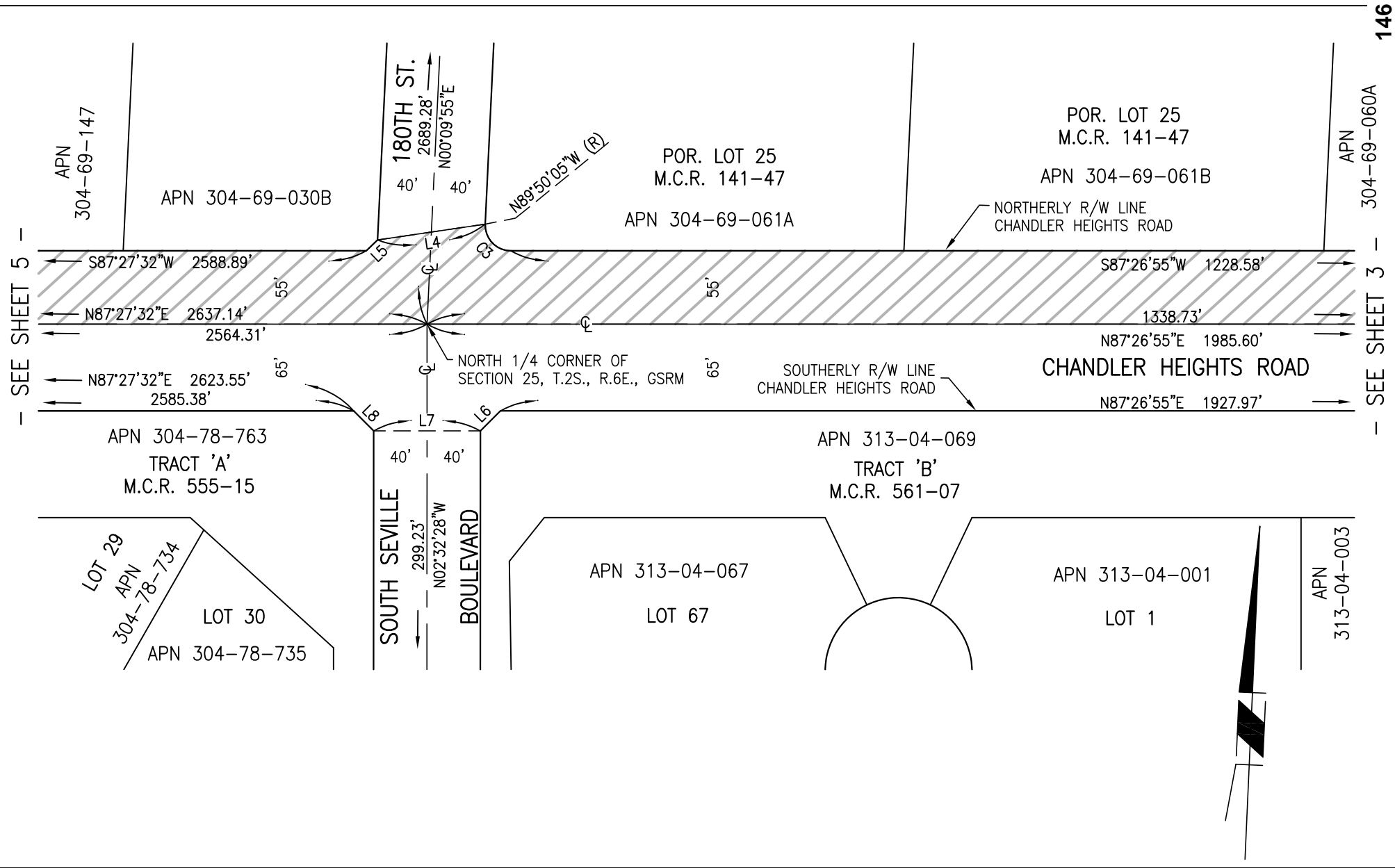
Figure No.



SEE BELOW RIGHT

SEE SHEET 4


SEE ABOVE LEFT

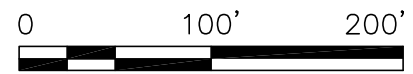


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**NOTES**

SEE SHEET 2 FOR SHEET INDEX, DATA TABLES AND LEGEND.

 R/W ANNEXATION AREA  
 256,851 SQ. FT.  
 5.896 ACRES



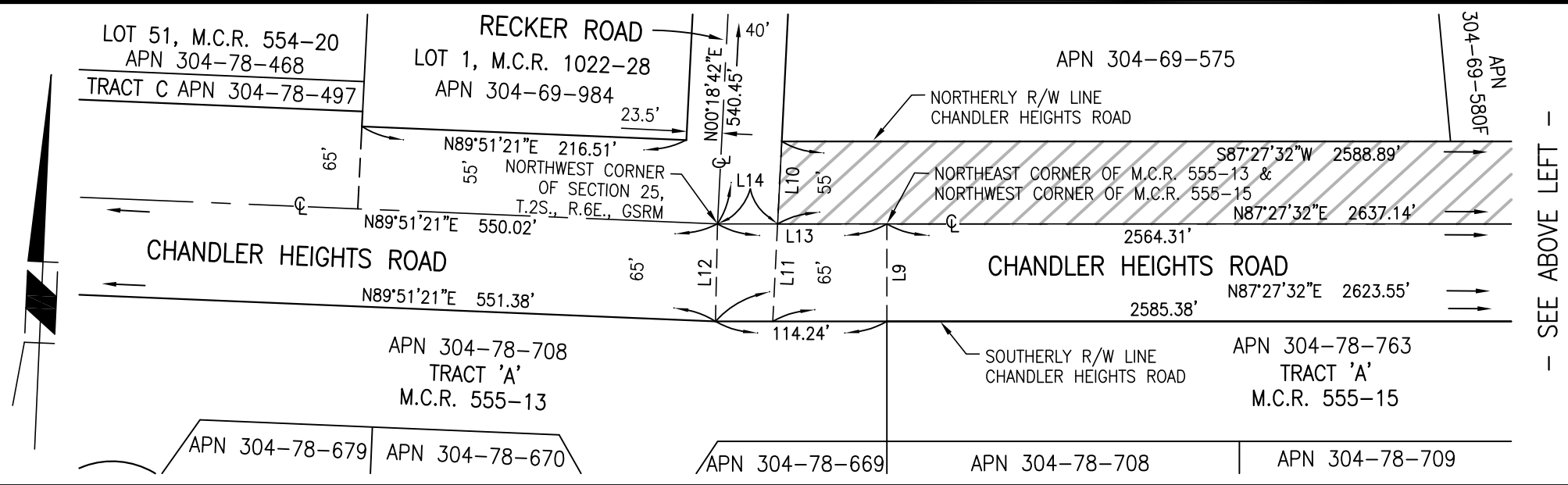
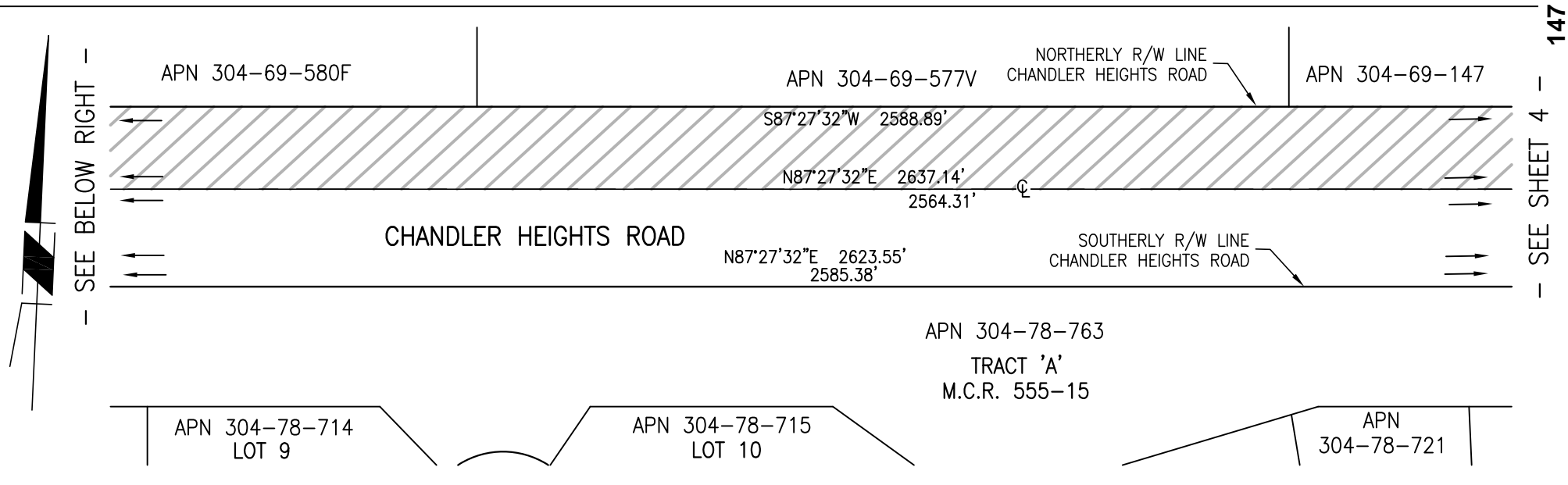
Client/Project  
 Maricopa County

CHANDLER HEIGHTS ROAD RIGHT-OF-WAY  
 NORTH HALF STREET

Project No.  
 181710476

Title  
 EXHIBIT "B"  
 MAP DETAIL


Revision	Date
Sheet	2023.08.24
5 of 6	Figure No.

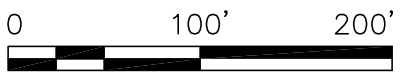


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**NOTES**

SEE SHEET 2 FOR SHEET INDEX, DATA TABLES AND LEGEND.

 R/W ANNEXATION AREA  
 256,851 SQ. FT.  
 5.896 ACRES



Client/Project  
**Maricopa County**  
  
 CHANDLER HEIGHTS ROAD RIGHT-OF-WAY  
 NORTH HALF STREET  
  
 Project No.  
 181710476

Title  
**EXHIBIT "B"**  
**MAP DETAIL**  
  
 Revision \_\_\_\_\_ Date 2023.08.24  
 Sheet \_\_\_\_\_ Figure No. \_\_\_\_\_  
 6 of 6



TOWN OF  
**QUEEN CREEK**  
 ARIZONA

**TO:** HONORABLE MAYOR AND TOWN COUNCIL

**THROUGH:** BRUCE GARDNER, TOWN MANAGER

**FROM:** MARIA GONZALEZ MMC, TOWN CLERK

**RE:** CONSIDERATION AND POSSIBLE RECOMMENDATION OF APPROVAL ON A NEW SERIES 012 RESTAURANT LIQUOR LICENSE APPLICATION SUBMITTED BY JARED MICHAEL REPINSKI ON BEHALF OF BADLANDS BAR & GRILL LOCATED AT 22002 S ELLSWORTH ROAD, QUEEN CREEK.

**DATE:** September 6, 2023

---

**Suggested Action:**

To forward a recommendation of approval to the Arizona Department of Liquor Licenses and Control on a new Series 012 Restaurant Liquor License application submitted by Jared Michael Repinski on behalf of Badlands Bar & Grill located at 22002 S Ellsworth Road, Queen Creek.

**Discussion:**

The Town Clerk's Office received a liquor license application for a new Series 012 Restaurant Liquor License application submitted by Jared Michael Repinski on behalf of Badlands Bar & Grill located at 22002 S Ellsworth Road, Queen Creek.

A Series 012 Restaurant Liquor License is a non-transferable, on-sale retail privileges liquor license that allows the holder of a restaurant license to sell and serve all types of spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food. Failure to meet the 40% food requirement may result in revocation of the license.

Public notice was posted for the required 20-day period (August 2- 22, 2023) in accordance with the Arizona Department of Liquor License and Control posting requirement. No comments or protests from the public were received thus far. The Queen Creek Police Department was provided with a copy of the application for interview / investigation and there is no information which would prevent or disqualify Badlands Bar & Grill from approval to move forward with licensing.

**Fiscal Impact:**

Businesses that hold a state issued liquor license and are located within the Town boundaries are required to obtain a Supplemental Liquor License from the Town. The annual fee for a Supplemental Liquor License is \$200, and is prorated on a monthly basis for the first year per [Section 8-1-10](#) of the Town Code.

**Alternatives:**

Council's recommendation will be forwarded to the Arizona Department of Liquor License & Control. If Council recommends denial of an application, the minutes must reflect specific reasons, testimony, and other evidence that supports the motion to deny the license applications as required by [A.R.S. § 4-201\(E\)](#) further defined by Rule R19-1-702 (attached).

**Attachment(s):**

1. [Rule R19-1-702 \(9-24-22\)](#)
2. [LGB Public Report](#)
3. [QCPD Report](#)

## R19-1-702. Determining Whether to Grant a License for a Certain Location<sup>1</sup>

- A. To determine whether public convenience requires and the best interest of the community will be substantially served by issuing or transferring a license at a particular unlicensed location, local governing authorities and the Board may consider the following criteria:
1. Petitions and testimony from individuals who favor or oppose issuance of a license and who reside in, own, or lease property within one mile of the proposed premises;
  2. Number and types of licenses within one mile of the proposed premises;
  3. Evidence that all necessary licenses and permits for which the applicant is eligible at the time of application have been obtained from the state and all other governing bodies;
  4. Residential and commercial population of the community and its likelihood of increasing, decreasing, or remaining static;
  5. Residential and commercial population density within one mile of the proposed premises;
  6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers;
  7. Effect on vehicular traffic within one mile of the proposed premises;
  8. Compatibility of the proposed business with other activity within one mile of the proposed premises;
  9. Effect or impact on the activities of businesses or the residential neighborhood that might be affected by granting a license at the proposed premises;
  10. History for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant received a detailed report of the violations and criminal activity at least 20 days before the hearing by the Board;
  11. Comparison of the hours of operation at the proposed premises to the hours of operation of existing businesses within one mile of the proposed premises; and
  12. Proximity of the proposed premises to licensed childcare facilities as defined by A.R.S. § 36-881.
- B. This Section is authorized by A.R.S. § 4-201(I).

---

<sup>1</sup> Title 4 Arizona Liquor Law Book (9/24/22)



Name:	Title:	% Interest:
KAYLA JEAN LARDAKIS	Member	51.00
PANAGIOTIS LARDAKIS	Member	49.00

**BADLANDS AZ LLC - Member**

Name: KAYLA JEAN LARDAKIS  
Gender: Female  
Correspondence Address: PO BOX 6252  
CHANDLER, AZ 85246  
USA  
Phone: (701)770-5121  
Alt. Phone:  
Email: KAYLA@DAKOTA94.COM

**BADLANDS AZ LLC - Member**

Name: PANAGIOTIS LARDAKIS  
Gender: Male  
Correspondence Address: PO BOX 6252  
CHANDLER, AZ 85246  
USA  
Phone: (773)585-5888  
Alt. Phone:  
Email: PETER@DAKOTA94.COM



## APPLICATION INFORMATION

Application Number: 252443  
Application Type: New Application  
Created Date: 07/21/2023

*Chay*

## QUESTIONS & ANSWERS

### 012 Restaurant

- 1) Are you applying for an Interim Permit (INP)?  
Yes  
A Document of type INTERIM PERMIT (INP) NOTARY PAGE is required.
- 2) Are you one of the following? Please indicate below.  
Property Tenant  
Subtenant  
Property Owner  
Property Purchaser  
Property Management Company  
TENANT
- 3) Is there a penalty if lease is not fulfilled?  
Yes  
What is the penalty?  
THE LESSOR MAY TERMINATE THE LEASE AND RENT TO PREMISES TO ANOTHER TENANT
- 4) Is the Business located within the incorporated limits of the city or town of which it is located?  
Yes
- 5) What is the total money borrowed for the business not including the lease?  
Please list each amount owed to lenders/individuals.  
\$106,000  
  
CREDIBLY . COM 1501 W FOUNTAINHEAD PKWY SUITE #630 TEMPE AZ 85282
- 6) Are there walk-up or drive-through windows on the premises?  
No
- 7) Does the establishment have a patio?  
Yes  
Is the patio contiguous or non-contiguous (within 30 feet)?  
CONTIGUOUS
- 8) Is your licensed premises now closed due to construction, renovation or redesign or rebuild?  
Yes  
If yes, what is your estimated completion date?  
09/01/2023
- 9) What type of business will this license be used for?  
AMERICAN RESTAURANT

**State of Arizona**  
**Department of Liquor Licenses and Control**

Created 07/26/2023 @ 02:10:03 PM

Local Governing Body Report

**LICENSE**

Number:	INP070024297	Type:	INP INTERIM PERMIT
Name:	BADLANDS BAR & GRILL		
State:	Active		
Issue Date:	07/26/2023	Expiration Date:	11/08/2023
Original Issue Date:	07/26/2023		
Location:	22002 S ELLSWORTH ROAD QUEEN CREEK, AZ 85142 USA		
Mailing Address:	PO BOX 6252 CHANDLER, AZ 85246 USA		
Phone:	(480)613-8600		
Alt. Phone:	(480)664-0389		
Email:	JREPINSKI122@YAHOO.COM		

**AGENT**

Name:	JARED MICHAEL REPINSKI
Gender:	Male
Correspondence Address:	PO BOX 6252 CHANDLER, AZ 85246 USA
Phone:	(480)664-0389
Alt. Phone:	
Email:	JREPINSKI122@YAHOO.COM

**OWNER**

Name:	BADLANDS AZ LLC		
Contact Name:	JARED MICHAEL REPINSKI		
Type:	LIMITED LIABILITY COMPANY		
AZ CC File Number:	23262075	State of Incorporation:	AZ
Incorporation Date:	09/02/2021		
Correspondence Address:	PO BOX 6252 CHANDLER, AZ 85246 USA		
Phone:	(480)664-0389		
Alt. Phone:			
Email:	JREPINSKI122@YAHOO.COM		

**Officers / Stockholders**

Name:	Title:	% Interest:
KAYLA JEAN LARDAKIS	Member	51.00
PANAGIOTIS LARDAKIS	Member	49.00

**BADLANDS AZ LLC - Member**

Name: KAYLA JEAN LARDAKIS  
 Gender: Female  
 Correspondence Address: PO BOX 6252  
 CHANDLER, AZ 85246  
 USA  
 Phone: (701)770-5121  
 Alt. Phone:  
 Email: KAYLA@DAKOTA94.COM

**BADLANDS AZ LLC - Member**

Name: PANAGIOTIS LARDAKIS  
 Gender: Male  
 Correspondence Address: PO BOX 6252  
 CHANDLER, AZ 85246  
 USA  
 Phone: (773)585-5888  
 Alt. Phone:  
 Email: PETER@DAKOTA94.COM

**APPLICATION INFORMATION**

Application Number: 252444  
 Application Type: New Application  
 Created Date: 07/21/2023 *Cover*

**QUESTIONS & ANSWERS**

**INP Interim Permit**

- 1) Enter License Number currently at location  
012070017947
- 2) Is the license currently in use?  
No  
How long has it been out of use?  
?
- 3) Will you please submit section 5, page 6, of the license application when you reach the upload page?  
Yes  
A Document of type INTERIM NOTARY PAGE is required.



QUEEN CREEK POLICE DEPARTMENT  
BACKGROUND INVESTIGATION REPORT  
**LIQUOR LICENSING/NEW APPLICANT**

APPLICANT: Badlands Bar & Grill  
APPLICATION #: 252443  
INVESTIGATOR: Ofc. R. de la Torre #1189

August 10, 2023

**PARTIES/ENTITIES INVOLVED**

Jared Michael Repinski, Agent/ Owner  
Badlands AZ LLC, Owner  
Kayla Jean Lardakis, Member/ Controlling Person  
Panagiotis Lardakis, Member/ Controlling Person

**INVESTIGATION**

A complete Arizona Department of Liquor Licenses and Control Questionnaire packet was received for Badlands Bar & Grill. The planned location is 22002 S. Ellsworth Road, Queen Creek AZ 85142. The agent for the application is Jared Michael Repinski. This premise is new construction and is currently being built.

A review of the application materials was conducted in addition to history of controlling parties and entities named in the application. No concerning information was disclosed in the questionnaire packet and in its background questions. There is no negative history or data associated with the entities and parties of Badlands Bar & Grill. In the application it was disclosed that Kayla Jean Lardakis and Panagiotis Lardakis serve as members and controlling persons of Badlands Bar & Grill.

A review of the Arizona Department of Liquor website showed a Badlands Bar & Grill in Tempe. The liquor license is currently active and there are no open liquor violations. This site is currently under construction, so no site visit was conducted.

The site plan was included with a schematic of where on the premise liquor would be stored. No concerns were noted for the layout and site plan. The establishment includes traditional tables, booth seating, and bar seating. The establishment will have a contiguous outdoor patio with a fence around the patio.

**CONCLUSION**

The background investigation did not reveal any derogatory information on the entities and parties involved. There is no information which would prevent or disqualify Badlands Bar & Grill from approval to move forward with licensing.

Badlands Bar & Grill



TOWN OF  
**QUEEN CREEK**  
 ARIZONA

**TO:** HONORABLE MAYOR AND TOWN COUNCIL

**THROUGH:** BRUCE GARDNER, TOWN MANAGER

**FROM:** MARIA GONZALEZ MMC, TOWN CLERK

**RE:** CONSIDERATION AND POSSIBLE RECOMMENDATION OF APPROVAL ON A NEW SERIES 012 RESTAURANT LIQUOR LICENSE APPLICATION SUBMITTED BY JEFFREY CRAIG MILLER ON BEHALF OF SKIPPY'S GRILLE & CANTINA LOCATED AT 23858 S POWER ROAD, STE 101 IN QUEEN CREEK.

**DATE:** September 6, 2023

---

**Suggested Action:**

To forward a recommendation of approval to the Arizona Department of Liquor Licenses and Control on a new Series 012 Restaurant Liquor License application submitted by Jeffrey Craig Miller on behalf of Skippy's Grille & Cantina located at 23858 S Power Road, Ste 101 in Queen Creek.

**Discussion:**

The Town Clerk's Office received a liquor license application for a new Series 012 Restaurant Liquor License application submitted by Jeffrey Craig Miller on behalf of Skippy's Grille & Cantina located at 23858 S Power Road, Ste 101 in Queen Creek.

A Series 012 Restaurant Liquor License is a non-transferable, on-sale retail privileges liquor license that allows the holder of a restaurant license to sell and serve all types of spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food. Failure to meet the 40% food requirement may result in revocation of the license.

Public notice was posted for the required 20-day period (August 3 - 23, 2023) in accordance with the Arizona Department of Liquor License and Control posting requirement. No comments or protests from the public were received thus far. The Queen Creek Police Department was provided with a copy of the application for interview / investigation, and there is no information which would prevent or disqualify Skippy's Grille & Cantina from approval to move forward with licensing.

**Fiscal Impact:**

Businesses that hold a state issued liquor license and are located within the Town boundaries are required to obtain a Supplemental Liquor License from the Town. The annual fee for a Supplemental Liquor License is \$200, and is prorated on a monthly basis for the first year per [Section 8-1-10](#) of the Town Code.

**Alternatives:**

Council's recommendation will be forwarded to the Arizona Department of Liquor License & Control. If Council recommends denial of an application, the minutes must reflect specific reasons, testimony, and other evidence that supports the motion to deny the license applications as required by [A.R.S. § 4-201\(E\)](#) further defined by Rule R19-1-702 (attached).

**Attachment(s):**

1. [Rule R19-1-702 \(9-24-22\)](#)
2. [LGB Public Report](#)
3. [QCPD Report](#)

## R19-1-702. Determining Whether to Grant a License for a Certain Location<sup>1</sup>

- A. To determine whether public convenience requires and the best interest of the community will be substantially served by issuing or transferring a license at a particular unlicensed location, local governing authorities and the Board may consider the following criteria:
1. Petitions and testimony from individuals who favor or oppose issuance of a license and who reside in, own, or lease property within one mile of the proposed premises;
  2. Number and types of licenses within one mile of the proposed premises;
  3. Evidence that all necessary licenses and permits for which the applicant is eligible at the time of application have been obtained from the state and all other governing bodies;
  4. Residential and commercial population of the community and its likelihood of increasing, decreasing, or remaining static;
  5. Residential and commercial population density within one mile of the proposed premises;
  6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers;
  7. Effect on vehicular traffic within one mile of the proposed premises;
  8. Compatibility of the proposed business with other activity within one mile of the proposed premises;
  9. Effect or impact on the activities of businesses or the residential neighborhood that might be affected by granting a license at the proposed premises;
  10. History for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant received a detailed report of the violations and criminal activity at least 20 days before the hearing by the Board;
  11. Comparison of the hours of operation at the proposed premises to the hours of operation of existing businesses within one mile of the proposed premises; and
  12. Proximity of the proposed premises to licensed childcare facilities as defined by A.R.S. § 36-881.
- B. This Section is authorized by A.R.S. § 4-201(I).

---

<sup>1</sup> Title 4 Arizona Liquor Law Book (9/24/22)

**State of Arizona**  
**Department of Liquor Licenses and Control**

Created 08/02/2023 @ 10:51:50 AM

**Local Governing Body Report**

**LICENSE**

Number: \_\_\_\_\_ Type: 012 RESTAURANT  
Name: SKIPPY'S GRILLE & CANTINA  
State: Pending  
Issue Date: \_\_\_\_\_ Expiration Date: \_\_\_\_\_  
Original Issue Date: \_\_\_\_\_  
Location: 23858 S POWER ROAD  
          #101  
          QUEEN CREEK, AZ 85142  
          USA  
Mailing Address: PO BOX 2502  
                  CHANDLER, AZ 85244  
                  USA  
Phone: (480)988-5466  
Alt. Phone: (480)730-2675  
Email: LIQUORLICENSE@ALIC.COM

**AGENT**

Name: JEFFREY CRAIG MILLER  
Gender: Male  
Correspondence Address: PO BOX 2502  
                              CHANDLER, AZ 85244  
                              USA  
Phone: (480)730-2675  
Alt. Phone: \_\_\_\_\_  
Email: LIQUORLICENSE@AZLIC.COM

**OWNER**

Name: TJ VAL ENTERPRISES LLC  
Contact Name: JEFFREY CRAIG MILLER  
Type: LIMITED LIABILITY COMPANY  
AZ CC File Number: 23513045 State of Incorporation: AZ  
Incorporation Date: 04/11/2023  
Correspondence Address: PO BOX 2502  
                              CHANDLER, AZ 85244  
                              USA  
Phone: (480)730-2675  
Alt. Phone: \_\_\_\_\_  
Email: LIQUORLICENSE@AZLIC.COM

Officers / Stockholders



Name:  
THOMAS JOSEPH VAL

Title:  
Manager-LLC

% Interest:  
100.00

### TJ VAL ENTERPRISES LLC - Manager-LLC

Name: THOMAS JOSEPH VAL  
Gender: Male  
Correspondence Address: PO BOX 2502  
CHANDLER, AZ 85244  
USA  
Phone: (480)694-4598  
Alt. Phone:  
Email: TOMJVAL@YAHOO.COM

<b>MANAGERS</b>
-----------------

Name: THOMAS JOSEPH VAL  
Gender: Male  
Correspondence Address: PO BOX 2502  
CHANDLER, AZ 85244  
USA  
Phone: (480)694-4598  
Alt. Phone:  
Email: TOMJVAL@YAHOO.COM

\*\*\*\*\*

Name: COURTNEY ANNE VAL  
Gender: Female  
Correspondence Address: PO BOX 2502  
CHANDLER, AZ 85244  
USA  
Phone: (480)276-1329  
Alt. Phone:  
Email: COURTNEYVAL@OUTLOOK.COM

## APPLICATION INFORMATION

Application Number: 252833  
Application Type: New Application  
Created Date: 07/26/2023

## QUESTIONS & ANSWERS

### 012 Restaurant

- 1) Are you applying for an Interim Permit (INP)?  
Yes  
A Document of type INTERIM PERMIT (INP) NOTARY PAGE is required.
- 2) Are you one of the following? Please indicate below.  
Property Tenant  
Subtenant  
Property Owner  
Property Purchaser  
Property Management Company  
PROPERTY TENANT
- 3) Is there a penalty if lease is not fulfilled?  
Yes  
What is the penalty?  
OWE TERM
- 4) Is the Business located within the incorporated limits of the city or town of which it is located?  
Yes
- 5) What is the total money borrowed for the business not including the lease?  
Please list each amount owed to lenders/individuals.  
SBA FINANCING BANK 34 8777 E HARTFORD DR #100 SCOTTSDALE, AZ 85255  
\$285,000
- 6) Are there walk-up or drive-through windows on the premises?  
No
- 7) Does the establishment have a patio?  
Yes  
Is the patio contiguous or non-contiguous (within 30 feet)?  
CONTIGUOUS PATIO
- 8) Is your licensed premises now closed due to construction, renovation or redesign or rebuild?  
No
- 9) What type of business will this license be used for?  
RESTAURANT

IP

**State of Arizona  
Department of Liquor Licenses and Control**

Created 08/02/2023 @ 10:52:02 AM

Local Governing Body Report

**LICENSE**

Number: INP070024358                      Type: INP INTERIM PERMIT  
Name: SKIPPY'S GRILLE & CANTINA  
State: Active  
Issue Date: 08/02/2023                      Expiration Date: 11/15/2023  
Original Issue Date: 08/02/2023  
Location: 23858 S POWER ROAD  
                  #101  
                  QUEEN CREEK, AZ 85142  
                  USA  
Mailing Address: PO BOX 2502  
                  CHANDLER, AZ 85244  
                  USA  
Phone: (480)988-5466  
Alt. Phone: (480)730-2675  
Email: LIQUORLICENSE@ALIC.COM

**AGENT**

Name: JEFFREY CRAIG MILLER  
Gender: Male  
Correspondence Address: PO BOX 2502  
                  CHANDLER, AZ 85244  
                  USA  
Phone: (480)730-2675  
Alt. Phone:  
Email: LIQUORLICENSE@AZLIC.COM

**OWNER**

Name: TJ VAL ENTERPRISES LLC  
Contact Name: JEFFREY CRAIG MILLER  
Type: LIMITED LIABILITY COMPANY  
AZ CC File Number: 23513045                      State of Incorporation: AZ  
Incorporation Date: 04/11/2023  
Correspondence Address: PO BOX 2502  
                  CHANDLER, AZ 85244  
                  USA  
Phone: (480)730-2675  
Alt. Phone:  
Email: LIQUORLICENSE@AZLIC.COM

Name:  
THOMAS JOSEPH VAL

Title:  
Manager-LLC

% Interest:  
100.00

### TJ VAL ENTERPRISES LLC - Manager-LLC

Name: THOMAS JOSEPH VAL  
Gender: Male  
Correspondence Address: PO BOX 2502  
CHANDLER, AZ 85244  
USA  
Phone: (480)694-4598  
Alt. Phone:  
Email: TOMJVAL@YAHOO.COM

<b>MANAGERS</b>
-----------------

Name: THOMAS JOSEPH VAL  
Gender: Male  
Correspondence Address: PO BOX 2502  
CHANDLER, AZ 85244  
USA  
Phone: (480)694-4598  
Alt. Phone:  
Email: TOMJVAL@YAHOO.COM

\*\*\*\*\*

Name: COURTNEY ANNE VAL  
Gender: Female  
Correspondence Address: PO BOX 2502  
CHANDLER, AZ 85244  
USA  
Phone: (480)276-1329  
Alt. Phone:  
Email: COURTNEYVAL@OUTLOOK.COM

## APPLICATION INFORMATION

Application Number: 252835  
Application Type: New Application  
Created Date: 07/26/2023

## QUESTIONS & ANSWERS

### INP Interim Permit

- 1) Enter License Number currently at location  
12077549
- 2) Is the license currently in use?  
Yes
- 3) Will you please submit section 5, page 6, of the license application when you reach the upload page?  
Yes  
A Document of type INTERIM NOTARY PAGE is required.



**QUEEN CREEK POLICE DEPARTMENT  
BACKGROUND INVESTIGATION REPORT  
LIQUOR LICENSING**

**APPLICANT:** Skippy's Grille & Cantina  
**APPLICANT #:** 252833  
**INTERIM PERMIT #:** INP070024358  
**INVESTIGATOR:** Ofc. R. de la Torre #1189

August 9, 2023

**PARTIES/ENTITIES INVOLVED**

Jeffrey Craig Miller – Agent/Owner  
TJ Val Enterprises LLC - Owner  
Thomas Joseph Val – Owner/ Manager -LLC  
Courtney Anne Val – Manager

**INVESTIGATION**

A complete Arizona Department of Liquor Licenses and Control Questionnaire packet was received for Skippy's Grille & Cantina. The location is 23858 S Power Road, Queen Creek AZ 85142. The agent for the application is Jeffrey Craig Miller. The establishment currently has an interim liquor permit #I INP070024358.

A review of the application materials was conducted in addition to history of all parties and entities named in application. No concerning information was disclosed in the questionnaire packet and in its background questions. The site plan was included with a schematic of where on the premise's alcohol would be stored. No concerns were noted for the layout and site plan. The restaurant includes traditional tables, booth seating and bar seating.

There is no negative history or data associated with the entities and parties of Skippy's Grille & Cantina. All associated entities and parties are in good standing with the Corporation Commission.

A site visit was conducted on August 9, 2023. The premises is currently open, serving patrons. The application includes a detailed floor plan and site plan including entry/exits, staffing and location of alcohol storage. The alcohol storage is located behind the counter in the kitchen/food service area and is accessible to only staff. The restaurants' primary items being sold is food for onsite consumption or to go. The restaurant also includes a gated outdoor patio with two emergency exits.

**CONCLUSION**

The investigation and review of the questionnaire submitted for Skippy's Grille & Cantina did not reveal any derogatory or negative information on the entities and parties involved. There is no information which would prevent or disqualify Skippy's Grille & Cantina from approval to move forward with licensing.



TOWN OF  
**QUEEN CREEK**  
 ARIZONA

**TO:** HONORABLE MAYOR AND TOWN COUNCIL

**THROUGH:** BRUCE GARDNER, TOWN MANAGER

**FROM:** MARIA GONZALEZ MMC, TOWN CLERK

**RE:** CONSIDERATION AND POSSIBLE RECOMMENDATION OF APPROVAL ON A NEW SERIES 012 RESTAURANT LIQUOR LICENSE APPLICATION SUBMITTED BY ANDREA DAHLMAN LEWKOWITZ ON BEHALF OF MICI HANDCRAFTED ITALIAN LOCATED AT 24750 S ELLSWORTH RD, STE 101 IN QUEEN CREEK.

**DATE:** September 6, 2023

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**Suggested Action:**

To forward a recommendation of approval to the Arizona Department of Liquor Licenses and Control on a new Series 012 Restaurant Liquor License application submitted by by Andrea Dahlman Lewkowicz on behalf of Mici Handcrafted Italian located at 24750 S Ellsworth Rd, Ste 101 in Queen Creek.

**Discussion:**

The Town Clerk's Office received a liquor license application for a new Series 012 Restaurant Liquor License application submitted by Andrea Dahlman Lewkowicz on behalf of Mici Handcrafted Italian located at 24750 S Ellsworth Rd, Ste 101 in Queen Creek.

A Series 012 Restaurant Liquor License is a non-transferable, on-sale retail privileges liquor license that allows the holder of a restaurant license to sell and serve all types of spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food. Failure to meet the 40% food requirement may result in revocation of the license.

Public notice was posted for the required 20-day period (August 15 - September 4, 2023) in accordance with the Arizona Department of Liquor License and Control posting requirement. No comments or protests from the public were received thus far. The Queen Creek Police Department was provided with a copy of the application for interview / investigation, and there is no information which would prevent or disqualify Mici Handcrafted Italian from approval to move forward with licensing.

**Fiscal Impact:**

Businesses that hold a state issued liquor license and are located within the Town boundaries are required to obtain a Supplemental Liquor License from the Town. The annual fee for a Supplemental Liquor License is \$200, and is prorated on a monthly basis for the first year per [Section 8-1-10](#) of the Town Code.

**Alternatives:**

Council's recommendation will be forwarded to the Arizona Department of Liquor License & Control. If Council recommends denial of an application, the minutes must reflect specific reasons, testimony, and other evidence that supports the motion to deny the license applications as required by [A.R.S. §](#)



[4-201\(E\)](#) further defined by Rule R19-1-702 (attached).

**Attachment(s):**

1. [Rule R19-1-702 \(9-24-22\)](#)
2. [LGB Public Report](#)
3. [QCPD Report](#)

## R19-1-702. Determining Whether to Grant a License for a Certain Location<sup>1</sup>

- A. To determine whether public convenience requires and the best interest of the community will be substantially served by issuing or transferring a license at a particular unlicensed location, local governing authorities and the Board may consider the following criteria:
1. Petitions and testimony from individuals who favor or oppose issuance of a license and who reside in, own, or lease property within one mile of the proposed premises;
  2. Number and types of licenses within one mile of the proposed premises;
  3. Evidence that all necessary licenses and permits for which the applicant is eligible at the time of application have been obtained from the state and all other governing bodies;
  4. Residential and commercial population of the community and its likelihood of increasing, decreasing, or remaining static;
  5. Residential and commercial population density within one mile of the proposed premises;
  6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers;
  7. Effect on vehicular traffic within one mile of the proposed premises;
  8. Compatibility of the proposed business with other activity within one mile of the proposed premises;
  9. Effect or impact on the activities of businesses or the residential neighborhood that might be affected by granting a license at the proposed premises;
  10. History for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant received a detailed report of the violations and criminal activity at least 20 days before the hearing by the Board;
  11. Comparison of the hours of operation at the proposed premises to the hours of operation of existing businesses within one mile of the proposed premises; and
  12. Proximity of the proposed premises to licensed childcare facilities as defined by A.R.S. § 36-881.
- B. This Section is authorized by A.R.S. § 4-201(I).

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<sup>1</sup> Title 4 Arizona Liquor Law Book (9/24/22)

**State of Arizona  
Department of Liquor Licenses and Control**

Created 08/10/2023 @ 01:40:50 PM

**Local Governing Body Report**

**LICENSE**

Number: Type: 012 RESTAURANT  
Name: MICI HANDCRAFTED ITALIAN  
State: Pending  
Issue Date: Expiration Date:  
Original Issue Date:  
Location: 24750 S ELLSWORTH ROAD  
#101  
QUEEN CREEK, AZ 85142  
USA  
Mailing Address: 2600 N CENTRAL AVENUE  
#1775  
PHOENIX, AZ 85004  
USA  
Phone: (480)810-1888  
Alt. Phone: (602)200-7222  
Email: ANDREA@LEWKLaw.COM

**AGENT**

Name: ANDREA DAHLMAN LEWKOWITZ  
Gender: Female  
Correspondence Address: 2600 N CENTRAL AVENUE  
#1775  
PHOENIX, AZ 85004  
USA  
Phone: (602)200-7222  
Alt. Phone:  
Email: ANDREA@LEWKLaw.COM

**OWNER**

Name: MHI RESTAURANT GROUP LLC  
Contact Name: ANDREA LEWKOWITZ  
Type: LIMITED LIABILITY COMPANY  
AZ CC File Number: State of Incorporation:  
Incorporation Date:  
Correspondence Address: 2600 N CENTRAL AVENUE  
#1775  
PHOENIX, AZ 85004  
USA  
Phone: (602)200-7222  
Alt. Phone:  
Email: ANDREA@LEWKLAW.COM

**Officers / Stockholders**

Name:	Title:	% Interest:
MICELI INVESTMENT HOLDINGS INC	Member	76.20
JEFFREY ALAN MICELI	President/CEO	
JOSEPH ADAM MELTON	Treasurer/COO	

**MHI RESTAURANT GROUP LLC - Member**

Name: MICELI INVESTMENT HOLDINGS INC  
Contact Name: ANDREA LEWKOWITZ  
Type: CORPORATION  
AZ CC File Number: State of Incorporation:  
Incorporation Date:  
Correspondence Address: 2600 N CENTRAL AVENUE  
#1775  
PHOENIX, AZ 85004  
USA  
Phone: (602)200-7222  
Alt. Phone:  
Email: ANDREA@LEWKLAW.COM

**MICELI INVESTMENT HOLDINGS INC -  
President/DIR**

**MHI RESTAURANT GROUP LLC - Treasurer/COO**

Name: JOSEPH ADAM MELTON  
Gender: Male  
Correspondence Address: 2600 N CENTRAL AVENUE  
#1775  
PHOENIX, AZ 85004  
USA  
Phone: (636)248-8010  
Alt. Phone:  
Email: JOE@MICIITALIAN.COM

**State of Arizona**  
**Department of Liquor Licenses and Control**

Created 08/10/2023 @ 01:45:29 PM

Local Governing Body Report

**LICENSE**

Number:		Type:	INP INTERIM PERMIT
Name:	MICI HANDCRAFTED ITALIAN		
State:	Pending		
Issue Date:		Expiration Date:	
Original Issue Date:			
Location:	24750 S ELLSWORTH ROAD #101 QUEEN CREEK, AZ 85142 USA		
Mailing Address:	2600 N CENTRAL AVENUE #1775 PHOENIX, AZ 85004 USA		
Phone:	(480)810-1888		
Alt. Phone:	(602)200-7222		
Email:	ANDREA@LEWKLAW.COM		

**AGENT**

Name:	ANDREA DAHLMAN LEWKOWITZ
Gender:	Female
Correspondence Address:	2600 N CENTRAL AVENUE #1775 PHOENIX, AZ 85004 USA
Phone:	(602)200-7222
Alt. Phone:	
Email:	ANDREA@LEWKLAW.COM

**OWNER**

## MHI RESTAURANT GROUP LLC - President/CEO

Name: JEFFREY ALAN MICELI  
Gender: Male  
Correspondence Address: 2600 N CENTRAL AVENUE  
#1775  
PHOENIX, AZ 85004  
USA  
Phone: (720)394-5585  
Alt. Phone:  
Email: JEFF@MICHITALIAN.COM


## MICELI INVESTMENT HOLDINGS INC - Shareholder

Name: JEFFREY ALAN MICELI  
Gender: Male  
Correspondence Address: 2600 N CENTRAL AVENUE  
#1775  
PHOENIX, AZ 85004  
USA  
Phone: (720)394-5585  
Alt. Phone:  
Email: JEFF@MICHITALIAN.COM

## MANAGERS

Name: JEFFREY ALAN MICELI  
Gender: Male  
Correspondence Address: 2600 N CENTRAL AVENUE  
#1775  
PHOENIX, AZ 85004  
USA  
Phone: (720)394-5585  
Alt. Phone:  
Email: JEFF@MICHITALIAN.COM

## APPLICATION INFORMATION

Application Number: 252755  
Application Type: New Application   
Created Date: 07/25/2023

## QUESTIONS & ANSWERS

### 012 Restaurant

- 1) Are you applying for an Interim Permit (INP)?  
Yes  
A Document of type INTERIM PERMIT (INP) NOTARY PAGE is required.

- 2) Are you one of the following? Please indicate below.  
 Property Tenant  
 Subtenant  
 Property Owner  
 Property Purchaser  
 Property Management Company  
 PROPERTY TENANT
- 3) Is there a penalty if lease is not fulfilled?  
 Yes  
 What is the penalty?  
 TERMINATION AND/OR OTHER MONETARY PENALTIES
- 4) Is the Business located within the incorporated limits of the city or town of which it is located?  
 Yes
- 5) What is the total money borrowed for the business not including the lease?  
 Please list each amount owed to lenders/individuals.  
 \$235,000.00  
 VALLEY ITALIAN, LLC | 7910 E. Camelback Road, #501, Phoenix, AZ 85016
- 6) Are there walk-up or drive-through windows on the premises?  
 No
- 7) Does the establishment have a patio?  
 No
- 8) Is your licensed premises now closed due to construction, renovation or redesign or rebuild?  
 No
- 9) What type of business will this license be used for?  
 RESTAURANT

## DOCUMENTS

DOCUMENT TYPE	FILE NAME	UPLOADED DATE
MISCELLANEOUS	Mici QC_Agt ADL (Ctn).pdf	07/25/2023
QUESTIONNAIRE	Mici QC_Agt ADL (Q).pdf	07/25/2023
RECORDS REQUIRED FOR AUDIT	Mici QC_Audit.pdf	07/25/2023
DIAGRAM/FLOOR PLAN	Mici QC_Diagram.pdf	07/25/2023
MENU	Mici QC_Menu.pdf	07/25/2023
RESTAURANT OPERATION PLAN	Mici QC_ROP.pdf	07/25/2023
INTERIM PERMIT (INP) NOTARY PAGE	Mici QC_INP Form (pending).pdf	07/25/2023

Name: MHI RESTAURANT GROUP LLC  
Contact Name: ANDREA LEWKOWITZ  
Type: LIMITED LIABILITY COMPANY  
AZ CC File Number: State of Incorporation:  
Incorporation Date:  
Correspondence Address: 2600 N CENTRAL AVENUE  
#1775  
PHOENIX, AZ 85004  
USA  
Phone: (602)200-7222  
Alt. Phone:  
Email: ANDREA@LEWKLAW.COM

**Officers / Stockholders**

Name:	Title:	% Interest:
MICELI INVESTMENT HOLDINGS INC	Member	76.20
JEFFREY ALAN MICELI	President/CEO	
JOSEPH ADAM MELTON	Treasurer/COO	

**MHI RESTAURANT GROUP LLC - Member**

Name: MICELI INVESTMENT HOLDINGS INC  
Contact Name: ANDREA LEWKOWITZ  
Type: CORPORATION  
AZ CC File Number: State of Incorporation:  
Incorporation Date:  
Correspondence Address: 2600 N CENTRAL AVENUE  
#1775  
PHOENIX, AZ 85004  
USA  
Phone: (602)200-7222  
Alt. Phone:  
Email: ANDREA@LEWKLAW.COM

**MICELI INVESTMENT HOLDINGS INC -  
President/DIR**

**MHI RESTAURANT GROUP LLC - Treasurer/COO**

Name: JOSEPH ADAM MELTON  
Gender: Male  
Correspondence Address: 2600 N CENTRAL AVENUE  
#1775  
PHOENIX, AZ 85004  
USA  
Phone: (636)248-8010  
Alt. Phone:  
Email: JOE@MICITALIAN.COM



**MHI RESTAURANT GROUP LLC - President/CEO**

Name: JEFFREY ALAN MICELI  
Gender: Male  
Correspondence Address: 2600 N CENTRAL AVENUE  
#1775  
PHOENIX, AZ 85004  
USA  
Phone: (720)394-5585  
Alt. Phone:  
Email: JEFF@MICIITALIAN.COM

**MICELI INVESTMENT HOLDINGS INC -  
Shareholder**

Name: JEFFREY ALAN MICELI  
Gender: Male  
Correspondence Address: 2600 N CENTRAL AVENUE  
#1775  
PHOENIX, AZ 85004  
USA  
Phone: (720)394-5585  
Alt. Phone:  
Email: JEFF@MICIITALIAN.COM

<p><b>MANAGERS</b></p>
------------------------

Name: JEFFREY ALAN MICELI  
Gender: Male  
Correspondence Address: 2600 N CENTRAL AVENUE  
#1775  
PHOENIX, AZ 85004  
USA  
Phone: (720)394-5585  
Alt. Phone:  
Email: JEFF@MICIITALIAN.COM

## APPLICATION INFORMATION

Application Number: 252763  
Application Type: New Application <sup>TR</sup>  
Created Date: 07/25/2023

## QUESTIONS & ANSWERS

### INP Interim Permit

- 1) Enter License Number currently at location 012070018735
- 2) Is the license currently in use? yes
- 3) Will you please submit section 5, page 6, of the license application when you reach the upload page? yes.



QUEEN CREEK POLICE DEPARTMENT  
BACKGROUND INVESTIGATION REPORT  
**LIQUOR LICENSING/NEW APPLICANT**

APPLICANT: Mici Handcrafted Italian  
APPLICATION #: 252755  
INTERIM PERMIT #: INP070024443  
INVESTIGATOR: Sgt. M. Erwin #1168

August 31, 2023

**PARTIES/ENTITIES INVOLVED**

Andrea Dahlman Lewkowitz – Agent  
Joseph Melton – COO/Treasurer  
Jeffrey Miceli – Mgr/CEO  
Patrick Rose - Mgr  
MHI Restaurant Group LLC  
Miceli Investment Holdings Inc  
Mici Queen Creek LLC

**INVESTIGATION**

A complete Arizona Department of Liquor Licenses and Control Questionnaire packet was received for Mici Handcrafted Italian. The location is 24750 S Ellsworth Road #101, Queen Creek AZ 85142. The agent for the application is Andrea Dahlman Lewkowitz. This premises is currently open and has an interim liquor permit #INP070024443 based off the existing license #012070018735.

A review of the application materials was conducted in addition to history of all parties and entities named in the application. It was disclosed in Joseph Melton and Jeffrey Miceli's questionnaire that back in 2019 their restaurant located in Parker, Colorado received a written warning from the Parker Liquor Licensing Authority during a compliance operation. The matter was settled, with an admission of the violation, which included a deadline for the re-training of staff. No other concerning information was disclosed in the questionnaire packet and in its background questions. There is no negative history or data associated with the entities and parties of Mici Handcrafted Italian. All associated entities and parties are in good standing with the Corporation Commission.

The application includes a detailed floor plan, including entry/exits, and location of liquor storage. The restaurant has traditional table seating. There is no bar area nor is there an outdoor patio. No concerns were noted for the layout and site plan.

A site visit was conducted on 08/31/23. The premises is currently open, serving patrons. The liquor storage is located behind the counter as well as in the kitchen, accessible to only staff. No concerns were noted during the site visit.

#### CONCLUSION

The investigation and review of the questionnaire submitted for Mici Handcrafted Italian did not reveal any derogatory or negative information on the entities and parties involved other than what was already disclosed in the questionnaire. There is no information which would prevent or disqualify Mici Handcrafted Italian from approval to move forward with licensing.



## Town of Queen Creek

# Capital Improvement Projects Update

Dave Lipinski PE, CIP Dept. Dir.

Town Council 9.6.23

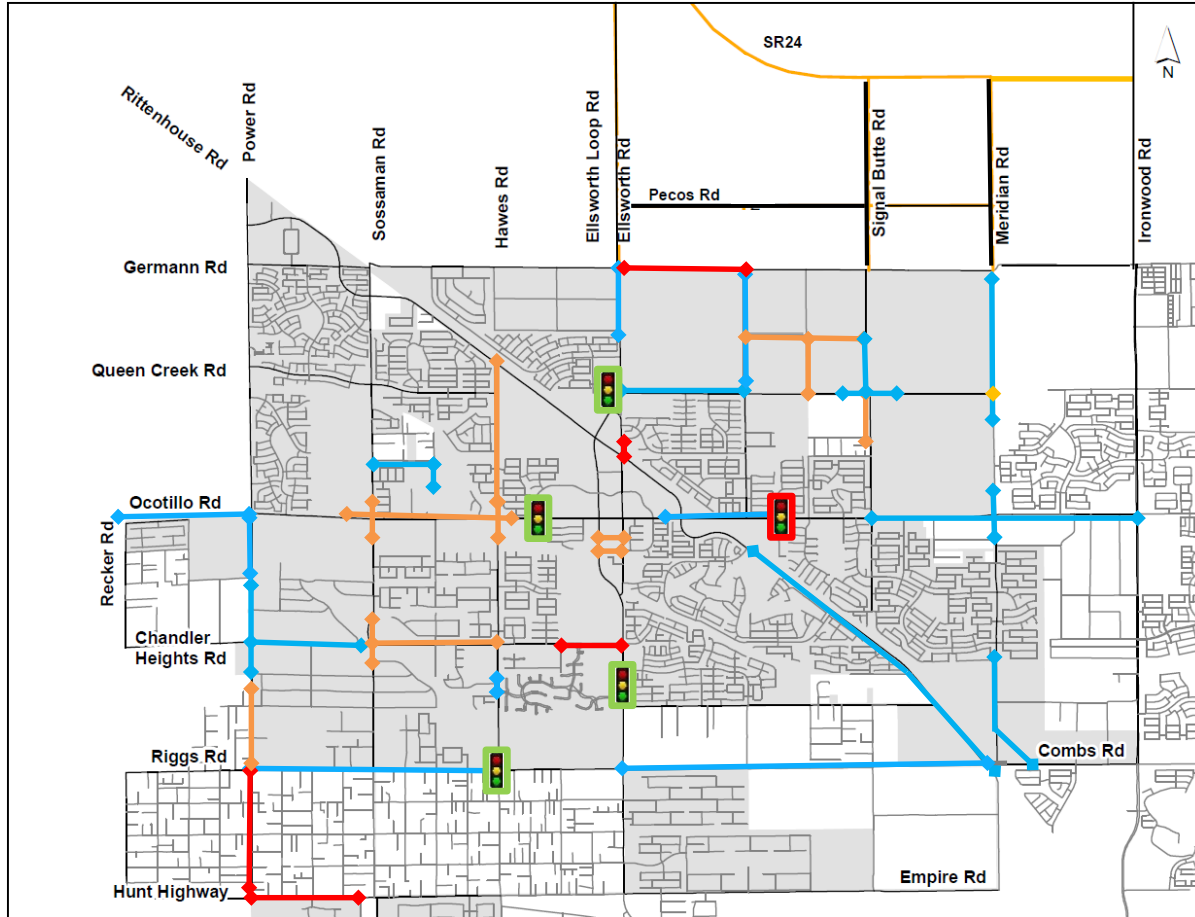
## 10-Year IIP Roadway Projects 2018-2027

**Key**

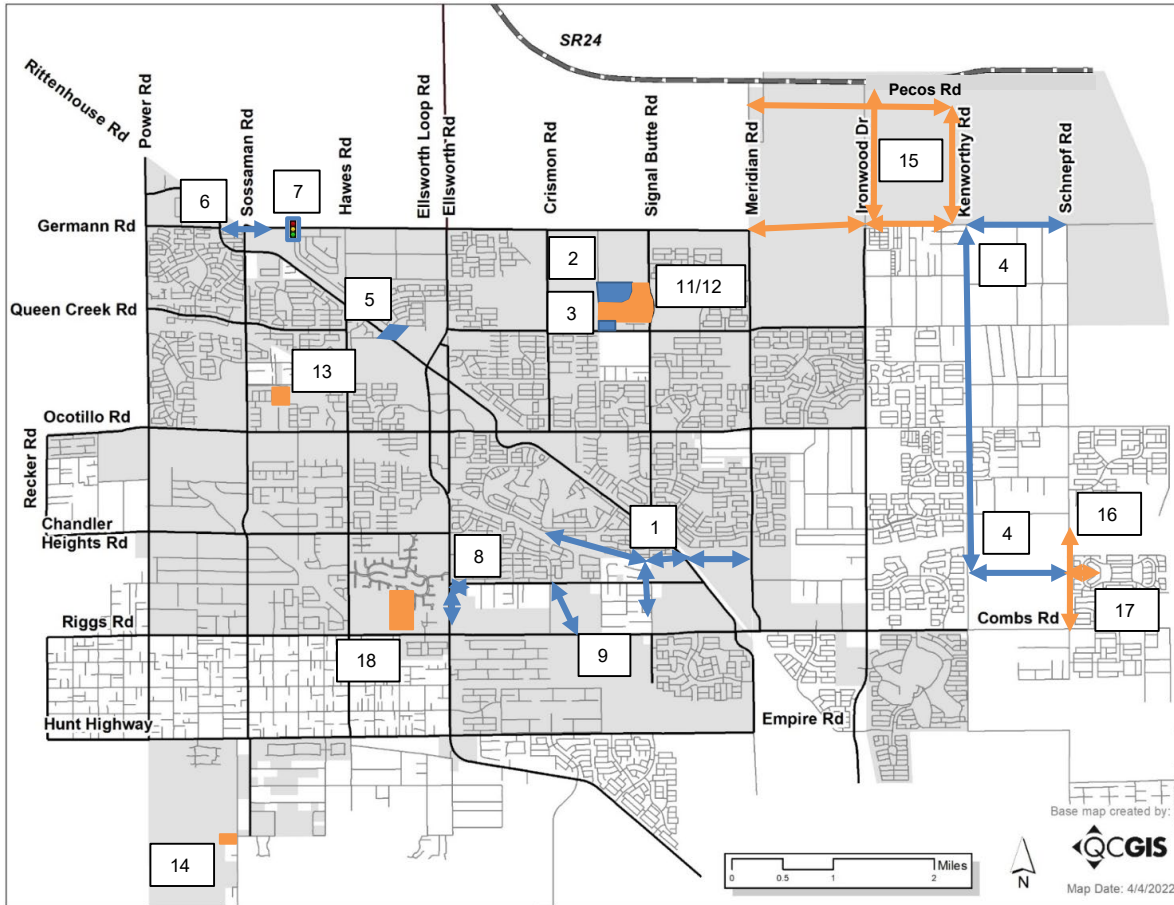
- ◆ = Completed Project
- ◆ = Active Project
- ◆ = Remaining Project

-  Traffic Signal Completed
-  Traffic Signal Future

Completed	58%
Active	25%
Remaining	17%



# CIP Projects – Non-IIP



## Key

- In Design  
↔
- Under Construction  
↔
- Complete  
↔

## In Design

1. Queen Creek Wash Ph1 & 2
2. Field Operations Facility
3. Public Safety Resource Center
4. Pinal County IGA – ARPA Funded Projects
5. Rittenhouse / UPRR Sewer Replacement
6. Intersection of Sossaman and Germann
7. Traffic Signal @ Germann & 196th
8. Ellsworth & Cloud Roads
9. Crismon Road – Cloud to Riggs

## In Construction

11. Frontier Family Park
12. East Park Aquatic & Multi-Gen Center
13. Mansel Carter Park Phase 2
14. Bell Road Pump Station
15. ASLD Infrastructure
16. Schnepf Road Waterline
17. Loredo Ranch Drive Waterline
18. HPEC RV Dump Stations

# Meridian Road at Queen Creek/Pima Road





# Meridian Road at Queen Creek/Pima Roads



ITD Budget	ITD Expended	ITD Encumbered	Available
16,067,554	11,249,988	4,024,732	792,834

# Town Center Roadways Aldecoa Drive and Munoz Street



# Town Center Roadways

## Aldecoa Drive and Munoz Street

- Roadway anticipated completion 1/31/24
- Electrical completion is delayed until May 2024



ITD Budget	ITD Expended	ITD Encumbered	Available
11,056,357	3,853,744	6,536,232	666,381

# Ocotillo Road: Sossaman to Hawes



# Ocotillo Road: Sossaman to Hawes



ITD Budget	ITD Expended	ITD Encumbered	Available
21,602,727	2,868,649	15,139,062	3,595,015

# Mansel Carter Phase 2

- Mass grading complete.
- On track for March 1 opening.



ITD Budget	ITD Expended	ITD Encumbered	Available
12,501,000	659,348	11,020,368	821,284

# Frontier Family Park

- Frontier Family Park Construction ongoing, just over 50% complete.
- Trying to manage through schedule challenges.
- Anticipate opening in late April 2024.



ITD Budget	ITD Expended	ITD Encumbered	Available
78,230,000	26,161,129	47,728,508	4,340,363

# Aquatic and Recreation Center

- Recreation Center building permit issued, waiting on Aquatic Center Permit.
- Underground utilities and building footings under construction.



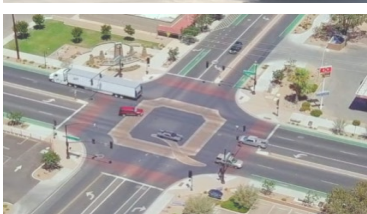
ITD Budget	ITD Expended	ITD Encumbered	Available
68,000,000	4,244,359	13,718,607	50,037,034



# Other Projects:

- Signal Butte Road from Ocotillo Road to Queen Creek Road
  - Installation of SRP and CenturyLink conduits nearing completion.
  - Storm drain installation is ongoing.
- Queen Creek Road and Hawes Road Interim Signal
  - Complete
  - Final intersection design is ongoing.
- Crismon Road from Riggs Road to Cloud Road  
(Adjacent to Crismon High School)
  - Contractor is completing pricing for phase 1 improvements. Coordinating with school on timing for construction start.





Questions?



TOWN OF  
**QUEEN CREEK**  
ARIZONA

**TO:** HONORABLE MAYOR AND TOWN COUNCIL

**THROUGH:** BRUCE GARDNER, TOWN MANAGER

**FROM:** RANDY BRICE, CHIEF OF POLICE, MARNIE SCHUBERT, COMMUNITY SERVICES DIRECTOR

**RE:** PRESENTATION AND DISCUSSION REGARDING OPTIONS FOR UPDATES TO THE TOWN CODE, INFRASTRUCTURE IMPROVEMENTS, AND ENFORCEMENT FOR THE USE OF MICROMOBILITY AND OTHER SELF-PROPELLED DEVICES ON TOWN-OWNED TRAILS, PARKS, SIDEWALKS, STREETS, AND OTHER DESIGNATED PUBLIC AREAS.

**DATE:** September 6, 2023

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**Suggested Action:**

None - Discussion Only

**Relevant Council Goal(s):**

- Safe Community (Public Safety)
- Superior Infrastructure
- Quality Lifestyle

**Discussion:**

***Background***

During the Town Council's 2023 Strategic Planning Session in February, there was a presentation provided by staff regarding the emergence of micromobility, the current shifts in preferences for alternative modes of transportation, and wholesale monumental changes impacting transportation over the last few decades.

With a surge of new personal transportation devices coming to market, some integrated into shared ride systems (such as bikeshare or e-scooter programs), there is a need to establish a common vocabulary for these options and provide basic information about how these devices are classified and regulated.

***Micromobility***

According to the Society of Automotive Engineers (SAE), a standards-developing organization and professional association, a "powered micromobility vehicle," sometimes referred to as a personal e-mobility device, share three common characteristics:

- **Motorized:** They can either be fully motorized (capable of movement without human power) or motor-assisted, in which the rider provides some human-powered propulsion (such as pedaling or kicking). They usually involve a battery-powered electric motor but may also be capable of using another energy source, such as gasoline.
- **Slow speed:** Most micromobility devices are designed to travel at or below 20 miles per hour (MPH), and some devices may operate at or be regulated to even lower speeds, such as 8 MPH

or less, to be compatible with sidewalk use. According to SAE definitions, the top travel speed for micromobility devices is 30 MPH or less.

- Small size: The weight, width, height, and length of a device all contribute to defining size. Foremost micromobility devices, a standard width is three feet or less, fitting within the standard bike lane or sidewalk width, and the weight is typically less than 100 pounds. By SAE's definition, all micromobility devices weigh less than 500 pounds and fall within one of four weight categories. However, the Town can define the weight and width limitations for different types of travel ways or facilities.

SAE also provides a classification system with descriptors of curb weight, vehicle width, top speed, and power source.

#### Curb weight

- Ultra lightweight: < 50 lb (23 kg)
- Lightweight: >51 lb (23 kg), < 100 lb (45 kg)
- Midweight: >100 lb (45 kg), <200 lb (91 kg)
- Midweight Plus: >200 lb (91 kg), <500 lb (227 kg)
- Based on current State law and anticipated changes to the Town code, micromobility devices are defined as devices less than 75 pounds.

#### Vehicle width

- Standard-width: <3 ft (0.9 m)
- Wide: >3 ft (0.9 m), < 4 ft (1.2 m)
- Extra-Wide: >4 ft (1.2 m), < 5 ft (1.5 m)
- Based on anticipated changes to the Town code, micromobility devices are defined as devices with a "standard width" (<3 ft).

#### Top speed

- Ultra low-speed: Top Speed < 8 mph (13 km/h)
- Low-speed: >8 mph (13 km/h), top speed < 20 mph (32 km/h)
- Medium-speed: >20 mph (32 km/h), top speed < 30 mph
- Based on anticipated changes to the Town code, micromobility devices are defined as devices with a "top speed" of < 20 mph.

#### Power source

- Powered by an electric motor.
- Powered by an internal combustion engine.

#### Examples of micromobility devices:

- Electric bicycles (class 1 & 2)
- Electric personal assistive mobility devices
- Electric standing or sitting scooters

#### State law specifically describes these devices in ARS 28-101:

- "Electric bicycle" means a bicycle or tricycle that is equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts and that meets the requirements of one of the following classes:
  - "Class 1 electric bicycle" means a bicycle or tricycle that is equipped with an electric motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle or tricycle reaches the speed of twenty miles per hour.
  - "Class 2 electric bicycle" means a bicycle or tricycle that is equipped with an electric motor that may be used exclusively to propel the bicycle or tricycle and that is not

capable of providing assistance when the bicycle or tricycle reaches the speed of twenty miles per hour.

- "Electric miniature scooter" means a device that (1) weighs less than thirty pounds; (2) has two or three wheels; (3) has handlebars; (4) has a floorboard on which a person may stand while riding; (5) is powered by an electric motor or human power, or both; and (6) has a maximum speed that does not exceed ten miles per hour, with or without human propulsion, on a paved level surface.
- "Electric personal assistive mobility device" means a self-balancing device with one wheel or two non-tandem wheels and an electric propulsion system that limits the maximum speed of the device to fifteen miles per hour or less and that is designed to transport only one person.
- "Electric standup scooter" means a device that: (1) Weighs less than seventy-five pounds; (2) has two or three wheels; (3) has handlebars; (4) has a floorboard on which a person may stand while riding; (5) Is powered by an electric motor or human power, or both; and (6) has a maximum speed that does not exceed twenty miles per hour, with or without human propulsion, on a paved level surface. Does not include an electric miniature scooter.

For the purposes of this discussion and potential changes/additions to the Town Code, the following are not considered micromobility devices:

- Devices used for vocational purposes and commercial goods/services delivery
- Devices use for offroad (all-terrain vehicles) or air-based travel
- Class 3 electric (or gas-powered) motorized bicycle
- Motorized play vehicles
- Motorized skateboards
- Motor Vehicles
  - o Motorcycle
  - o Motor-driven cycle
  - o Moped
  - o Motorized quadricycle
  - o Neighborhood electric vehicles
  - o Golf carts
  - o All-terrain vehicles

The following are not considered to be micromobility devices but are currently allowed to be operated in the Town as outlined in state law:

- Non-powered bicycle or tricycle
- Motorized wheelchairs and personal mobility scooters

### ***Advantages of micromobility/self-propelled devices***

- Cost effectiveness - economical way to access local services.
- Increased travel options/flexibility.
- Convenience – faster/easier travel.
- Provides increased opportunity for local tourism or other economic development.
- Environmental benefits.
- Personal health – recreation opportunities.
- May reduce traffic congestion or parking issues.
- Provides another method to access essential services.
- The wash trail system provides opportunities to be active outdoors, access the Town's parks and commercial centers, and use alternative modes of transportation to work or other travel while minimizing the roadway crossings and conflict points.

### ***Concerns regarding micromobility/self-propelled devices***

The challenge for many of these devices is that you are mixing modes and speed variations into the same infrastructure.

- Speed/device safety, particularly with amateur riders
- Congestion - limited sidewalk or trail space for multiple devices and other user modalities
- Speed differentials between users
- Potential dangers when emerging from alleys, underpasses or driveways
- Parking/blocking access
- Potential noise/speed conflict with horses using trails
- Potential for operating under the influence/reckless operation
- Infrastructure requirements
- Inability for some device to transverse minor surface abnormalities
- Public acceptance

### ***Seeking Direction***

Part 1: Staff is seeking direction from Council regarding the use of micromobility/self-propelled devices on sidewalks, streets, and other areas of the Town. Staff would like to return with Town Code and Zoning updates/additions that would address the following:

- Set permissions and prohibitions for operating micromobility devices on sidewalks, streets, and other areas of the Town.
- Set permissions and prohibitions for operating self-propelled devices (specifically motorized play vehicles and motorized skateboards) on sidewalks, streets, and other areas of the Town.

Code updates would include:

- Definitions
- Owner/operator responsibilities
- Rules of operation
- Permissible areas of operation
- Operational hours/times
- Riding, operating, or actual physical control while under the influence
- Reckless riding or operations
- Parking, staging, deployment intervals
- Speed/prudent operations
- Obstruction of public property
- Driving/operation on private property
- Pedestrian interaction
- Required equipment
- Parent, guardian, and custodian responsibilities
- Relocation, removal, & impoundment

Updates needed for the Zoning Ordinance and the Subdivision Ordinance

- The Zoning Ordinance and the Subdivision Ordinance does not contain regulations specific to planning for or the use of micro-mobility transportation devices. However, generally speaking, the Zoning Ordinance and Subdivision Ordinance refer to pedestrian, bicycle, and vehicular transportation planning and facilities and do not contemplate the use of or planning for micromobility devices.
- The Zoning Ordinance requires developments to complete their required portion of the Town's regional trail network and encourage sidewalk and trail connections within a development to the greater Town Street and trail system. Again, however, it is not specific to the use micromobility devices in these facilities.
- The Zoning Ordinance contains specific definitions related to public facilities where micromobility devices could be permitted if approved by the Town Council. If the Town Code is amended to address micromobility devices on public facilities, additional definitions or minor modifications to existing definitions

Part 2: Staff is seeking direction from Council regarding the regulation of micromobility, bicycle, or

other related rental services who may seek to operate in the community. Staff would like to return with Town Code updates/additions that would address the following:

- Regulate, as legally appropriate, micromobility, bicycle, or other related rental services who may seek to operate in the community.

Code updates would include a requirement for a business license and right-of-way user license that would instructions or conditions for the following:

- Liability insurance
- Assumption of risk & indemnification agreement for user/operator
- Terms & conditions (T&Cs) for users
- Notification process for T&Cs, indemnification, local laws, etc.
- Permissible vehicle/platform type(s)
- Designated parking/deployment areas
- Response times for obstructions
- Geofencing (speed, prohibited areas)
- Designated parking/deployment areas
- Response times for obstructions
- Vehicle Identification markings
- Public reporting processes/portal (SCF)

Part 3: Staff is seeking direction from Council regarding the use of micromobility/self-propelled devices in/on Town-owned trails and parks.

- Maintain the status quo (do not allow micromobility or other self-propelled devices on or in Town-owned parks and trails and keep the current infrastructure).
- Allow micromobility devices on or in Town-owned parks and trails without infrastructure changes, improvements, or expansion.
- Allow micromobility devices on or in Town-owned parks and trails but wait until specific infrastructure changes, improvements, or expansion has been completed.
- Allow micromobility devices on or in Town-owned parks and trails as soon as practical, but direct staff to provide a plan for funding and construction of specific infrastructure changes, improvements, or expansion to be completed at a later date.
- Allow motorized play vehicles and motorized skateboards on or in Town-owned parks and trails (as outlined in #2, #3, or #4).

If the Council chooses to allow micromobility devices on or in Town-owned parks and trails, the Town will need to provide a series of Town code updates, install various signage, launch an awareness campaign, and develop an enforcement staffing strategy. Code updates would include:

- Definitions
- Owner/operator responsibilities
- Rules of operation
- Permissible areas of operation
- Operational hours/times
- Riding, operating, or actual physical control while under the influence
- Reckless riding or operations
- Parking, staging, deployment intervals
- Speed/prudent operations
- Obstruction of public property
- Driving/operation on private property
- Pedestrian interaction
- Required equipment
- Parent, guardian, and custodian responsibilities
- Relocation, removal, & impoundment

## Updates needed for the Zoning Ordinance and the Subdivision Ordinance

- The Zoning Ordinance and the Subdivision Ordinance does not contain regulations specific to planning for or the use of micro-mobility transportation devices. However, generally speaking, the Zoning Ordinance and Subdivision Ordinance refer to pedestrian, bicycle, and vehicular transportation planning and facilities and do not contemplate the use of or planning for micromobility devices.
- The Zoning Ordinance requires developments to complete their required portion of the Town's regional trail network and encourage sidewalk and trail connections within a development to the greater Town Street and trail system. Again, however, it is not specific to the use micromobility devices in these facilities.
- The Zoning Ordinance contains specific definitions related to public facilities where micromobility devices could be permitted if approved by the Town Council. If the Town Code is amended to address micromobility devices on public facilities, additional definitions or minor modifications to existing definitions

### **Infrastructure Considerations:**

Another consideration for Council is the improvement/expansion of existing and future trails in the community. The trails are currently 10' in width and could be widened in many places to 15' in width (exceptions below). This would allow for striping to accommodate two-way wheeled traffic. Should the Council direct staff to proceed with a plan to fund and construct specific infrastructure changes, improvements, or expansion the following should be considered:

- These cost estimates are not currently included in the FY24 budget and would require general fund monies, as impact fees cannot be used to renovate previously built portions of the trails.
- There are significant issues relative to expanding the trails on both washes as neither pathway was expected to be widened when designed and built.
- In some areas "cut-off walls" would have to be added near trail crossings/ramps.
- Extensive or pervasive landscaping along the trail would be costly to remove.
- Removal or relocation of buried riprap (erosion control) would be costly.
- There are several areas where private property creates "pinch-points" and would not allow any further widening without further land acquisition or construction of retaining walls.
- Several areas would require additional slope protection, drainage management, and landscape rebuilding.
- The costs below would consist of existing trail portions only. Future trail development would include the costs for 15' width if that is Council's direction.
- Areas of the Zoning Ordinance would need to be updated should the trail width be expanded to 15'.

Estimated costs are as follows:

- Queen Creek Wash - Power to Crismon: \$7.9 Million
- Sonoqui Wash - Power to Hawes: \$6.5 Million
- Total: \$14.4 Million to expand existing trail (where possible)

### **Fiscal Impact:**

This item is for discussion only and does not have any fiscal impact without further action.

### **Alternatives:**

This item is for discussion only and does not have any specific action item listed.

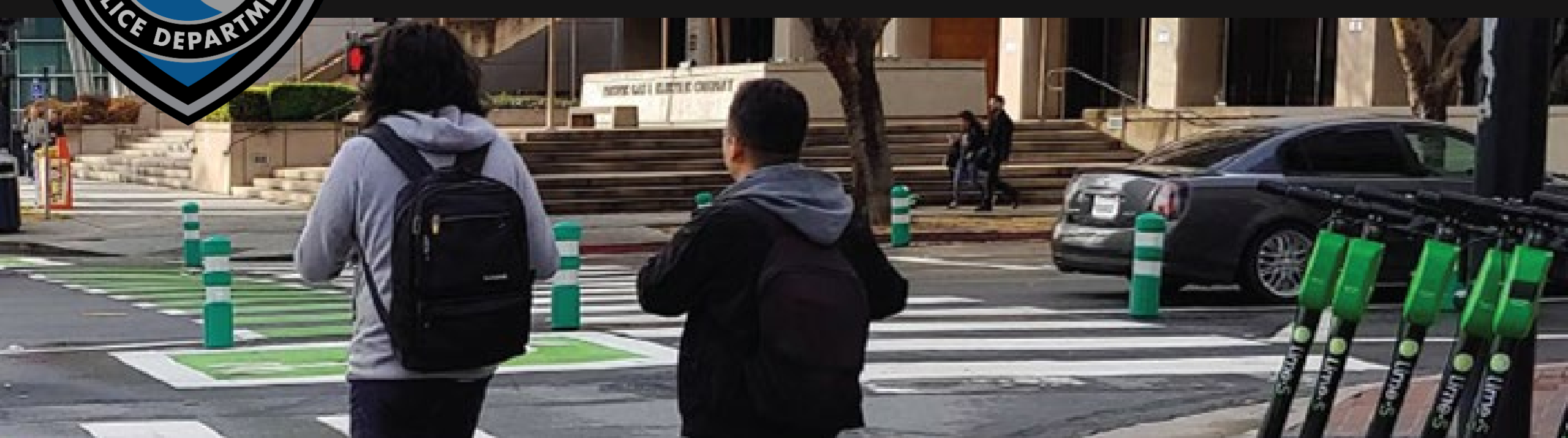
### **Attachment(s):**

1. [Micromobility TC Presentation 9-6-23\\_for print.pdf](#)





# QUEEN CREEK POLICE DEPARTMENT



## MICROMOBILITY DISCUSSION

# Options To Discuss – Seeking Direction



## Three Main Areas:



1. The use of micromobility/self-propelled devices on sidewalks, streets, and other areas of the Town.



2. The regulation of micromobility, bicycle, or other related rental services who may seek to operate in the community.



3. The use of micromobility/self-propelled devices in/on Town-owned trails and parks.



# Self-Propelled or powered devices

For purposes of this discussion, and future changes/additions to the Town Code, we will break down these devices into 4 primary categories:



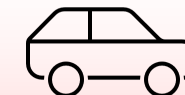
Micromobility  
Devices



Motorized  
skateboards &  
play vehicles



Motorized wheelchairs  
& personal mobility  
scooters



Motorcycles &  
Motor Vehicles



# Self-Propelled or powered devices



Micromobility  
Devices



Motorized  
skateboards &  
play vehicles

We are going to start by discussing these two categories individually.





# What is Micromobility? Classification

The classification system consists of the micromobility vehicle type with descriptors of curb weight, vehicle width, top speed and power source.

Name	Code	Description
<b>Curb weight</b>		
Ultra lightweight	WT1	Curb weight $\leq$ 50 lb (23 kg)
Lightweight	WT2	50 lb (23 kg) < curb weight $\leq$ 100 lb (45 kg)
Midweight	WT3	100 lb (45 kg) < curb weight $\leq$ 200 lb (91 kg)
Midweight Plus	WT4	200 lb (91 kg) < curb weight $\leq$ 500 lb (227 kg)

Based on current State law and anticipated changes to the Town code, micromobility devices are defined as devices less than 75 pounds.

<b>Vehicle width</b>		
Standard-width	WD1	Vehicle width $\leq$ 3 ft (0.9 m)
Wide	WD2	3 ft (0.9 m) < vehicle width $\leq$ 4 ft (1.2 m)
Extra-Wide	WD3	4 ft (1.2 m) < vehicle width $\leq$ 5 ft (1.5 m)

Based on anticipated changes to the Town code, micromobility devices are defined as devices with a "standard width" (<3 ft).

<b>Top speed</b>		
Ultra low-speed	SP1	Top speed $\leq$ 8 mph (13 km/h)
Low-speed	SP2	8 mph (13 km/h) < top speed $\leq$ 20 mph (32 km/h)
Medium-speed	SP3	20 mph (32 km/h) < top speed $\leq$ 30 mph (48 km/h)

Based on anticipated changes to the Town code, micromobility devices are defined as devices with a "top speed" of < 20 mph.

<b>Power source</b>		
Electric	E	Powered by an electric motor
Combustion	C	Powered by an internal combustion engine

The Society of Automotive Engineers defines a

## POWERED MICROMOBILITY VEHICLE

A wheeled vehicle that must:

- Be fully or partially powered
- Have a curb weight  $\leq$  500 lb (227 kg)
- Have a top speed  $\leq$  30 mph (48 km/h)

- Only includes vehicles that are primarily designed for human transport and to be used on paved roadways and paths
- Excludes solely human-powered vehicles

# Micromobility Devices in QC

Powered Bicycle



Powered Standing Scooter



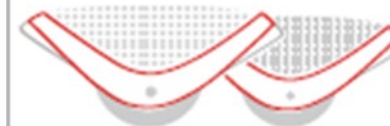
Powered Seated Scooter



Powered Self-Balancing Board



Powered Skates



Derivations of these devices are emerging constantly (these are just a few examples).



# Advantages of Micromobility



- Cost effectiveness - economical way to access local services
- Increase travel option / flexibility
- Convenience – faster/easier travel
- Provides increased opportunity for local tourism or other economic development
- Environmental benefits
- Personal health – recreation opportunities
- May reduce traffic congestion or parking issues
- Provides another method to access essential services
- The wash trail system provides opportunities to be active outdoors, to access the Town's parks and commercial centers, and to use alternative modes of transportation to work or other travel while minimizing the roadway crossings and conflict points.

# Concerns Regarding Micromobility



- Mixing modes and speed variations into the same infrastructure.
- Speed – device safety (particularly with amateur riders)
- Congestion - Limited sidewalk or trail space for multiple devices and other user modalities
- Speed differentials between users
- Potential dangers when emerging from alleys, underpasses, or driveways.
- Parking/blocking access.
- Potential noise/speed conflict with horses using trails
- Potential for operating under the influence/reckless operation
- Infrastructure requirements
- Inability for some devices to transverse minor surface abnormalities
- Public acceptance



# Motorized Skateboard & Play Vehicles



A “motorized skateboard” is a self-propelled device that does not have handlebars and that has a motor, a deck on which a person may ride, and at least two tandem wheels in contact with the ground.



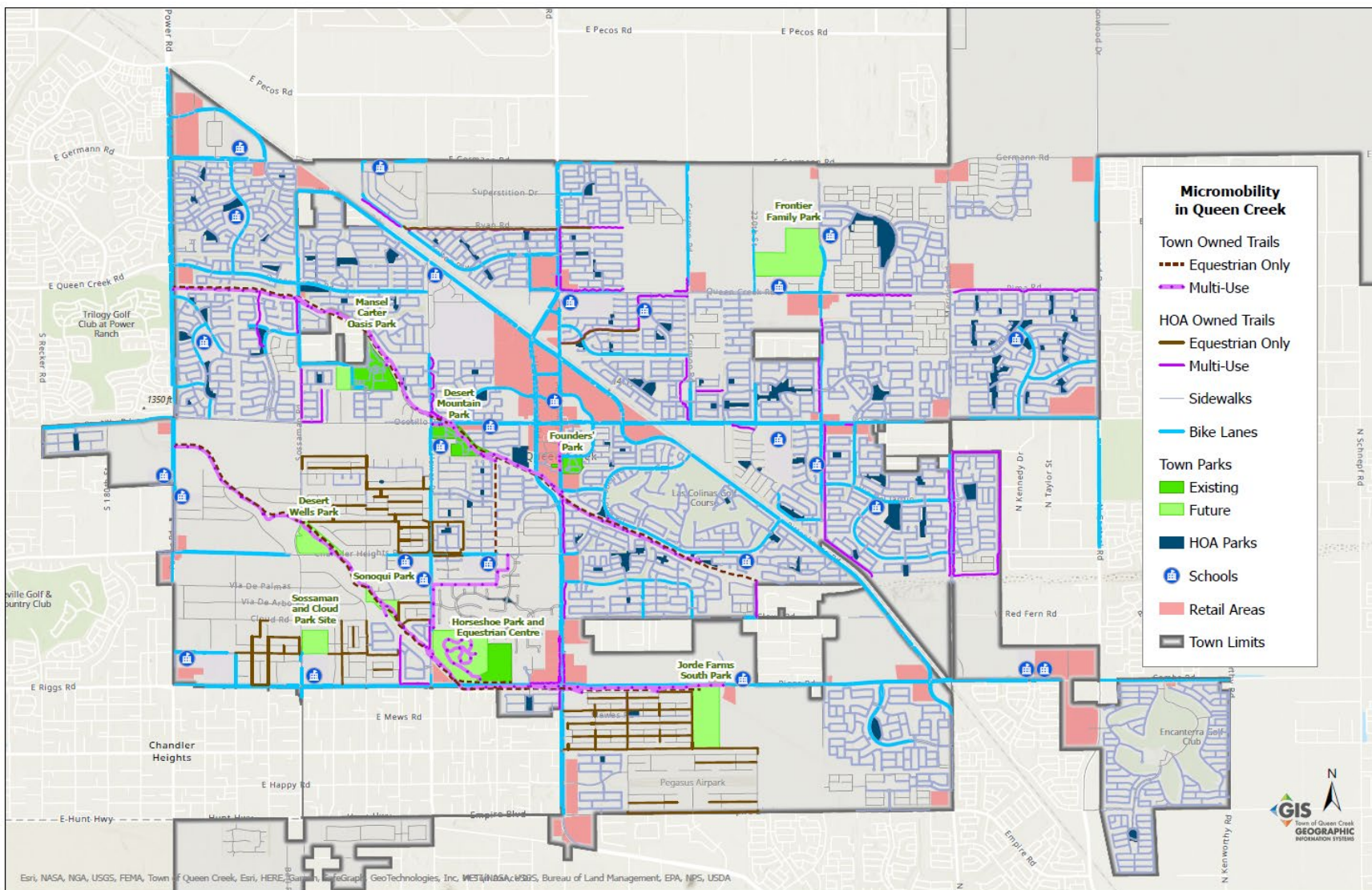
A “motorized play vehicle” is a self-propelled device that is not defined in Town code or Arizona Revised Statutes (Title 28 as amended) as a micromobility device, an electric bicycle, a motorized skateboard, a motor vehicle, a motor-driven cycle, a motorized wheelchair, or an electric personal assistive mobility device.

# Motorized Skateboard & Play Vehicles





# Why are we seeking direction from the Council?



The Town of Queen Creek has existing bicycle and pedestrian facilities on various arterial and collector streets and shared-use paths along Queen Creek and Sonoqui Washes, as well as paths within residential areas.



## Three Main Areas:



1. The use of micromobility/self-propelled devices on sidewalks, streets, and other areas of the Town.



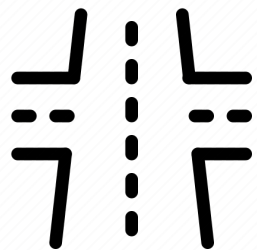
2. The regulation of micromobility, bicycle, or other related rental services who may seek to operate in the community.



3. The use of micromobility/self-propelled devices in/on Town-owned trails and parks.



# Why are we seeking direction from the Council?



1. The use of micromobility/self-propelled devices on sidewalks, streets, and other areas of the Town.



We do not have any current laws or codes that regulate these devices on the streets, sidewalks, or other public areas of the Town.



Since January 2022, we have received nearly 150 calls for service related to complaints, concerns, or problems involving these devices.

# Town Codes Updates



#1 The use of micromobility/self-propelled devices on sidewalks, streets, and other areas of the Town.

Proposed Town Code updates would address or include the following areas:

- Definitions
- Owner/operator responsibilities
- Rules of operation
- Permissible areas of operation
- Operational hours/times
- Riding, operating, or actual physical control while under the influence
- Reckless riding or operations
- Parking, staging, deployment intervals
- Speed/prudent operations
- Obstruction of public property
- Driving/operation on private property
- Pedestrian interaction
- Required equipment
- Parent, guardian, and custodian responsibilities
- Relocation, removal, & impoundment
- Zoning & subdivision ordinances



## Specific discussion points (Streets & Sidewalks)

- What roadways are permissible?
- Use of the sidewalk?
- Age restrictions?
- Safety equipment?
- Speed limits?
- Hours of operation?
- Town-owned parking lots?
- Power source?

### Comparison

	Streets		Sidewalks	
	Micromobility	Motorized Skateboards & Play Vehicles	Micromobility	Motorized Skateboards & Play Vehicles
Mesa	Yes	Yes	Yes*	Yes*
Chandler	Depends	Yes	Yes	Yes
Tempe	Yes	Yes	No	No
Gilbert	Depends	Depends	Yes	No
Scottsdale	Depends	Depends	Yes*	No



## Three Main Areas:



1. The use of micromobility/self-propelled devices on sidewalks, streets, and other areas of the Town.



2. The regulation of micromobility, bicycle, or other related rental services who may seek to operate in the community.



3. The use of micromobility/self-propelled devices in/on Town-owned trails and parks.





## Why are we seeking direction from the Council?



2. The regulation of micromobility, bicycle, or other related rental services who may seek to operate in the community.



We do not have any current laws or codes that regulate these devices on the streets, sidewalks, or other public areas of the Town.



Other jurisdictions in the area have had rideshare companies deploy devices without any established programs or infrastructure, resulting in a variety of issues/problems.

# Town Codes Updates



#2 The regulation of micromobility, bicycle, or other related rental services who may seek to operate in the community.

Proposed Town Code updates would require a licensing program & conditions for the following areas:

- Application & licensing process
- Liability insurance
- Assumption of risk & indemnification agreement for user/operator
- Terms & conditions (T&Cs) for users
- Notification process for T&Cs, indemnification, local laws, etc.
- Permissible vehicle/platform type(s)
- Designated parking/deployment areas
- Response times for obstructions
- Relocation or impoundment process
- Geofencing (speed, prohibited areas)
- Designated parking/deployment areas
- Response times for obstructions
- Vehicle Identification markings
- Data sharing requirements
- Public reporting processes/portal (SCF)



## Specific discussion points (Rideshare Licensing Program)

- Application & Licensing requirements?
- Community/business outreach?
- Pilot program?
- Fees?
- Areas of operation?
- Staging/deployment areas?
- Damage reimbursement?
- Data Sharing?
- Age restrictions?
- Speed limits?
- Hours of operation?

### Comparison

	Rideshare Licensing Programs
Mesa	Yes
Chandler	Yes*
Tempe	Yes
Gilbert	Yes*
Scottsdale	No



## Three Main Areas:



1. The use of micromobility/self-propelled devices on sidewalks, streets, and other areas of the Town.



2. The regulation of micromobility, bicycle, or other related rental services who may seek to operate in the community.



3. The use of micromobility/self-propelled devices in/on Town-owned trails and parks.

# Why are we seeking direction from the Council?



3. The use of micromobility/self-propelled devices in/on Town-owned trails and parks.



Council directed staff to review this issue after receiving a variety of feedback from the community.



There are infrastructure considerations for deployment.



Current laws or codes prohibit these devices in/on Town-owned trails and parks.



Since January 2022, parks & recreation have received approximately 120 calls for service related to complaints, concerns, or problems involving these devices.



## Infrastructure & Funding



The trails are currently 10' in width and could be widened in many places to 15' in width (with exceptions). This would allow for striping to accommodate two-way wheeled traffic.

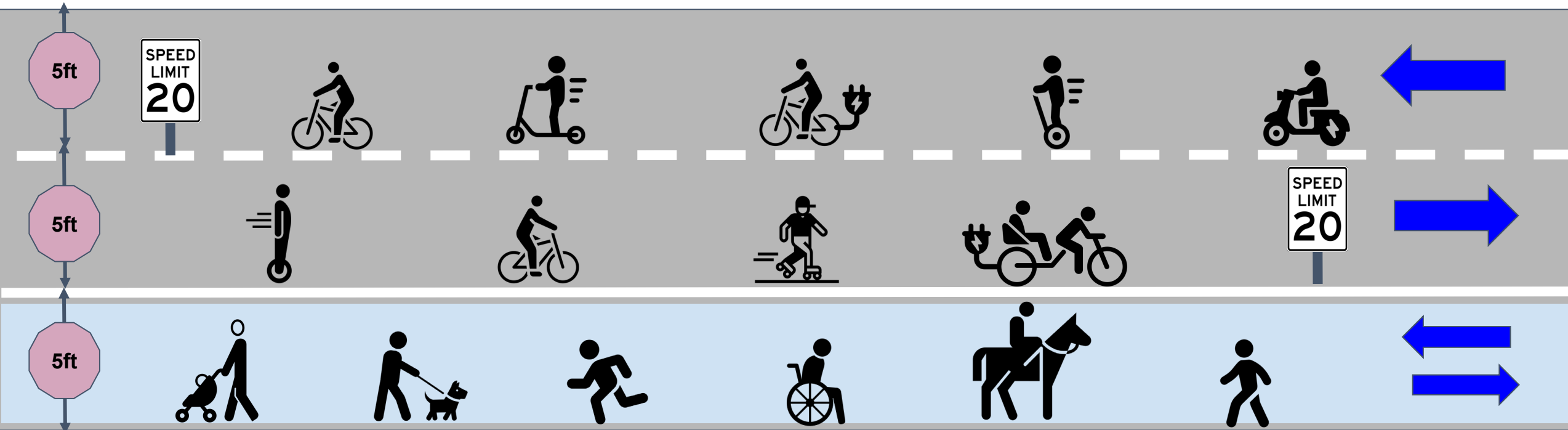
Estimated costs are as follows:

- Queen Creek Wash - Power to Crismon: \$7.9 Million
- Sonoqui Wash - Power to Hawes: \$6.5 Million
- **Total: \$14.4 Million to expand existing trail (where possible)**

# Infrastructure Considerations



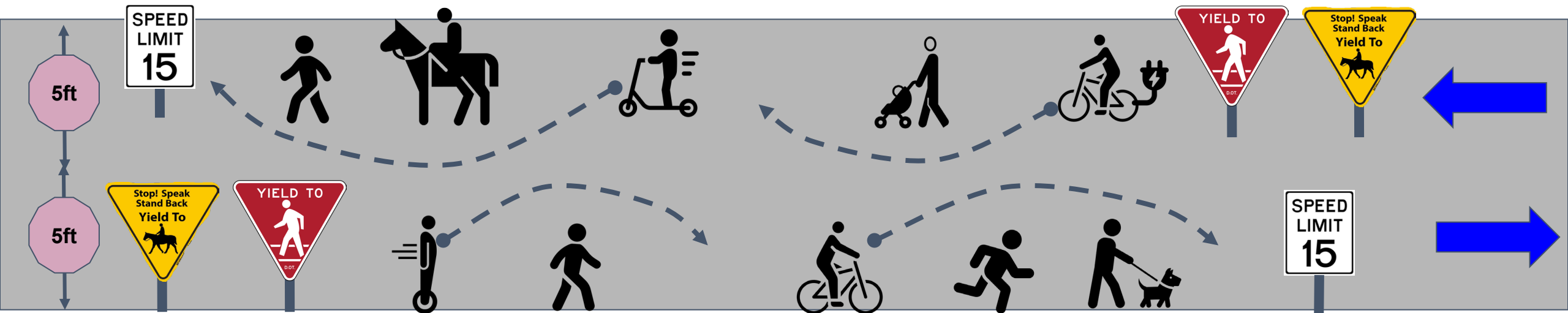
Possible configuration with 15 feet of pathway



# Infrastructure Considerations



## Possible configuration with existing pathway (10 feet)







## Infrastructure & Funding



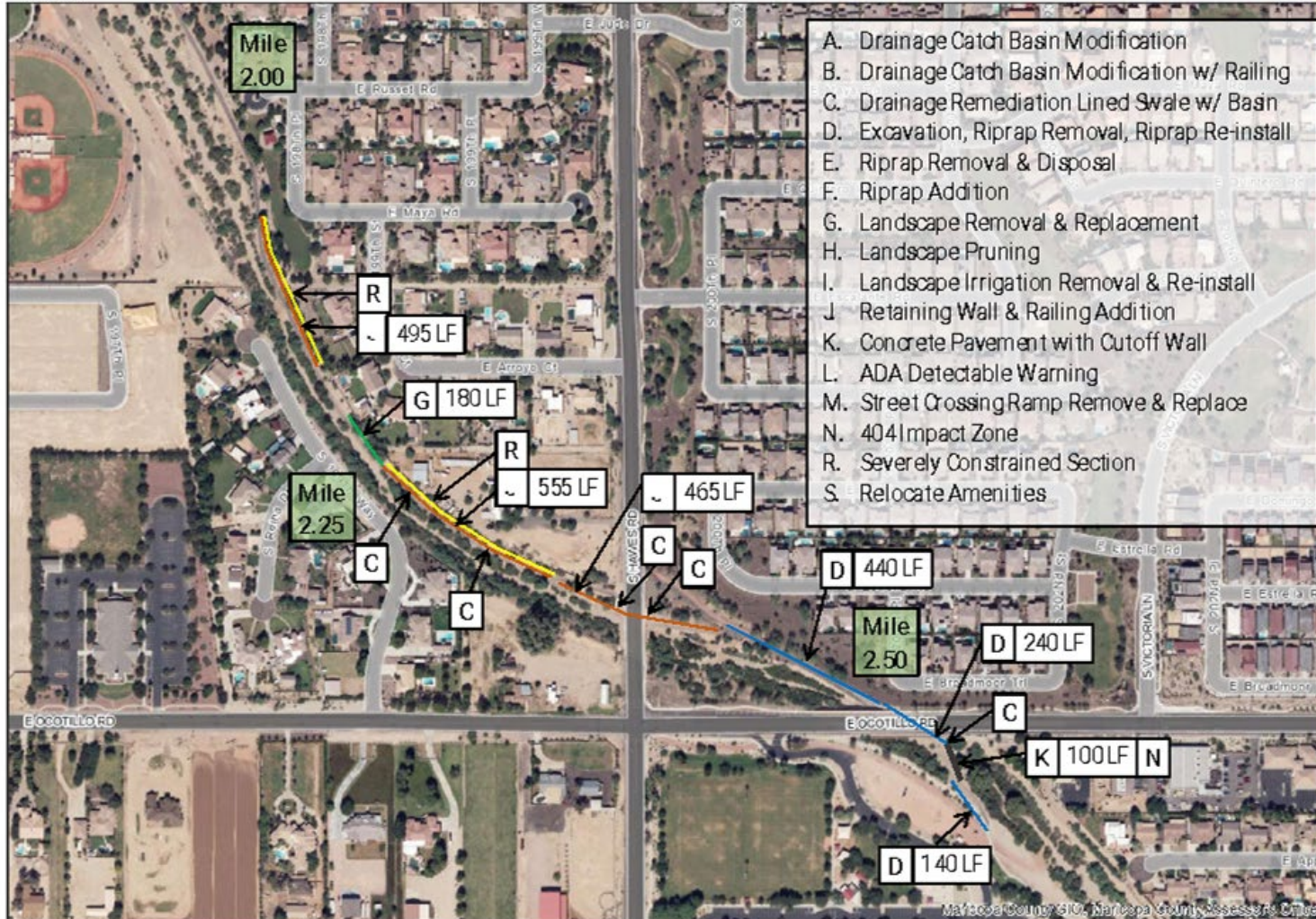
- Cost estimates are not currently included in the FY24 budget.
- Significant issues relative to expanding the trails on both washes.
- Extensive or pervasive landscaping along the trail would be costly to remove.
- Removal or relocation of buried riprap (erosion control) would be costly.
- There are several areas where private property creates “pinch-points” and would not allow any further widening without further land acquisition or construction of retaining walls.
- Several areas would require additional slope protection, drainage management, and landscape rebuilding.
- The costs below would consist of existing trail portions only. Future trail development would include the costs for 15’ width if that is Council’s direction.
- Areas of the Zoning Ordinance would need to be updated should the trail width be expanded to 15’.



# Queen Creek Wash



## Queen Creek Wash Trail - Segment 4



# Town Codes Updates



## #3 The use of micromobility/self-propelled devices in/on Town-owned trails and parks.

Proposed Town Code updates would address or include the following areas:

- Definitions
- Owner/operator responsibilities
- Rules of operation
- Permissible areas of operation
- Operational hours/times
- Riding, operating, or actual physical control while under the influence
- Reckless riding or operations
- Parking, staging, deployment intervals
- Speed/prudent operations
- Obstruction of public property
- Driving/operation on private property
- Pedestrian interaction
- Required equipment
- Parent, guardian, and custodian responsibilities
- Relocation, removal, & impoundment
- Zoning & subdivision ordinances



## Specific discussion points (Trails & Parks)

- Maintain the status quo?
- Allow devices but wait for infrastructure improvements?
- Allow devices without infrastructure improvements?
- Create an infrastructure plan?
- What devices are permissible?
- Power source?
- Age restrictions?
- Safety equipment?
- Speed limits?
- Hours of operation?

## Comparison

	<b>Parks &amp; Trails</b>	
	Micromobility	Motorized Skateboards & Play Vehicles
Mesa	No	No
Chandler	Yes	Yes
Tempe	Yes*	Yes*
Gilbert	Yes	No
Scottsdale	Yes*	No

# Questions





TOWN OF QUEEN CREEK ARIZONA

TO: HONORABLE MAYOR AND TOWN COUNCIL
THROUGH: BRUCE GARDNER, TOWN MANAGER
FROM: SCOTT MCCARTY, FINANCE DIRECTOR
RE: CONSIDERATION AND POSSIBLE APPROVAL OF RESOLUTION NO. 1536-23 AUTHORIZING INTERFUND LOANS TO THE DRAINAGE AND TRANSPORTATION CIP, WATER CIP, AND WASTEWATER CIP FUNDS TO INTERNALLY AND TEMPORARILY FINANCE THE CONSTRUCTION OF INFRASTRUCTURE REQUIRED BY THE TOWN AS IDENTIFIED IN THE LG ENERGY SOLUTION DEVELOPMENT AGREEMENT.
DATE: September 6, 2023

Suggested Action:

To approve Resolution No. 1536-23 authorizing interfund loans to the Drainage and Transportation CIP, Water CIP, and Wastewater CIP funds to internally and temporarily finance the construction of infrastructure required by the Town as identified in the LG Energy Solution Development Agreement.

Relevant Council Goal(s):

- Effective Government: KRA Financial Management, Financial Sustainability

Discussion:

In March, 2022 the Town approved a development agreement with LG Energy Solution for the construction of a \$2.8 billion battery manufacturing complex. Then, in March 2023, LG Energy Solution announced an expansion of the investment in the complex to \$5.5 billion. This investment represents the largest single investment for a stand-alone battery manufacturing facility in North America, creating thousands of jobs and generating significant one-time and annual revenues to the Town. When constructed, LG Energy Solution will be the Town's largest employer.

The Town's development agreement with LG Energy Solution requires the Town to construct new streets as well as water and wastewater improvements in the area adjacent to the LG Energy Solution facility. The total cost of these improvements is estimated to be \$84 million.

In April 2022, the Town began design work on these projects and they are expected to be completed by October 2025.

The intention is that these projects will ultimately be funded by two types of construction sales tax paid by LG Energy Solution on the construction of their facility. Doing so accomplishes the Town Council's objective of not using general tax dollars nor water and wastewater fees paid by Town customers to pay for this infrastructure. The schedule below summarizes the funding recommendation.

Table with 4 columns: Title 42 (80%) \*, Town Share (20%), Total

Streets	\$35M	\$9M	\$44M
Water	\$16M	\$4M	\$20M
Wastewater	\$16M	\$4M	\$20M
<b>Total</b>	<b>\$67M</b>	<b>\$17M</b>	<b>\$84M</b>

\*Assumes full award of Title 42 funding (\$200M State appropriation).

The majority of the project costs are expected to be covered by the state’s Public Infrastructure Improvements Reimbursement program as described under A.R.S. Title 42 (Title 42). This program uses the State’s construction sales tax paid on the construction costs of the LG Energy Solution facility to reimburse the Town for up to 80% of the project costs, or \$67 million.

The remaining 20% of the project costs (\$17 million) are expected to be paid for with construction sales taxes paid to the Town by LG Energy Solution on the construction of their facility. The \$9 million for new streets will be paid from the Town’s 2% dedicated transportation sales tax. The \$8 million for water and wastewater will be paid from the 2% Operating Budget construction sales tax. Using the Operating Budget to pay for water and wastewater infrastructure represents a one-time exception and departure from our historical policy and practice. It is being recommended to meet the Town Council’s objective that water and wastewater fees paid by the Town’s customers are not used to build this infrastructure.

However, because LG Energy Solution has not begun construction on its facility, construction sales taxes are not being generated and cannot be used to meet the cash flow needs of the project payments.

The Town has incurred about \$12 million of project expenses through June 30, 2023. As such, it is necessary to identify an interim funding source within the Town for this amount until an external funding source can be secured. This is accomplished with interfund loans.

The external funding source is also on this meeting’s agenda as a separate item. It will allow the Town a source of funds to pay for project costs until the sources described above are received. The Town is seeking external, interim financing from a financial institution for this funding. We expect this financing to close by October 31 and the interfund loans will be paid off at that time.

Staff proposes creating three interfund loans to cover project costs from inception to October 31, 2023. Per Town policy, all interfund loans must be approved by the Town Council.

**Fiscal Impact:**

The interfund loans will be funded from the Dedicated 2% Construction Sales Tax Fund.

Based on estimated project expenses, the amount of the interfund loans total \$23.4 million and represent project expenses that will be paid from inception to October 31, 2023.

Three interfund loans will be created as of June 30, 2023, as follows:

<b>Borrowing Fund</b>	<b>Interest Rate</b>	<b>Term</b>	<b>Loan Amount</b>	<b>Estimated Interest Cost</b>
Water CIP Fund	5%	4 months	\$7,200,000	\$80,000
Wastewater CIP Fund	5%	4 months	\$11,200,000	\$125,000
Drainage & Transportation Fund	5%	4 months	\$5,000,000	\$60,000
<b>Total</b>			<b>\$23,400,000</b>	<b>\$265,000</b>



The interest rate of 5% is considered a “market rate” as it is based on the Town’s current earnings rate at the State Treasurer’s Local Government Investment Pool.

The resolution sets the term of the interfund loan for six months, or December 31, 2023, to allow a “grace period” if we are not able to close the external financing by October 31, 2023.

**Alternatives:**

None. This is the only option that accurately reflects the intention of the Town Council that neither general taxes, nor water and wastewater fees, will be used to pay for the infrastructure required in the LG Energy Solution development agreement.

**Attachment(s):**

1. [Resolution No. 1536-23 - Interfund Loans for the Drainage & Transportation CIP, Water CIP, and Wastewater CIP Funds](#)

**RESOLUTION NO. 1536-23**

**A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF QUEEN CREEK, ARIZONA, AUTHORIZING INTERFUND LOANS TO THE DRAINAGE AND TRANSPORTATION CIP, WATER CIP, AND WASTEWATER CIP FUNDS TO INTERNALLY AND TEMPORARILY FINANCE THE CONSTRUCTION OF INFRASTRUCTURE REQUIRED BY THE TOWN AS IDENTIFIED IN THE LG ENERGY SOLUTION DEVELOPMENT AGREEMENT**

**WHEREAS**, from time to time, the Town requires financing to provide resources for capital projects; and

**WHEREAS**, interfund loans are an acceptable form of financing for municipalities for both long-term financing and short-term liquidity needs; and

**WHEREAS**, the Town has previously authorized interfund loans to provide financing for various capital improvement needs; and

**WHEREAS**, annually the Town will evaluate its available financial resources to determine if existing interfund loans should be paid off, refinanced, or new loans created; and

**WHEREAS**, in accordance with the Town’s Adopted Financial Policies, Town Council approval is required for interfund loans; and

**WHEREAS**, the Town’s requirement to construct \$84 million of infrastructure as identified in a development agreement with LG Energy Solution has created the need for temporary financing to meet cash flow projections; and

**WHEREAS**, the Town intends to pay off these interfund loans with an external financing to close escrow no later than December 31, 2023;

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

**Section 1.1:** An interfund loan is hereby authorized as follows:

Lending Fund:	Dedicated 2% Construction Sales Tax Fund
Borrowing Fund:	Water CIP Fund
Amount:	Loan Amount as of June 30, 2023 is \$3,704,369; Loan Amount will increase monthly through November 1, 2023 based on Actual Expenses incurred; Total Loan Amount is estimated to be \$7,200,000
Interest Rate:	5.0%
Term:	6 months (December 31, 2023)
Effective Date:	June 30, 2023
Purpose:	To provide short-term financing for the costs of the infrastructure required in the LG Energy Solution development agreement.

**Section 1.2:** The interfund loan may be repaid in its entirety at any time without penalty.

**Section 1.3:** The interfund loan will be repaid from proceeds of an external financing.

**Section 2.1:** An interfund loan is hereby authorized as follows:

Lending Fund: Dedicated 2% Construction Sales Tax Fund  
Borrowing Fund: Wastewater CIP Fund  
Amount: Loan Amount as of June 30, 2023 is \$5,661,269;  
Loan Amount will increase monthly through  
November 1, 2023 based on Actual Expenses  
incurred; Total Loan Amount is estimated to be  
\$11,200,000  
Interest Rate: 5.0%  
Term: 6 months (December 31, 2023)  
Effective Date: June 30, 2023  
Purpose: To provide short-term financing for the costs of the  
infrastructure required in the LG Energy Solution  
development agreement.

**Section 2.2:** The interfund loan may be repaid in its entirety at any time without penalty.

**Section 2.3:** The interfund loan will be repaid from proceeds of an external financing.

**Section 3.1:** An interfund loan is hereby authorized as follows:

Lending Fund: Dedicated 2% Construction Sales Tax Fund  
Borrowing Fund: Drainage and Transportation CIP Fund  
Amount: Loan Amount as of June 30, 2023 is \$2,640,390;  
Loan Amount will increase monthly through  
November 1, 2023 based on Actual Expenses  
incurred; Total Loan Amount is estimated to be  
\$5,000,000  
Interest Rate: 5.0%  
Term: 6 months (December 31, 2023)  
Effective Date: June 30, 2023  
Purpose: To provide short-term financing for the costs of the  
infrastructure required in the LG Energy Solution  
development agreement.

**Section 3.2:** The interfund loan may be repaid in its entirety at any time without penalty.

**Section 3.3:** The interfund loan will be repaid from proceeds of an external financing.

**PASSED AND ADOPTED** by the Mayor and Common Council of the Town of Queen Creek, Arizona, this 6<sup>th</sup> day of September, 2023.

FOR THE TOWN OF QUEEN CREEK:

ATTESTED TO:

\_\_\_\_\_  
Julia Wheatley, Mayor

\_\_\_\_\_  
Maria Gonzalez, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:

\_\_\_\_\_  
Bruce Gardner, Town Manager

\_\_\_\_\_  
Dickinson Wright, PLLC  
Town Attorneys



TOWN OF  
**QUEEN CREEK**  
ARIZONA

12.B

**TO:** HONORABLE MAYOR AND TOWN COUNCIL

**THROUGH:** BRUCE GARDNER, TOWN MANAGER

**FROM:** SCOTT MCCARTY, FINANCE DIRECTOR

**RE:** CONSIDERATION AND POSSIBLE APPROVAL OF RESOLUTION NO. 1535-23 AUTHORIZING THE EXECUTION AND DELIVERY OF A PURCHASE AGREEMENT AND A TRUST AGREEMENT, AS WELL AS AGREEMENTS WITH A FINANCIAL ADVISOR AND SPECIAL COUNSEL; APPROVING THE SALE AND EXECUTION AND DELIVERY OF SUBORDINATE LIEN EXCISE TAX AND STATE SHARED REVENUE OBLIGATIONS, SERIES 2023, EVIDENCING A PROPORTIONATE INTEREST OF THE OWNERS THEREOF IN SUCH PURCHASE AGREEMENT; DELEGATING THE DETERMINATION OF CERTAIN TERMS OF SUCH OBLIGATIONS AND MATTERS RELATED THERETO TO THE MANAGER AND CHIEF FINANCIAL OFFICER OF THE TOWN; DECLARING, FOR PURPOSES OF SECTION 1.150-2 OF THE FEDERAL TREASURY REGULATIONS, OFFICIAL INTENT TO BE REIMBURSED IN CONNECTION WITH CERTAIN CAPITAL EXPENDITURES; AND AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION.

**DATE:** September 6, 2023

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**Suggested Action:**

To approve Resolution No. 1535-23 authorizing the execution and delivery of a Purchase Agreement and a Trust Agreement, as well as agreements with a financial advisor and special counsel; approving the sale and execution and delivery of Subordinate Lien Excise Tax and State Shared Revenue Obligations, Series 2023, evidencing a proportionate interest of the owners thereof in such Purchase Agreement; delegating the determination of certain terms of such Obligations and matters related thereto to the Manager and Chief Financial Officer of the Town; declaring, for purposes of Section 1.150-2 of the Federal Treasury Regulations, official intent to be reimbursed in connection with certain capital expenditures; and authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by this resolution.

**Relevant Council Goal(s):**

- Effective Government: KRA Financial Stability

**Discussion:**

In March, 2022 the Town approved a development agreement with LG Energy Solution for the construction of a \$2.8 billion battery manufacturing complex. Then, in March 2023, LG Energy Solution announced an expansion of the investment in the complex to \$5.5 billion. This investment represents the largest single investment for a stand-alone battery manufacturing facility in North America, creating thousands of jobs and generating significant one-time and annual revenues to the Town. When constructed, LG Energy Solution will be the Town's largest employer.

The Town's development agreement with LG Energy Solution requires the Town to construct new streets as well as water and wastewater improvements in the area adjacent to the LG Energy

Solution facility. The total cost of these improvements is estimated to be \$84 million.

In April 2022, the Town began design work on these projects and they are expected to be completed by October 2025.

The intention is that the cost of these projects will ultimately be repaid by two types of construction sales tax paid by LG Energy Solution on the construction of their facility. Doing so accomplishes the Town Council’s objective of not using general tax dollars nor water and wastewater fees paid by Town customers to pay for this infrastructure. The schedule below summarizes the funding recommendation.

	<b>Title 42 (80%) *</b>	<b>Town Share (20%)</b>	<b>Total</b>
Streets	\$35M	\$9M	\$44M
Water	\$16M	\$4M	\$20M
Wastewater	<u>\$16M</u>	<u>\$4M</u>	<u>\$20M</u>
<b>Total</b>	<b>\$67M</b>	<b>\$17M</b>	<b>\$84M</b>

\*Assumes full award of Title 42 funding (\$200M State appropriation).

The majority of the project costs are expected to be covered by the state’s Public Infrastructure Improvements Reimbursement program as described under A.R.S. Title 42 (Title 42). This program uses the State’s construction sales tax paid on the construction costs of the LG Energy Solution facility to reimburse the Town for up to 80% of the project costs, or \$67 million.

The remaining 20% of the project costs (\$17 million) are expected to be paid for with construction sales taxes paid to the Town by LG Energy Solution on the construction of the facility. The \$9 million for new streets will be paid from the Town’s 2% dedicated transportation sales tax. The \$8 million for water and wastewater will be paid from the 2% Operating Budget construction sales tax. Using the Operating Budget to pay for water and wastewater infrastructure represents a one-time exception and is a departure from historical policy and practice. It is being recommended to meet the Town Council’s objective that water and wastewater fees paid by the Town’s customers are not used to build this infrastructure.

However, because LG Energy Solution has not begun construction on its facility, construction sales taxes are not being generated and cannot be used to meet the cash flow needs of the project payments.

There is also a condition of the Title 42 program that results in a longer time for the Town to receive these funds. The condition is that LG Energy Solution has to spend at least 10%, or \$280 million, of its total certified investment of \$2.8 billion before the Town can request our first reimbursement. This is to ensure the state has collected at least some construction sales tax from which the Town can be reimbursed.

As a result, Town staff is recommending an external, interim funding be secured to finance all of the project expenses from inception until the Town starts receiving the Title 42 funds and Town construction sales tax revenues.

The Town estimates we will spend \$50 million by June, 2024 (the date we assumed we would start receiving the Town’s construction sales tax from the site). As a result, Town staff recommends securing a short-term, interim financing of \$50 million to meet the Town’s cash-flow needs.

Then, as resources are received by the Town, our intention is the pay off the interim financing as soon as possible.

Please note, via a separate item on this meeting’s agenda, Town staff is recommending the approval

of \$23.4 million of interfund loans to address the cash flow needs from the inception of project costs to October 31, the expected closing of the external financing. The interfund loans will be paid off when the external financing is complete.

The recommended authorizing resolution and related documents accomplish the following:

1. Authorizing Resolution – The Resolution authorizes the issuance of a Request for Funding to seek proposals from qualified financial institutions. The Resolution also authorizes the issuance of debt obligations within certain established parameters and delegates the authority to finalize the specifics to the Town Manager and Finance Director/Chief Financial Officer; and
2. The form of the Fourth Subordinate Lien Purchase Agreement, and the form of the Fourth Subordinate Lien Trust Agreement – These documents reflect the relationship between the Town, the Trustee Bank, and the financing bank and provide, among other things, the security for the Obligations, and for the execution and delivery thereof; and
3. Allow for the reimbursement of all previous expenses made by the Town on these infrastructure projects from these obligations.

Upon approval of the Authorizing Resolution, no further Town Council action is required. The award to the successful financial institution is expected to be completed by October 5<sup>th</sup> and the closing of the transaction on October 25<sup>th</sup>.

Staff will report back to the Town Council the final terms of the borrowing.

Many parties, in addition to Town staff, have assisted with getting us to this point and we sincerely appreciate their work. The Town's Financial Advisor (Columbia Capital Management, LLC) has a fiduciary responsibility solely to the Town. Their responsibility is to advise the Town on all matters related to issuing debt including timing, market conditions, and financing structures. They will manage the proposal request process with the financial institutions.

The Town's Special (Bond) Counsel (Greenberg Traurig, LLP) also plays an important role by preparing the associated resolution and legal documents.

**Fiscal Impact:**

This borrowing recommendation is based on achieving the Town Council's objective of not using general tax dollars nor water and wastewater fees paid by those customers to pay for this infrastructure. As a result, a bridge is needed to address cash flow needs from the time the project costs are paid until Title 42 and construction sales tax revenues are received.

These obligations will be secured by a subordinate lien pledge of excise taxes and state shared revenues - one of the most secure revenue pledges available to the Town and results in an attractive interest rate, relative to other forms of financing. Excise taxes and state shared revenues are essentially all Operating Budget revenues excluding dedicated revenues (e.g. the Town's dedicated property tax and the gas tax). The annual pledged revenues for FY 22-23 were about \$130M. The Town's existing senior lien excise tax and state shared revenue obligations are rated 'AA+'.

Once the preferred lender is selected, the final terms will be subject to negotiation. Below are the two, key financial terms.

Interest Rate: We like to receive a floating, monthly adjusted rate based on a negotiated formula tied to a floating index not to exceed to 10% annually. We expect the rate to be about 5%.

Term: Final payment no later than June 1, 2028. Our preference would be to pay off the loan as soon as possible when Title 42 and construction sales tax revenues are received.

The intention is to pay off the borrowing as soon as possible to reduce the interest expense. Three

components will ultimately determine the actual interest costs associated with this borrowing. One, the timing of the use of funds by the Town necessary to make the contractor payments for the infrastructure. Two and three are based on the timing of the construction of the LG Energy Solutions facility. Two, when the Town receives its construction sales tax. Three, when the Town receives Title 42 reimbursement from the state.

Assuming we pay this borrowing off by June 30, 2025, the estimated interest costs are about \$4 million.

However, this interest expense will be offset by investment income earned on the \$50 million until it is spent on the projects. We will work with our investment management firm to purchase investments so they meet the expected cash outflow estimates and earn a return on the investable balance.

Staff will report back to the Town Council the final terms of the financing after closing. Additionally, when the borrowing is ultimately paid off, Town staff will notify the Town Council and will be able to provide the exact interest expense and interest earnings that occurred over the life of the borrowing.

### **Alternatives:**

If the Town Council's goal is to proceed with the construction of the infrastructure and use the LG Energy Solution facility construction sales tax proceeds to ultimately pay for it, there is one other option. The Town Council could use an internal financing, not external. This would involve using the Town's Operating Budget reserves and construction sales taxes as the "bank". However, Town staff is not recommending this option as it would significantly decrease our Operating Budget reserves and construction sales tax cash balance. This would delay the implementation of other strategic financial objectives the Town Council has expressed interest implementing to improve our bond rating to 'AAA'. For example, we would be unable to increase our Operating Budget reserve until all of the reserves used were replenished. Also, Town staff would not know the impact this option could potentially have on our current AA+ senior lien credit rating which will support our next borrowing for public safety facilities, transportation and parks.

If the Town Council is not comfortable continuing with construction of the infrastructure projects, the Town could pause, or stop, construction of the infrastructure until the construction of the LG Energy Solution facility more closely matches the installation timeline of the Town infrastructure. This would allow for the receipt of construction sales taxes in a timelier manner relative to the payments for the construction of the Town's infrastructure.

If the Town Council does want to use the LG Energy Solution facility construction sales taxes to pay for the infrastructure yet continue forward with the infrastructure projects, the Town would need to assess our ability to use other existing reserves, other cash balances and near term revenues to fund these costs. Further work is needed to provide a recommendation for this option. This option is not recommended as it means existing reserves, general taxes, and water and wastewater fees paid by our customers would pay for this infrastructure.

### **Attachment(s):**

1. [Presentation: Infrastructure Financing Recommendations Associated with the LG Energy Solution Development Agreement](#)
2. [Authorizing Resolution No. 1535-23 Approving the Sale of Obligations and Reimbursement of Costs Already Incurred](#)
3. [Queen Creek Request for Funding - Bank Direct Purchase](#)
4. [Form of Queen Creek Subordinate Lien Excise Tax Obligations, Series 2023 - Fourth Subordinate Lien Purchase Agreement](#)
5. [Form of Queen Creek Subordinate Lien Excise Tax Obligations, Series 2023 - Form of Fourth Subordinate Lien Trust Agreement](#)







# Infrastructure Financing Recommendations Associated with the LG Energy Solution Development Agreement

Town Council Meeting

September 6, 2023

# Outline of Presentation

1. Review LG Energy Solution Proposed Manufacturing Complex and the Town's Infrastructure Construction Requirements in the Development Agreement
2. Discuss the Interim Financing Recommendations for Construction of the Infrastructure Requirements
3. Review the Town's Outstanding Debt and Debt Coverage Requirements
4. Consider Approval of the Two Interim Funding Resolutions



# Background

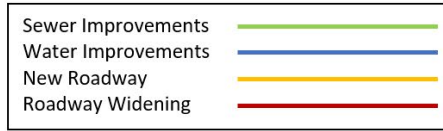
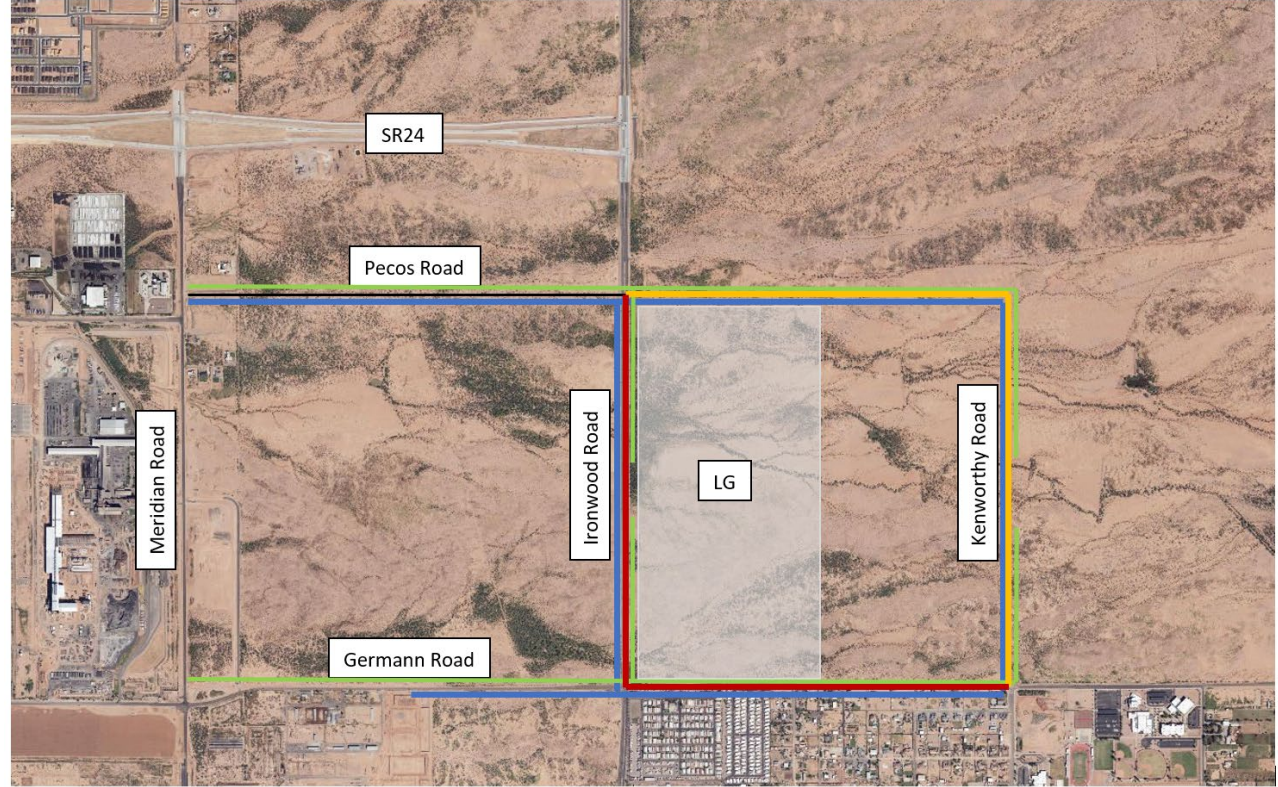
- LG Energy Solution Battery Manufacturing Complex
  - March 2022: Announced Construction of \$2.8B Complex
  - March 2023: Announced Complex Expansion to \$5.5B
- Largest Single Investment Ever for a Stand-Alone Battery Manufacturing Facility in North America
- Town's Largest Employer (When Constructed)
  - Significant One-Time and Annual Revenues (Direct and Indirect)

*“LG will invest a total of \$5.5 billion to build a battery manufacturing complex in Queen Creek, Arizona. The complex will consist of two manufacturing facilities—one for cylindrical batteries for electric vehicles (EV) and another for lithium iron phosphate (LFP) pouch-type batteries for energy storage systems (ESS). The investment represents the largest single investment ever for a stand-alone battery manufacturing facility in North America.”*

# Development Agreement

- Approved by the Town Council in March 2022
- Town Agreed to Construct \$84M of Road and Water / Wastewater Infrastructure Adjacent to the Facility
  - ~\$12M Spent at June 30, 2023
  - Completion Expected by October 2025

# Project Map: \$84M



# Funding of Infrastructure Costs

- Infrastructure Costs Will be Repaid from Two, Site Specific Sources
  - Title 42 (State Construction Sales Taxes)
  - Queen Creek Construction Sales Tax Revenues (Dedicated Transportation Sales Tax and Operating Budget Construction Sales Tax)
- Interim Funding is Needed as Construction Revenues are Not Being Generated Because Construction on the LG Facility Has Not Yet Started

	Title 42 (80%)*	Town Share (20%)	Total
Streets	\$35M	\$9M	\$44M
Water	\$16M	\$4M	\$20M
Wastewater	<u>\$16M</u>	<u>\$4M</u>	<u>\$20M</u>
<b>Total</b>	<b>\$67M</b>	<b>\$17M</b>	<b>\$84M</b>

\*Assumes Full Award of Title 42 Funding (\$200M State appropriation).

# Interim Funding Recommendations

## Two Recommendations

### 1. Interfund Loan at June 30, 2023 (Internal)

- Represents Project Costs from Inception to October 31, 2023

### 2. External, Interim Funding

- Represents Project Costs From October 31, 2023 to Receipt of Construction Sales Tax Revenues

Funding	Type	Amount	Interest	Term	Expenses Covered
1. Interfund Loan	Internal	\$23.4M	5% / \$265K	Paid Off on 10/31/23	Inception to 10/31/23
2. Interim	External*	\$50M	TBD (5% to 10% adjusted monthly) / \$4M less investment earnings	Paid Off No Later than 6/30/28	10/31/23 to Receipt of Title 42 and Construction Sales Tax Revenues

\*The Town's Excise Taxes and State Shared Revenues will be the Revenues Pledged to Repay the Borrowing on a Subordinate Lien Basis.



# Outstanding Debt Overview

Excise Tax Pledged Debt	Outstanding Amount
Existing	\$380M
Recommended Interim Borrowing	<u>\$50M</u>
<b>TOTAL</b>	<b>\$430M</b>

# Debt Coverage Ratio

- Calculation: Revenues Legally Pledged to Make Annual Debt Payments Divided by Annual Debt Payments
- The Higher the Number Indicates More Revenues are Available to Make Annual Debt Payments
- Senior Lien Bond Legal Minimum: 3x
- Subordinate Lien Bond Legal Minimum: 2x (Recommended Borrowing)

	FY 2022-23 Actual	FY 2023-24 Estimate
Pledged Revenues (A)	\$130.2M	\$141.4M
Annual Debt Payments (B)	\$17.2M	\$21.4M
Coverage Ratio (A / B)	7.6	6.6

# Recommended Motions



1. Approve Resolution No. 1536-23 As Presented
  - \$24.3M Interfund Loan, Interim Borrowing
2. Approve Resolution No. 1535-23 As Presented
  - \$50M External, Interim Borrowing
  - Competitive Request to Funding Process to Select Financial Institution
  - Negotiate Financial Terms
  - Expected Close of Escrow: Prior to October 31, 2023

**RESOLUTION NO. 1535-23**

**RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF QUEEN CREEK, ARIZONA, AUTHORIZING THE EXECUTION AND DELIVERY OF A PURCHASE AGREEMENT AND A TRUST AGREEMENT, AS WELL AS AGREEMENTS WITH A FINANCIAL ADVISOR AND SPECIAL COUNSEL; APPROVING THE SALE AND EXECUTION AND DELIVERY OF SUBORDINATE LIEN EXCISE TAX AND STATE SHARED REVENUE OBLIGATIONS, SERIES 2023, EVIDENCING A PROPORTIONATE INTEREST OF THE OWNERS THEREOF IN SUCH PURCHASE AGREEMENT; DELEGATING THE DETERMINATION OF CERTAIN TERMS OF SUCH OBLIGATIONS AND MATTERS RELATED THERETO TO THE MANAGER AND CHIEF FINANCIAL OFFICER OF THE TOWN; DECLARING, FOR PURPOSES OF SECTION 1.150-2 OF THE FEDERAL TREASURY REGULATIONS, OFFICIAL INTENT TO BE REIMBURSED IN CONNECTION WITH CERTAIN CAPITAL EXPENDITURES; AND AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION**

**WHEREAS**, the Mayor and Council of the Town of Queen Creek, Arizona (the “Town”), heretofore determined that it would be beneficial to its citizens to refinance the Loan Repayment Agreement, between the Town and the Greater Arizona Development Authority, a body corporate and politic constituting a governmental instrumentality duly organized and existing within the State of Arizona under the Constitution and laws of the State of Arizona (“GADA”); and

**WHEREAS**, in order to finance the costs thereof, the Town deemed it necessary and desirable to borrow \$3,845,000 from GADA; and

**WHEREAS**, in connection therewith, the Town and GADA entered into a Sixth Loan Repayment Agreement, dated as of March 1, 2014 (the “Sixth Loan Repayment Agreement”); and

**WHEREAS**, the Mayor and Council of the Town also heretofore determined that it would be beneficial to its citizens to refinance the Second Loan Repayment Agreement, the Third Loan Repayment Agreement, the Fourth Loan Repayment Agreement, and the Fifth Loan Repayment Agreement, each between the Town and GADA, the First Purchase Agreement, between the Town, as buyer, and a trustee, as seller, and to prepay assessments associated with Town property in a certain district, which assessments were levied pursuant to Title 48, Chapter 4, Article 2, Arizona Revised Statutes; and

**WHEREAS**, in order to finance and refinance the costs thereof, the Town deemed it necessary and desirable to cause the sale and execution and delivery of a series of obligations in the aggregate principal amount of \$47,990,000, representing interests in a Second Purchase Agreement, dated as of October 1, 2016 (the “Second Purchase Agreement”), between the Town, as buyer, and a trustee, as seller; and

**WHEREAS**, the Mayor and Council of the Town also heretofore determined that it would be beneficial to its citizens to finance the costs of street improvements and public safety facilities; and

**WHEREAS**, in order to finance the costs thereof, the Town deemed it necessary and desirable to cause the sale and execution and delivery of obligations in two series in the total principal amount of \$65,960,000, representing interests in a Third Purchase Agreement, dated as of February 1, 2018 (the “Third Purchase Agreement”), between the Town, as buyer, and a trustee, as seller; and

**WHEREAS**, the Mayor and Council of the Town also heretofore determined that it would be beneficial to its citizens to finance the costs of additional street improvements and additional public safety facilities; and

**WHEREAS**, in order to finance the costs thereof, the Town deemed it necessary and desirable to cause the sale and execution and delivery of a series of obligations in the aggregate principal amount of \$78,605,000, representing interests in a Fourth Purchase Agreement, dated as of June 1, 2020 (the “Fourth Purchase Agreement”), between the Town, as buyer, and a trustee, as seller; and

**WHEREAS**, the Mayor and Council of the Town also heretofore determined that it would be beneficial to its citizens to finance the costs of improvements to the Town’s utility system;

**WHEREAS**, in order to finance the costs thereof, the Town deemed it necessary and desirable to cause the sale and execution and delivery of a series of obligations in the aggregate principal amount of \$85,000,000, representing interests in a Third Subordinate Lien Purchase Agreement, dated as of December 1, 2021 (the “Third Subordinate Lien Purchase Agreement”), between the Town, as buyer, and a trustee, as seller; and

**WHEREAS**, the Mayor and Council of the Town also heretofore determined that it would be beneficial to its citizens to finance the costs of parks and recreation projects in and for the Town; and

**WHEREAS**, in order to finance the costs thereof, the Town deemed it necessary and desirable to cause the sale and execution and delivery of a series of obligations in the aggregate principal amount of \$106,980,000, representing interests in a Fifth Purchase Agreement, dated as of June 1, 2022 (the “Fifth Purchase Agreement”), between the Town, as buyer, and a trustee, as seller; and

**WHEREAS**, the Mayor and Council of the Town also heretofore determined that it would be beneficial to its citizens to finance the costs of additional parks and recreation projects in and for the Town; and

**WHEREAS**, in order to finance the costs thereof, the Town deemed it necessary and desirable to cause the sale and execution and delivery of a series of obligations in the aggregate principal amount of \$24,223,000, representing interests in a Sixth Purchase Agreement, dated as of June 1, 2022 (the “Sixth Purchase Agreement”), between the Town, as buyer, and a trustee, as seller; and

**WHEREAS**, pursuant to Section 3 of the Sixth Loan Repayment Agreement, the Town irrevocably pledged for the payment of the amounts due thereunder the revenues from the Excise Taxes and the State Shared Revenues (each as defined in the hereinafter defined Trust Agreement), such pledge being a first lien pledge upon such amounts of the revenues from the Excise Taxes and the State Shared Revenues as will be sufficient to make the payments pursuant thereto when due; and

**WHEREAS**, pursuant to such Section of the Sixth Loan Repayment Agreement, except as limited by Section 10(a)(iii) of the Sixth Loan Repayment Agreement and by the corresponding sections in any agreement for any additional loan from GADA or for any loan from the Water Infrastructure Finance Authority of Arizona (“WIFA”), subject to Section 49-1225(F) or 49-1245(F), Arizona Revised Statutes, hereinafter consummated (collectively, “Additional Agency/Authority Loan Agreements”), the rights of GADA to payment from the revenues from the Excise Taxes and the State Shared Revenues are on a parity with the rights to payment from the revenues from the Excise Taxes and the State Shared Revenues of the Sixth Loan Repayment Agreement and of any obligations issued on a parity with the Sixth Loan Repayment Agreement, as permitted pursuant to Section 6 of the Sixth Loan Repayment Agreement (the “Parity Lien Obligations”), which includes Additional Agency/Authority Loan Agreements; and

**WHEREAS**, the Second Purchase Agreement, the Third Purchase Agreement, the Fourth Purchase Agreement, the Fifth Purchase Agreement and the Sixth Purchase Agreement were executed and delivered as Parity Lien Obligations (the Sixth Loan Repayment Agreement, the Second Purchase Agreement, the Third Purchase Agreement, the Fourth Purchase Agreement, the Fifth Purchase Agreement, the Sixth Purchase Agreement and any other Parity Lien Obligations hereafter incurred are referred to herein collectively as the “Senior Obligations”), and the hereinafter defined Purchase Agreement will be executed and delivered as an obligation to which the Town irrevocably pledges for the payment of the amounts due thereunder the revenues from the Excise Taxes and the State Shared Revenues, such pledge being a second lien pledge upon such amounts of the revenues from the Excise Taxes and the State Shared Revenues (including as affected by Agency/Authority Loan Agreements) as will be sufficient to make the payments pursuant thereto when due, such pledge being subordinate to the pledge of the revenues from the Excise Taxes and the State Shared Revenues to the Senior Obligations and on parity with the pledge of the revenues from the Excise Taxes and the State Shared Revenues to the Third Subordinate Lien Purchase Agreement; and

**WHEREAS**, after giving effect to the Purchase Agreement, pursuant to Section 5 of the Purchase Agreement, the Town shall not further encumber the revenues from the Excise Taxes and the State Shared Revenues on a basis equal to or senior to the pledge under the Purchase Agreement unless the revenues from the Excise Taxes plus the State Shared Revenues, when combined mathematically for such purpose only, in the most recently completed fiscal year of the Town, shall have amounted to at least two (2) times the highest combined interest and principal requirements for any succeeding fiscal year of the Town for the Senior Obligations, the Third Subordinate Lien Purchase Agreement, the Purchase Agreement and any obligations secured or so proposed to be secured by such pledge of the revenues from the Excise Taxes and the State Shared Revenues on a parity of lien with the Purchase Agreement; and

**WHEREAS**, Section 10(a) of the Sixth Loan Repayment Agreement provides that GADA may in the case of nonpayment, among other things, certify to the Treasurer of the State and notify the Mayor and Council of the Town that the Town has failed to make a required payment and direct a withholding of the State Shared Revenues as provided in Sections 41-2257(L) and (M) and 41-2258(I), (J) and (K), Arizona Revised Statutes (the “State Intercept of Funds”), and Additional Agency/Authority Loan Agreements may provide that GADA or WIFA provide for enforcement with the State Intercept of Funds; and

**WHEREAS**, the Mayor and Council of the Town have now determined that it will be beneficial to its citizens to finance and/or reimburse the costs of street improvements, improvements to the Town’s utility system and related infrastructure improvements in and for the Town (collectively, the “Project”); and

**WHEREAS**, in order to finance the costs of the Project, the Mayor and Council of the Town hereby deem it necessary and desirable to cause the sale and execution and delivery of Subordinate Lien Excise Tax and State Shared Revenue Obligations, Series 2023, Evidencing a Proportionate Interest of the Owner Thereof in Purchase Price Payments to be Made by the Town to a trustee bank to be determined as provided in Section 1 hereof, as trustee (the “Trustee” and such Obligations, the “Obligations”) provided for by this Resolution pursuant to the Fourth Subordinate Lien Trust Agreement, to be dated as of the first day of the month of the dated date of the Obligations established as provided herein (the “Trust Agreement”), between the Trustee and the Town, such purchase payments (the “Payments”) to be made pursuant to the Fourth Subordinate Lien Purchase Agreement, to be dated as of the first day of the month of the dated date of the Obligations established as provided herein (the “Purchase Agreement”), between the Town and the Trustee, in its separate capacity as “Seller”; and

**WHEREAS**, the Town is authorized and empowered pursuant to law to issue or cause to be issued obligations to finance the costs of various capital facilities owned or to be owned by the Town; and

**WHEREAS**, it is contemplated that certain expenditures made by the Town with regard to capital facilities owned or to be owned by the Town with regard to the Project will be reimbursed from the proceeds of the sale of obligations to be issued in the future by or on behalf of the Town, including the Obligations; and

**WHEREAS**, there have been presented to the Mayor and Council of the Town at the meeting of the Mayor and Council of the Town at which this Resolution is being adopted the proposed forms of: (1) the Purchase Agreement; and (2) the Trust Agreement;

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

**Section 1.** (a) The execution and delivery of the Obligations by the Trustee in one or more series is hereby approved. The Obligations shall be in the denominations and shall be fully registered without coupons, in each case as provided in the Trust Agreement.

(b) The Manager and the Chief Financial Officer of the Town or the designees of either of them (collectively, the “Authorized Representatives”) are hereby authorized to determine on behalf of the Town: (1) the entity to serve as Trustee; (2) the entity to which the Obligations will be sold (the “Purchaser”); (3) the date the Obligations are to be sold to the Purchaser; (4) the aggregate principal amount of the Obligations which are to be issued (but not to exceed \$50,000,000 in aggregate principal amount); (5) the date the Obligations are to be dated; (6) the dates on which interest on the Obligations are to be payable and the interest rates per annum the Obligations are to bear (but not to exceed 10% per annum except in the case of default or taxability), including whether the Obligations are to bear interest at a variable rate and, if so, the modes and rate setting mechanics therefor, and what the rate of interest should be in case of default or taxability; (7) the dates the Obligations are to mature (but, unless otherwise extended pursuant to the terms of the Purchase Agreement, the Trust Agreement or any other related financing documents, not later than June 1, 2028), the principal amounts to mature on such dates and the provisions for redemption thereof in advance of such dates; (8) the provisions for debt service coverage and incurrence of parity indebtedness; and (9) the terms upon which the Obligations are to be sold to the Purchaser (including for gross-ups caused by changes in laws or similar matters).

(c) The form and other terms of the Obligations, including the provisions for the signatures, authentication, payment, registration, transfer, exchange, redemption and number shall be as set forth in the Trust Agreement and are hereby approved.

**Section 2.** The Obligations are to be sold to the Purchaser pursuant to the terms of the Purchase Agreement and the Trust Agreement, as such terms are to be determined as provided hereinabove.

**Section 3.** The form, terms and provisions of the Purchase Agreement and the Trust Agreement, in substantially the forms of such documents (including the Obligations and other exhibits thereto) presented at the meeting of the Mayor and Council of the Town at which this Resolution is being adopted, are hereby approved, with such final provisions, insertions, deletions and changes as shall be approved by the Mayor or, in the absence thereof, Vice Mayor, the execution of each such document being conclusive evidence of such approval, and the Mayor or, in the absence thereof, Vice Mayor and the Clerk are hereby authorized and directed, for and on behalf of the Town, to execute and deliver and attest, where applicable, or approve the Purchase Agreement and the Trust Agreement and any other agreement or other document



required by the Purchaser consistent with the terms thereof and hereof, and to take all action to carry out and comply with the terms of such documents.

**Section 4.** The Mayor and Council of the Town hereby request that the Trustee (including in its capacity as Seller) take any and all action necessary in connection with the execution and delivery of the Purchase Agreement and the Trust Agreement and the sale and execution and delivery of the Obligations and further authorizes and directs the Trustee to enter into such agreements as may be reasonable for the administration of the trusts so held by it.

**Section 5.** After any of the Obligations are delivered by the Trustee to the Purchaser upon receipt of payment therefor, this Resolution shall be and remain irrevocable until the Obligations and the interest and premium, if any, thereon shall have been fully paid, cancelled and discharged.

**Section 6.** The Authorized Representatives and the other officers of the Town, on behalf of the Town, are each hereby authorized and directed, without further order of the Mayor and Council of the Town, to do all such things and to execute and deliver such certificates, proceedings and agreements as may be necessary or convenient to be executed and delivered on behalf of the Town, to evidence compliance with, or further the purposes of, all the terms and conditions of this Resolution and the consummation of the transactions contemplated hereby, including, specifically but not by way of limitation, a continuing covenant or similar agreement with the Purchaser and agreements with Columbia Capital Management, LLC and Greenberg Traurig, LLP to act as financial advisor and special counsel, respectively, with respect to the execution and delivery of the Obligations.

**Section 7.** All actions of the officers and agents of the Town which conform to the purposes and intent of this Resolution and which further the sale and execution and delivery of the Obligations as contemplated by this Resolution whether heretofore or hereafter taken are hereby ratified, confirmed and approved.

**Section 8.** If any section, paragraph, clause or phrase of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or phrase shall not affect any of the remaining provisions of this Resolution. All orders, resolutions and ordinances or parts thereof inconsistent herewith are hereby waived to the extent only of such inconsistency. This waiver shall not be construed as reviving any order, resolution or ordinance or any part thereof.

**Section 9.** The following terms shall have the meanings assigned thereto as follows:

“official intent” means a declaration of intent of the Town to reimburse an original expenditure with proceeds of an obligation;

“original expenditure” means an expenditure for a governmental purpose that is originally paid from a source other than a reimbursement bond; and

“reimbursement bond” means the portion of an issue of obligations allocated to reimburse an original expenditure that was paid before the issue date of such issue.

**Section 10.** This Resolution is official intent relating to reimbursement for the original expenditures for the Project which are capital expenditures (being any cost of a type that is properly chargeable to a capital account (or would be so chargeable with a proper election) under general federal income tax principles) made within sixty (60) days before and any time after the date of this Resolution. The maximum principal amount of obligations (including the reimbursement bonds for such purposes) to be issued for the Project is expected not to exceed \$50,000,000.

**Section 11.** On the date of this Resolution, the Mayor and Council of the Town have a reasonable expectation (being that a prudent person in the same circumstances would have based on all the objective facts and circumstances) that the Town will reimburse such original expenditures with proceeds of such obligations. Official intents have not been declared by the Town as a matter of course or in amounts substantially in excess of the amounts expected to be necessary for such projects. Moreover, the Town does not have a pattern (other than in extraordinary circumstances) of failure to reimburse actual original expenditures covered by official intents.

**Section 12.** With certain exceptions, an allocation in writing that evidences use of proceeds of the reimbursement bonds to reimburse the original expenditures shall be made not later than 18 months after the later of (i) the date that the original expenditure is paid, or (ii) the date the project is placed in service or abandoned, but in no event more than 3 years after the original expenditure is paid.

**Section 13.** This Resolution shall be included as of the date hereof in the publicly available official records of the Town, such records being maintained and supervised by the Town Clerk, being the main administrative office of the Town, and shall remain available for public inspection on a reasonable basis.

[Remainder of page left blank intentionally.]

**PASSED AND ADOPTED** by the Mayor and Council of the Town of Queen Creek, Arizona, this 6th day of September 2023.

FOR THE TOWN OF QUEEN CREEK:

ATTESTED TO:

\_\_\_\_\_  
Julia Wheatley, Mayor

\_\_\_\_\_  
Maria Gonzalez, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:

\_\_\_\_\_  
Bruce Gardner, Town Manager

\_\_\_\_\_  
Dickinson Wright, PLLC  
Town Attorneys



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## REQUEST FOR FUNDING BANK DIRECT PURCHASE

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**\$50,000,000\***  
**Town of Queen Creek, Arizona**  
**Subordinate Lien Excise Tax and State Shared Revenue Obligations,**  
**Series 2023**

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### INTRODUCTION

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The Town of Queen Creek, Arizona (the “Town”) is seeking bids from banks and qualified institutional buyers for the direct purchase of its Subordinate Lien Excise Tax and State Shared Revenue Obligations, Series 2023 (the “Series 2023 Obligations”) in order to provide funding to (i) finance or reimburse the Town for costs related to street improvements, improvements to the Town’s utility systems, and related infrastructure improvements (the “Projects”), and (ii) pay for the costs of execution and delivery of the Series 2023 Obligations.

The Town Council approved Resolution No. 1535-23 (the “Authorizing Resolution”) authorizing this transaction on September 6, 2023.

This Request for Funding (the “RFF”) is accompanied by a separate attachment containing preliminary drafts of pertinent legal documents associated with this transaction (the “Legal Documents”), including forms of the Authorizing Resolution and the hereinafter defined Trust Agreement and Purchase Agreement. Please review the draft Legal Documents for definitions and a more complete description of the various covenants and legal terms associated with this financing.

This RFF does not commit the Town to pay any costs incurred by any proposer related to the submission of a proposal or for procuring or contracting the services to be furnished under the RFF.

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### KEY DATES AND CONTACTS

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**RFF Due Date:** Proposals for the purchase of all of the Series 2023 Obligations should be submitted no later than **2:00 p.m. Mountain Standard Time on Thursday, September 28, 2023.**

**RFF Questions/Clarification:** Clarifications on the RFF and questions regarding the preparation of the proposal should be directed to the Town’s Municipal Advisor Jim Stricklin, Columbia Capital Management, LLC ([jstricklin@columbiacapital.com](mailto:jstricklin@columbiacapital.com) or 602.370.7503) no later than 2:00 p.m. on Friday, September 15, 2023. A response in the form of an addendum to the RFF will be provided to all parties if a substantive clarification is in order.

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\* Preliminary; subject to change.

Due diligence, project, and Town-related questions should be directed to Scott McCarty, Chief Financial Officer ([scott.mccarty@queencreekaz.gov](mailto:scott.mccarty@queencreekaz.gov) or 480.358.3170). A response in the form of an addendum to the RFF will be provided to all parties if a substantive clarification is in order.

Questions regarding the legal structure of the transaction should be directed to the Town’s Special Counsel, Paul Gales, Greenberg Traurig, LLP ([galesp@gtlaw.com](mailto:galesp@gtlaw.com) or 602.445.8404). A response in the form of an addendum to the RFF will be provided to all parties if a substantive clarification is in order.

**Final Credit Approval / Rate Lock:** On or about **2:00 p.m. Mountain Standard Time on Thursday, October 5, 2023.**

**Closing:** Closing is scheduled for **Wednesday, October 25, 2023.**

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SUBMITTAL

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Proposals for funding, including APPENDIX B – Bid Form, must be submitted electronically on or before 2:00 p.m. Mountain Standard Time on Thursday, September 28, 2023 to Scott McCarty ([scott.mccarty@queencreekaz.gov](mailto:scott.mccarty@queencreekaz.gov)) and Jim Stricklin ([jstricklin@columbiacapital.com](mailto:jstricklin@columbiacapital.com)).

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DISCLAIMER

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CONTACT WITH ANY TOWN OFFICIAL REGARDING THIS RFF USING METHODS OTHER THAN THOSE SPECIFIED HEREIN MAY BE BASIS FOR DISQUALIFICATION.

THE TOWN RESERVES THE RIGHT TO: (I) EXTEND THE DUE DATE/TIME UPON NOTICE TO ALL FIRMS THAT PROVIDE AN INDICATION OF INTEREST, AND (II) WAIVE MINOR IRREGULARITIES IN THE RFF PROCESS AT ITS SOLE DISCRETION.

THE TOWN IS NOT LIABLE FOR ANY COSTS OR EXPENSES INCURRED BY THE RESPONDENT IN THE PREPARATION OF ITS RESPONSE TO THIS RFF.

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AWARD

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The Town may select a lender on a preliminary basis to negotiate final terms, conditions and financing documents.

The Town will choose a lender based on the proposal that provides the most favorable terms to the Town. The Town reserves the right to negotiate terms and provisions with any or all respondents in determining its award. The Town also reserves the right to reject any or all responses to the RFF or to waive any irregularities if it is found to be in the Town’s best interest to do so.

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PLAN OF FINANCE

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**Purpose**

Proceeds of the Series 2023 Obligations will be used to provide funding to (i) finance or reimburse the Town for costs related to the Projects, and (ii) pay for the costs of execution and delivery of the Series 2023 Obligations.

**Security for and Source of Payment of the Obligations**

The Series 2023 Obligations are payable solely from payments (the “Payments”) to be made by the Town pursuant to an installment purchase agreement, to be dated as of October 1, 2023\* (the “Purchase Agreement”), between the Town and \_\_\_\_\_ (the “Trustee”). The Series 2023 Obligations will be executed and delivered pursuant to a trust agreement, to be dated as of October 1, 2023\* (the “Trust Agreement”), between the Town and the Trustee. All of the Trustee’s interest under the Purchase Agreement, including, without limitation, the right to receive and collect the Payments and the amounts payable under the Trust Agreement and the right to enforce the payment of Payments, will be held by the Trustee for the benefit of the Purchaser of the Series 2023 Obligations.

Pursuant to the Purchase Agreement, the Town will pay the Trustee the Payments for the acquisition of the Projects, which will be equal to the principal and interest payable with respect to the Series 2023 Obligations. The Payments to be made by the Town under the Purchase Agreement are payable from and secured by a subordinate lien on and pledge of the Town’s Excise Taxes and State Shared Revenues.

The Town has \$294.678 million of outstanding Senior Lien Excise Tax supported debt and \$85 million of outstanding Subordinate Lien Excise Tax and State Shared Revenue Obligations prior to issuance of the Series 2023 Obligations. The Town expects to issue approximately \$265\* million of additional Senior Lien Excise Tax supported debt within the next 12 months. Payment of the Series 2023 Obligations is not secured by the Projects, and the Purchaser of the Series 2023 Obligations has no claim or lien on the Projects or any part thereof.

THE SERIES 2023 OBLIGATIONS WILL NOT BE GENERAL OBLIGATIONS OF THE TOWN, THE STATE OF ARIZONA (THE “STATE”) OR ANY POLITICAL SUBDIVISION THEREOF AND DO NOT AND WILL NOT CONSTITUTE AN INDEBTEDNESS OF THE TOWN WHEN COMPUTING ITS LIMIT IMPOSED BY CONSTITUTIONAL OR STATUTORY PROVISIONS OR A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWER OF THE TOWN, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF FOR PAYMENT OF THE SERIES 2023 OBLIGATIONS OTHER THAN FROM THE SOURCES PLEDGED THEREFOR.

Excise Taxes and State Shared Revenues, Historic Excise Tax and State Shared Revenues, Excise Tax and State Shared Revenue Debt to be Outstanding, Projected Debt Service Coverage and other financial information is in APPENDIX A.

\* Preliminary; subject to change.

**Preferred Terms**

Rate Mode:	Floating, adjusted monthly based on an acceptable formula tied to an index.
Tax Status:	Tax-Exempt
Term Bond:	Due June 1, 2027 or 2028. See Bid Form.
Principal Amortization:	Subject to negotiation.
Denomination:	Minimum \$1 million with integral multiples of \$5,000
Pre-payment Terms:	Subject to negotiation. See Bid Form.
Maximum Interest Rate:	10%
Offering Document:	None
Continuing Public Disclosure:	None

Rating:	None
Transferability:	Restricted
CUSIP:	None
DTC Closing:	None
Investor Letter:	Yes
Fees and Expenses:	A detailed list of any fees and expenses the lender expects to charge, including fees and expenses of legal counsel and any other third party. All costs of execution and delivery of the Series 2023 Obligations will be paid from the proceeds of the Series 2023 Obligations.

### Parity Debt Covenants

Rate Covenant:	The Town covenants and agrees that it shall take any and all action necessary such that the revenues from the Excise Taxes and the State Shared Revenues in each fiscal year shall equal an amount of at least 2.0x the total of the interest and principal requirements for such fiscal year for all obligations secured by Excise Taxes and State Shared Revenues senior to or on parity with the Series 2023 Obligations.
Additional Debt Test:	The Town will not issue and/or incur any obligations secured by Excise Taxes and State Shared Revenues senior to or on parity with the Series 2023 Obligations, unless the revenues from the Excise Taxes and State Shared Revenues, when combined mathematically for such purpose only, in the most recent completed fiscal year, shall be at least 2.0x the highest combined interest and principal requirements for any succeeding fiscal year for all such obligations currently outstanding and the obligations proposed to be issued.
Coverage Calculation Amortization:	Level principal and interest payments over 30 years at the Maximum Interest Rate.
Debt Service Reserve Fund:	None

### INDEPENDENT REGISTERED MUNICIPAL ADVISOR

The Town hereby discloses to and notifies all potential purchasers of its desire and intent to receive advice and recommendations related to the issuance of municipal securities and municipal financial products that are particularized to its specific needs. Columbia Capital Management, LLC, a municipal advisor registered with the SEC and the Municipal Securities Rulemaking Board, represents the Town as its municipal advisor. The Town will rely upon the advice of Columbia Capital Management, LLC.

Columbia Capital Management, LLC participated in the preparation of the RFF, and the information contained herein has been obtained from sources deemed to be reliable, however, Columbia Capital Management, LLC has not independently verified the information contained herein, nor has it conducted a detailed investigation of the affairs of the Town for the purpose of passing on the completeness or accuracy of the RFF.

# APPENDIX A—Supplemental Information

## EXCISE TAXES AND STATE SHARE REVENUES

### Excise Taxes

*Town Transaction Privilege (Sales) Taxes.* The Town’s transaction privilege (sales) tax is levied by the Town upon persons on account of their business activities within the Town. The amount of taxes due are calculated by applying the tax rate against the gross proceeds of sales or gross income derived from the business activities shown in the table below. Transaction privilege (sales) taxes are collected by the Arizona Department of Revenue and remitted to the Town on a monthly basis.

*Other Excise Tax Revenues.* Cities and towns in the State have exclusive control over public rights of way dedicated to the municipality, and may grant franchise agreements to and impose franchise taxes on utilities using those rights of way. The Town also imposes and collects fees for licenses and permits to engage in certain activities within the Town and for the right to utilize certain Town property, and imposes and collects fines and forfeitures for violations of State laws or Town ordinances relating to traffic, parking, animal control and other offenses.

### State Shared Revenues

*State Shared Sales Taxes.* Pursuant to statutory formula, cities and towns in Arizona receive a portion of the State-levied transaction privilege (sales) tax. The State transaction privilege (sales) tax is levied against the same categories of business activity as the Town’s transaction privilege (sales) tax with the exception of food sales, which the State exempts from tax.

Under current State law, the aggregate amount distributed to all Arizona cities and towns is equal to 25% of the “distribution base” of revenues attributable to each category of taxable activity. The allocation to each city and town of the revenues available to all cities and towns is based on their population relative to the aggregate population of all cities and towns as shown by the latest census. State-levied transaction privilege (sales) taxes are collected by the State and are distributed monthly to cities and towns.

In addressing past State budgetary deficiencies, the Governor and members of the State legislature have occasionally proposed certain adjustments that would reduce the distribution of State shared sales taxes to cities and towns. The Town cannot determine whether such measures will become law or how they might affect the Town’s receipt of State shared sales taxes.

*State Shared Income Taxes.* Under current State law, Arizona cities and towns are preempted by the State from imposing a local income tax. Cities and towns are, however, entitled by statutory formula to typically receive 18% of State personal and corporate income tax collections. Distribution of such funds is made monthly based on the proportion of the population of each city and town to the total population of all incorporated cities and towns in the State as determined by the latest census. In addressing past State budgetary deficiencies, the Governor and members of the State legislature have occasionally proposed certain adjustments that would reduce the distribution of State shared income taxes to cities and towns. The Town cannot determine whether any such proposals will occur in the future and become law or how they might affect the Town’s receipt of State shared income taxes.

*State Shared Vehicle License Tax.* Motor vehicle license (in lieu) taxes are levied by the State based upon the value of the vehicle (according to a statutory formula) and are collected by the State with vehicle registration fees. Approximately twenty percent of the revenues collected for the licensing of motor vehicles is distributed to incorporated cities and towns on a monthly basis. A city or town receives its share of the



vehicle license tax collections based on its population in relation to the total incorporated population of the county.

Additional information about State of Arizona excise taxes and state shared revenues can be found at:

<https://azdor.gov/transaction-privilege-tax/tax-rate-table>

**TOWN FINANCES**

Town financial statements, budget documentation, and related resources can be found at the following links.

<https://www.queencreekaz.gov/departments/finance/finance-reports-documents/>

<https://www.queencreekaz.gov/departments/finance-/budget/budget-documents>

**HISTORICAL EXCISE TAX AND STATE SHARED REVENUES**

The following Table sets forth the Town’s Excise Tax and State Shared Revenues for fiscal years 2018/19 through and including 2022/23. Figures reported for the 2022/23 fiscal year are unaudited and preliminary, subject to change upon audit and should be considered with an abundance of caution.

	<b>Unaudited</b>	<b>Audited</b>			
	<b>FY 2022/23</b>	<b>FY 2021/22</b>	<b>FY 2020/21</b>	<b>FY 2019/20</b>	<b>FY 2018/19</b>
<b><i>Excise Tax Revenues</i></b>					
Town Sales Tax	\$47,640,261	\$41,011,908	\$34,396,444	\$26,647,313	\$22,135,531
Construction Sales Tax	37,069,185	33,166,393	27,737,258	20,340,181	16,048,352
Charges for Other Services	17,236,597	17,502,740	16,484,158	13,215,246	12,009,680
Franchise Fees	2,185,682	2,255,260	2,193,377	2,056,619	1,586,224
Licenses & Permits	108,368	102,162	59,867	97,358	95,053
Subtotal Excise Taxes	<u>\$104,240,093</u>	<u>\$94,038,464</u>	<u>\$80,871,104</u>	<u>\$62,356,717</u>	<u>\$51,874,840</u>
<b><i>State Shared Revenues</i></b>					
State Shared Income Tax	\$12,585,940	\$7,647,963	\$7,272,892	\$5,496,253	\$4,745,177
State Shared Sales Tax	9,807,326	8,379,388	6,037,240	4,463,452	3,969,582
Vehicle License Tax	3,539,471	2,533,309	2,562,303	1,813,568	1,708,392
Subtotal State Shared Revenues	<u>\$25,932,737</u>	<u>\$18,560,660</u>	<u>\$15,872,435</u>	<u>\$11,773,273</u>	<u>\$10,423,150</u>
Total Pledged Revenues	<u><u>\$130,172,829</u></u>	<u><u>\$112,599,123</u></u>	<u><u>\$96,743,539</u></u>	<u><u>\$74,129,990</u></u>	<u><u>\$62,297,991</u></u>

*Note: In July 2023, Governor Hobbs signed Senate Bill 1131 which will prohibit municipalities from levying taxes on residential rentals beginning in January 2025. In fiscal year 2022/23, approximately \$1 million of the Town’s local sales tax revenues are attributable to the Town’s residential rental tax.*

**EXCISE TAX AND STATE SHARED REVENUE DEBT TO BE OUTSTANDING**

**Senior Lien Excise Tax and State Shared Revenue Obligations**

<u>Series</u>	<u>Purpose</u>	<u>Original Amount</u>	<u>Maturity Dates</u>	<u>Balance Outstanding</u>
2014A	Wastewater Projects (GADA)	\$3,845,000	8/1/2024-2028	\$ 1,745,000
2016	Refunding	47,990,000	8/1/2024-2036	30,215,000
2018A	Roads & Public Safety Facilities	47,945,000	8/1/2024-2047	43,295,000
2018B	Roads & Public Safety Facilities	18,015,000	8/1/2024-2047	15,290,000
2020	Roads & Public Safety Facilities	78,605,000	8/1/2024-2050	75,195,000
2022A	Parks & Recreation Projects	106,980,000	8/1/2024-2047	104,715,000
2022B	Parks & Recreation Projects	24,223,000	8/1/2024-2037	24,223,000
Total (Senior Lien)				<u><u>\$294,678,000</u></u>

**Subordinate Lien Excise Tax and State Shared Revenue Obligations**

<u>Series</u>	<u>Purpose</u>	<u>Original Amount</u>	<u>Maturity Dates</u>	<u>Balance Outstanding</u>
2021	Utility System Improvements	\$85,000,000	6/1/25	\$ 85,000,000
Subtotal (Subordinate Lien)				<u>85,000,000</u>
Plus: Series 2023 Obligations				<u>50,000,000 *</u>
Total (Subordinate Lien)				<u><u>\$135,000,000*</u></u>

\*Preliminary; subject to change.

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## PROJECTED DEBT SERVICE COVERAGE

Fiscal Year	Pledged Revenues <sup>(1)</sup>	Outstanding Senior Lien Obligations		Outstanding Subordinate Lien Obligations <sup>(2)</sup>		Plus: The Series 2023 Lien Obligations <sup>(2)</sup>		Estimated Combined Debt Service Requirements			Estimated Revenue Coverage <sup>(3)</sup>
		Principal	Interest	Principal	Interest	Principal	Interest	Principal	Interest	Total	
2023	\$130,172,829										
2024		\$ -	\$6,606,383	\$570,000	\$8,448,500	\$ -	\$ -	\$570,000	\$15,054,883	\$15,624,883	
2025		8,711,000	13,014,301	625,000	8,391,500	305,000	5,000,000	9,641,000	26,405,801	36,046,801	
2026		9,127,000	12,606,134	690,000	8,329,000	335,000	4,969,500	10,152,000	25,904,634	36,056,634	
2027		9,547,000	12,176,906	755,000	8,260,000	370,000	4,936,000	10,672,000	25,372,906	36,044,906	
2028		10,492,000	11,703,767	830,000	8,184,500	405,000	4,899,000	11,727,000	24,787,267	36,514,267	
2029		11,016,000	11,183,730	915,000	8,101,500	445,000	4,858,500	12,376,000	24,143,730	36,519,730	
2030		11,639,000	10,639,880	1,005,000	8,010,000	490,000	4,814,000	13,134,000	23,463,880	36,597,880	
2031		11,757,000	10,082,529	1,110,000	7,909,500	540,000	4,765,000	13,407,000	22,757,029	36,164,029	
2032		12,966,000	9,499,868	1,220,000	7,798,500	590,000	4,711,000	14,776,000	22,009,368	36,785,368	3.54
2033		13,574,000	8,879,909	1,340,000	7,676,500	650,000	4,652,000	15,564,000	21,208,409	36,772,409	
2034		11,259,000	8,306,666	1,475,000	7,542,500	715,000	4,587,000	13,449,000	20,436,166	33,885,166	
2035		12,801,000	7,764,500	1,620,000	7,395,000	790,000	4,515,500	15,211,000	19,675,000	34,886,000	
2036		13,369,000	7,194,765	1,785,000	7,233,000	865,000	4,436,500	16,019,000	18,864,265	34,883,265	
2037		13,938,000	6,615,154	1,965,000	7,054,500	955,000	4,350,000	16,858,000	18,019,654	34,877,654	
2038		13,947,000	6,021,844	2,160,000	6,858,000	1,050,000	4,254,500	17,157,000	17,134,344	34,291,344	
2039		10,565,000	5,507,788	2,375,000	6,642,000	1,155,000	4,149,500	14,095,000	16,299,288	30,394,288	
2040		11,010,000	5,061,913	2,610,000	6,404,500	1,270,000	4,034,000	14,890,000	15,500,413	30,390,413	
2041		11,480,000	4,593,797	2,875,000	6,143,500	1,395,000	3,907,000	15,750,000	14,644,297	30,394,297	
2042		10,745,000	4,130,006	3,160,000	5,856,000	1,535,000	3,767,500	15,440,000	13,753,506	29,193,506	
2043		11,205,000	3,670,700	3,475,000	5,540,000	1,690,000	3,614,000	16,370,000	12,824,700	29,194,700	
2044		11,680,000	3,191,588	3,825,000	5,192,500	1,860,000	3,445,000	17,365,000	11,829,088	29,194,088	
2045		12,205,000	2,657,375	4,205,000	4,810,000	2,045,000	3,259,000	18,455,000	10,726,375	29,181,375	
2046		12,790,000	2,064,125	4,625,000	4,389,500	2,250,000	3,054,500	19,665,000	9,508,125	29,173,125	
2047		13,420,000	1,441,800	5,090,000	3,927,000	2,475,000	2,829,500	20,985,000	8,198,300	29,183,300	
2048		14,065,000	788,950	5,600,000	3,418,000	2,720,000	2,582,000	22,385,000	6,788,950	29,173,950	
2049		3,640,000	382,000	6,160,000	2,858,000	2,995,000	2,310,000	12,795,000	5,550,000	18,345,000	
2050		3,790,000	233,400	6,775,000	2,242,000	3,295,000	2,010,500	13,860,000	4,485,900	18,345,900	
2051		3,940,000	78,800	7,450,000	1,564,500	3,620,000	1,681,000	15,010,000	3,324,300	18,334,300	
2052		-	-	8,195,000	819,500	3,985,000	1,319,000	12,180,000	2,138,500	14,318,500	
2053		-	-	-	-	4,385,000	920,500	4,385,000	920,500	5,305,500	
2054		-	-	-	-	4,820,000	482,000	4,820,000	482,000	5,302,000	
		<u>\$294,678,000</u>	<u>\$176,098,577</u>	<u>\$84,485,000</u>	<u>\$176,999,500</u>	<u>\$50,000,000</u>	<u>\$109,113,500</u>	<u>\$429,163,000</u>	<u>\$462,211,577</u>	<u>\$891,374,577</u>	

<sup>(1)</sup> Preliminary (unaudited) figure shown for FY 2023 revenues provided by the Town.

<sup>(2)</sup> Pursuant to the respective purchase agreements, for the purpose of calculating revenue coverage, debt service related to the outstanding Subordinate Lien Obligations and the estimated Series 2023 Obligations is amortized with substantially level fiscal year principal and interest payments over approximately 30 years, from the respective issue dates of each transaction, at a maximum interest rate of 10%.

<sup>(3)</sup> Revenue coverage calculation is shown for the year that produces the highest estimated combined interest and principal requirements for the Senior Lien and Subordinate Lien Obligations.

## APPENDIX B—Bid Form

### FLOATING RATE QUOTATION

The Town seeks two quotations for a floating rate, adjusted monthly, quoted as a spread to a verifiable index, assuming final maturities of June 1, 2027 and June 1, 2028.

<b>Maturity Date of June 1, <u>2027</u></b>		
<b>Benchmark</b>	<b>Yield Spread</b>	<b>Current Interest Rate</b>
_____ %	_____ %	_____ %

<b>Maturity Date of June 1, <u>2028</u></b>		
<b>Benchmark</b>	<b>Yield Spread</b>	<b>Current Interest Rate</b>
_____ %	_____ %	_____ %

Benchmark Name \_\_\_\_\_ Benchmark Date \_\_\_\_\_

### PREPAYMENT TERMS

The Town strongly prefers the option to prepay the Series 2023 Obligations prior to maturity at a price of 100% of the outstanding principal amount, plus accrued interest to the prepayment date. Specify your proposed prepayment terms below. To the extent the specified optional prepayment date and price are conditional upon other material terms or conditions, please specify such terms or conditions in the body of your proposal.

<b>Optional Prepayment Date</b>	<b>Optional Prepayment Price</b>
_____	_____ %

### FEES & EXPENSES

Please provide any fees or expenses that your firm will charge as part of your price proposal (e.g., bank legal counsel). Note: the fees and expenses quoted will be used to calculate the adjusted borrowing cost of the proposal. The Town will NOT reimburse any fees or expenses not included below.

<u>Description</u>	<u>Flat Fee or % of Par</u>
_____	_____
_____	_____
_____	_____

Firm \_\_\_\_\_ Representative \_\_\_\_\_

Date \_\_\_\_\_ Signature \_\_\_\_\_

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**FOURTH SUBORDINATE LIEN PURCHASE AGREEMENT**

by and between

\_\_\_\_\_,  
as Seller

and

**THE TOWN OF QUEEN CREEK, ARIZONA,**  
as Buyer

Dated as of \_\_\_\_\_ 1, 2023

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## FOURTH SUBORDINATE LIEN PURCHASE AGREEMENT

**THIS FOURTH SUBORDINATE LIEN PURCHASE AGREEMENT**, dated as of \_\_\_\_\_ 1, 2023 (this “Agreement”), by and between **THE TOWN OF QUEEN CREEK, ARIZONA**, a municipal corporation and a political subdivision under the laws of the State of Arizona (“Town”), and \_\_\_\_\_, a national banking association (“Seller”), in its capacity as trustee (“Trustee”) under the Fourth Subordinate Lien Trust Agreement, dated as of even date herewith (the “Trust Agreement”), by and between Trustee and Town,

### W I T N E S S E T H:

**WHEREAS**, Town heretofore determined that it would be beneficial to its citizens to refinance the First Loan Repayment Agreement (as such term and all other capitalized terms used but not defined herein are defined in the Trust Agreement); and

**WHEREAS**, in order to finance the costs thereof, Town deemed it necessary and desirable to borrow \$3,845,000 from GADA; and

**WHEREAS**, in connection therewith, Town and GADA entered into the Sixth Loan Repayment Agreement; and

**WHEREAS**, Town also heretofore determined that it would be beneficial to its citizens to refinance the Second Loan Repayment Agreement, the Third Loan Repayment Agreement, the Fourth Loan Repayment Agreement, and the Fifth Loan Repayment Agreement, each between Town and GADA, the First Purchase Agreement, between Town, as buyer, and a trustee, as seller, and to prepay assessments associated with Town property in a certain district, which assessments were levied pursuant to Title 48, Chapter 4, Article 2, Arizona Revised Statutes; and

**WHEREAS**, in order to finance and refinance the costs thereof, Town deemed it necessary and desirable to cause the execution and delivery of obligations in the principal amount of \$47,990,000, representing interests in the Second Purchase Agreement; and

**WHEREAS**, Town also heretofore determined that it would be beneficial to its citizens to finance the costs of street improvements and public safety facilities in and for Town; and

**WHEREAS**, in order to finance the costs thereof, Town deemed it necessary and desirable to cause the execution and delivery of obligations in two series in the total principal amount of \$65,960,000, representing interests in the Third Purchase Agreement; and

**WHEREAS**, Town also heretofore determined that it would be beneficial to its citizens to finance the costs of additional street improvements and additional public safety facilities in and for Town; and

**WHEREAS**, in order to finance the costs thereof, Town deemed it necessary and desirable to cause the execution and delivery of obligations in the principal amount of \$78,605,000, representing interests in the Fourth Purchase Agreement; and

**WHEREAS**, Town also heretofore determined that it would be beneficial to its citizens to finance the costs of improvements to Town's utility system; and

**WHEREAS**, in order to finance the costs thereof, Town deemed it necessary and desirable to cause the execution and delivery of obligations in the principal amount of \$85,000,000, representing interests in the Third Subordinate Lien Purchase Agreement; and

**WHEREAS**, Town also heretofore determined that it would be beneficial to its citizens to finance the costs of parks and recreation projects in and for Town; and

**WHEREAS**, in order to finance the costs thereof, Town deemed it necessary and desirable to cause the execution and delivery of obligations in the principal amount of \$106,980,000, representing interests in the Fifth Purchase Agreement; and

**WHEREAS**, Town also heretofore determined that it would be beneficial to its citizens to finance the costs of additional parks and recreation projects in and for Town; and

**WHEREAS**, in order to finance the costs thereof, Town deemed it necessary and desirable to cause the execution and delivery of obligations in the principal amount of \$24,223,000, representing interests in the Sixth Purchase Agreement; and

**WHEREAS**, Town has now determined that it will be beneficial to its citizens to finance the costs of the Project; and

**WHEREAS**, pursuant to Section 3 of the Sixth Loan Repayment Agreement, Town has irrevocably pledged for the payment of the amounts due thereunder the revenues from the Excise Taxes and the State Shared Revenues, such pledge being a first lien pledge upon such amounts of the revenues from the Excise Taxes and the State Shared Revenues as will be sufficient to make the payments pursuant thereto when due; and

**WHEREAS**, pursuant to such Section of the Sixth Loan Repayment Agreement, except as limited by Section 10(a)(iii) of the Sixth Loan Repayment Agreement and by the corresponding sections in any Additional Agency/Authority Loan Agreements, the rights of GADA to payment from the revenues from the Excise Taxes and the State Shared Revenues will be on a parity with the rights to payment from the revenues from the Excise Taxes and the State Shared Revenues of any Parity Lien Obligations, which includes Additional Agency/Authority Loan Agreements; and

**WHEREAS**, the Second Purchase Agreement, the Third Purchase Agreement, the Fourth Purchase Agreement, the Fifth Purchase Agreement and the Sixth Purchase Agreement were executed and delivered as Parity Lien Obligations, and Town has irrevocably pledged for the payment of the amounts due under this Agreement the revenues from the Excise Taxes and the State Shared Revenues, such pledge being a second lien pledge upon such amounts of the revenues from the Excise Taxes and the State Shared Revenues (including as affected by Agency/Authority Loan Agreements) as will be sufficient to make the payments pursuant hereto when due, such pledge being subordinate to the pledge of the revenues from the Excise Taxes and the State Shared Revenues to the Senior Obligations; and



**WHEREAS**, after giving effect to this Agreement, pursuant to Section 5 of this Agreement, Town shall not further encumber the revenues from the Excise Taxes and the State Shared Revenues on a basis equal to or senior to the pledge under this Agreement unless the revenues from the Excise Taxes plus the State Shared Revenues, when combined mathematically for such purpose only, in the most recently completed Fiscal Year of Town, shall have amounted to at least two (2) times the highest combined interest and principal requirements for any succeeding Fiscal Year of Town for the Senior Obligations, the Third Subordinate Lien Purchase Agreement, this Agreement and any other of the Parity Subordinate Lien Obligations; and

**WHEREAS**, Section 10(a) of the Sixth Loan Repayment Agreement provides that GADA may in the case of nonpayment, among other things, certify to the Treasurer of the State and notify the Mayor and Council of Town that Town has failed to make a required payment and direct the State Intercept of Funds, and Additional Agency/Authority Loan Agreements may provide that GADA or WIFA provide for enforcement with the State Intercept of Funds; and

**WHEREAS**, Town is a political subdivision duly organized and validly existing under the laws of the State; the Constitution and the laws of the State authorize Town to enter into this Agreement and to enter into the agreements and transactions contemplated by, and to carry out its obligations under, said agreements; Town has duly authorized and executed all of the aforesaid agreements; this Agreement is a lawful, valid and binding obligation of Town, enforceable against Town in accordance with its terms, and has been duly authorized, executed and delivered by Town; all required procedures for execution and performance of this Agreement, including publication of notice, public hearing or competitive bidding, if applicable, have been or will be complied with in a timely manner; the Payments will be paid when due out of funds which are legally available for such purposes; and neither the execution and delivery of this Agreement or the Trust Agreement, nor the fulfillment of or compliance with the terms and conditions hereof or thereof nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which Town is now a party or by which Town is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of Town; and

**WHEREAS**, Seller has full legal authority and is duly empowered to enter into this Agreement and has taken all actions necessary to the execution and delivery hereof;

NOW THEREFORE, PURSUANT TO LAW AND FOR AND IN CONSIDERATION OF THE MUTUAL COVENANTS HEREINAFTER CONTAINED, IT IS HEREBY AGREED AS FOLLOWS:

**Section 1. Term and Payments.**

(a) Town hereby sells and conveys any interests it has in the Project to Seller, without warranty, for the sum of \$10.00 and other valuable consideration had and received. For the amounts payable pursuant hereto (including the Payments), Seller hereby sells and conveys back to Town, without warranty, and Town hereby purchases from Seller, the Project. (In order to evidence such sale, Seller has executed and delivered to Town a bill of sale on the date of

original execution and delivery of the Obligations.) Town shall be entitled to sole and exclusive possession of the Project.

(b) To provide the funds necessary for Seller to finance the Project, Seller, in its capacity as Trustee, shall execute and deliver the Obligations. (Seller shall have no further obligation to provide funds for the Project.)

(c) As the purchase price for the Project, Town shall pay the amounts set forth in Sections 2.3 and 2.4 of the Trust Agreement to Seller at the address specified pursuant to Section 18 hereof (or such other address as Seller may designate in writing), for the purpose of remitting such amounts to the Trustee in trust for the benefit of the Owners (and, if applicable, former Owners, as the case may be).

Town shall also pay to Trustee its fees and expenses in accordance with the provisions of the Trust Agreement and to the United States of America any amounts required by Section 13(c).

Town shall pay the Gross-Up Amount in the event a Determination of Taxability occurs.

The obligation of Town to make the Payments shall be limited to amounts from the revenues from the Excise Taxes and the State Shared Revenues. Town shall receive a credit against amounts due equal to any amounts held in the Payment Fund and available for such purpose. If the balance available in the Payment Fund after a Payment is insufficient to make the next required payments of principal and interest due on the Obligations on the next date for payment thereof, Town shall pay any such deficiency in sufficient time to prevent default in the payment of principal or interest on the Obligations falling due on such date. This Agreement shall be deemed and construed to be a “*net purchase agreement*,” and the Payments shall be an absolute net return to Seller, free and clear of any expenses or charges whatsoever, except as otherwise specifically provided herein.

(d) The obligations of Town to make the Payments from the sources described herein and to comply with the other provisions hereof shall be absolute and unconditional and shall not be subject to any defense or any right of set-off, abatement, counterclaim, or recoupment arising out of any breach of Seller of any obligation to Town or otherwise, or out of indebtedness or liability at any time owing to Town by Seller. Until such time as all of the Payments shall have been fully paid or provided for, Town (i) shall not suspend or discontinue the Payments, (ii) shall comply with the other provisions hereof, and (iii) shall not terminate this Agreement for any cause, including, without limiting the generality of the foregoing, failure of Seller or any other person to complete the Project, the occurrence of any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Project, the taking by *eminent domain* of title to or temporary use of any or all of the Project, commercial frustration of purpose or abandonment of the Project by Town, any change in the tax or other laws of the United States of America or of the State or any political subdivision of either or any failure of Seller to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Trust Agreement or this Agreement. Nothing contained in this Section shall be construed to release Seller from the performance of any of the agreements on its part herein or in the Trust Agreement contained and in the event Seller shall fail to perform any such agreements on its

part, Town may institute such action against Seller as Town may deem necessary to compel performance so long as such action does not abrogate the obligations of Town contained in the first sentence of this Subsection (d).

(e) This Agreement shall not terminate so long as any payments are due and owing pursuant to the Obligations or the Continuing Covenant Agreement. Subject to Section 9, upon full payment or provision for payment and in consideration of the timely payment of all of the Payments and provided that Town has performed all the covenants and agreements required by Town to be performed, this Agreement shall cease and expire. Upon the expiration of this Agreement as provided in this Section, Town shall cause Trustee to release any interest which Trustee may have in the Project or the revenues thereof from the lien of the Trust Agreement.

(f) Any of the Payments due on a day which is not a Business Day may be made on the next Business Day and will be deemed to have been made on the date due.

**Section 2. Pledge; Limited Obligations.**

(a) Town hereby irrevocably pledges for the payment of the Payments and amounts due pursuant to the Continuing Covenant Agreement the revenues from the Excise Taxes and the State Shared Revenues. Town intends that this pledge shall be a second lien pledge upon such amounts of the revenues from the Excise Taxes and the State Shared Revenues (including as affected by Agency/Authority Loan Agreements) as will be sufficient to make the Payments when due. Town agrees and covenants to make the Payments from the revenues from the Excise Taxes and the State Shared Revenues, except to the extent it chooses to make the Payments from other funds pursuant to Section 4. Said pledge of, and said lien on, the revenues from the Excise Taxes and the State Shared Revenues is hereby irrevocably made and created for the prompt and punctual payment of the amounts due hereunder according to the terms hereof and to maintain the funds as hereinafter specified in this Agreement and the Trust Agreement. All of the Payments are coequal as to the pledge of and lien on the revenues from the Excise Taxes and the State Shared Revenues pledged for the payment thereof and share ratably, without preference, priority or distinction, as to the source or method of payment from the revenues from the Excise Taxes and the State Shared Revenues or security therefor. The rights of the Owners to payment from the revenues from the Excise Taxes and the State Shared Revenues are (i) subordinate to the rights to payment from the revenues from the Excise Taxes and the State Shared Revenues of any Senior Obligations, and (ii) on a parity with the rights to payment from the revenues from the Excise Taxes and the State Shared Revenues of the Third Subordinate Lien Purchase Agreement and any other of the Parity Subordinate Lien Obligations.

(b) Town shall remit to Trustee from the revenues from the Excise Taxes and the State Shared Revenues all amounts due under this Agreement in the amounts and at the times and for the purposes as required herein. The obligation of Town to make payments of any amounts due under this Agreement, including amounts due after default or termination hereof, is limited to payment from the revenues from the Excise Taxes and the State Shared Revenues and shall in no circumstances constitute a general obligation or a pledge of the full faith and credit of Town, the State or any of its political subdivisions, or require the levy of, or be payable from the proceeds of, any *ad valorem* property taxes.

**Section 3. Surplus and Deficiency of Revenues from Excise Taxes and State Shared Revenues.** Subject to the senior rights with respect to the revenues from the Excise Taxes and the State Shared Revenues of the Senior Obligations and the parity rights with respect to the revenues from the Excise Taxes and the State Shared Revenues of the Third Subordinate Lien Purchase Agreement and any other of the Parity Subordinate Lien Obligations, the revenues from the Excise Taxes and State Shared Revenues in excess of amounts, if any, required to be deposited with or held by Trustee for payments due under this Agreement and the Trust Agreement shall constitute surplus revenues and may be used by Town for any lawful purpose for the benefit of Town, including the payment of obligations to which the revenues from the Excise Taxes and the State Shared Revenues may from time to time be pledged on a basis subordinate hereto. If at any time the moneys in the funds held for payment of amounts due under this Agreement or the Trust Agreement are not sufficient to make the deposits and transfers required, any such deficiency shall be made up from the first moneys thereafter received and available for such transfers under the terms of this Agreement and, with respect to payment from the revenues from the Excise Taxes and the State Shared Revenues, *pro rata*, as applicable, with amounts due with respect to obligations on a parity herewith with respect thereto, and the transfer of any such sum or sums to said fund as may be necessary to make up any such deficiency shall be in addition to the then-current transfers required to be made pursuant hereto.

**Section 4. Use of Other Funds at the Option of Town.** Town may, at the sole option of Town, make payments due pursuant to Section 1 from its other funds as permitted by law and as Town shall determine from time to time, but Seller acknowledges that it has no claim hereunder to such other funds. No part of the purchase price payable pursuant to this Agreement shall be payable out of any *ad valorem* property taxes imposed by Town or from bonds or other obligations, the payment of which Town's general taxing authority is pledged, unless (i) the same shall have been duly budgeted by Town according to law, (ii) such payment or payments shall be within the budget limitations of the statutes of the State, and (iii) any such bonded indebtedness or other obligation is within the debt limitations of the Constitution of the State.

**Section 5. Other Senior Obligations and Parity Subordinate Lien Obligations.**

(a) So long as any of the Obligations remain outstanding and the principal and interest thereon shall be unpaid or unprovided for or any other amounts remain unpaid or unprovided for hereunder, Town shall not further encumber the revenues from the Excise Taxes or the State Shared Revenues on a basis equal to or senior to the pledge hereunder unless the revenues from the Excise Taxes plus the State Shared Revenues, when combined mathematically for such purpose only, in the most recently completed Fiscal Year, shall have amounted to at least two (2) times the highest combined interest and principal requirements for any succeeding Fiscal Year for the Senior Obligations, the Third Subordinate Lien Purchase Agreement, this Agreement and the other of the Parity Subordinate Lien Obligations and taking into consideration the Senior Obligations or the Parity Subordinate Lien Obligations to be issued or incurred, treating, for purposes of such calculation, any Parity Subordinate Lien Obligations that bear interest at a variable rate as bearing their maximum annual tax-exempt, non-default interest rate and being amortized over a 30-year period in approximately equal annual installments of principal and interest such that the total annual debt service is equal in each Fiscal Year

thereafter for such Parity Subordinate Lien Obligations, such 30-year period beginning July 1, [2024], and ending July 1, [2054].

(b) Notwithstanding anything to the contrary herein, particularly the provisions of Subsection (a) of this Section, upon payment or provision for payment in full of the Third Subordinate Lien Purchase Agreement, the provisions of Subsection (a) of this Section shall no longer be in effect and other Senior Obligations and Parity Subordinate Lien Obligations may be incurred upon satisfaction of the conditions described in this Subsection (b). So long as any of the Obligations remain outstanding and the principal and interest thereon shall be unpaid or unprovided for or any other amounts remain unpaid or unprovided for hereunder, Town shall not further encumber the revenues from the Excise Taxes or the State Shared Revenues on a basis equal to or senior to the pledge hereunder unless the revenues from the Excise Taxes plus the State Shared Revenues, when combined mathematically for such purpose only, in the most recently completed Fiscal Year, shall have amounted to at least two (2) times the highest combined interest and principal requirements for any succeeding Fiscal Year for the Senior Obligations, this Agreement and the other of the Parity Subordinate Lien Obligations and taking into consideration the Senior Obligations or the Parity Subordinate Lien Obligations to be issued or incurred, treating, for purposes of such calculation, (i) any Senior Obligations or Parity Subordinate Lien Obligations that bear interest at a variable rate as bearing their maximum annual, non-default, non-taxable (so long as such Senior Obligations or Parity Subordinate Lien Obligations are executed and delivered such that the interest with respect thereto is excluded from gross income for federal income tax purposes) interest rate and being amortized over a 30-year period in approximately equal annual installments of principal and interest such that the total annual debt service is equal in each Fiscal Year thereafter for such Senior Obligations or Parity Subordinate Lien Obligations, such 30-year period commencing in the Fiscal Year next succeeding the Fiscal Year such Senior Obligations or Parity Subordinate Lien Obligations are incurred, and (ii) any Senior Obligations or Parity Subordinate Lien Obligations that mature within five years of incurrence thereof and bear interest at a fixed rate as bearing their non-default, non-taxable (so long as such Senior Obligations or Parity Subordinate Lien Obligations are executed and delivered such that the interest with respect thereto is excluded from gross income for federal income tax purposes) interest rate and being amortized over a 30-year period in approximately equal annual installments of principal and interest such that the total annual debt service is equal in each Fiscal Year thereafter for such Senior Obligations or Parity Subordinate Lien Obligations, such 30-year period commencing in the Fiscal Year next succeeding the Fiscal Year such Senior Obligations or Parity Subordinate Lien Obligations are incurred.

**Section 6. Town Control over Revenue Collection.**

(a) To the extent permitted by applicable law, the revenues from the Excise Taxes shall be retained and maintained so that the amounts received from the revenues from the Excise Taxes and the State Shared Revenues, when combined mathematically for such purpose only, all within and for the most recently completed Fiscal Year, shall have been equal to at least two (2) times the total of interest and principal requirements for the current Fiscal Year for the Senior Obligations, the Third Subordinate Lien Purchase Agreement, this Agreement and the other of the Parity Subordinate Lien Obligations, treating, for purposes of such calculation, any Parity Subordinate Lien Obligations that bear interest at a variable rate as bearing their maximum

annual tax-exempt, non-default interest rate and being amortized over a 30-year period in approximately equal annual installments of principal and interest such that the total annual debt service is equal in each Fiscal Year thereafter for such Parity Subordinate Lien Obligations, such 30-year period beginning July 1, [2024], and ending July 1, [2054]. If the revenues from the Excise Taxes and the State Shared Revenues for any such Fiscal Year shall not have been equal to at least one and one-quarter ( $1\frac{1}{4}$ ) times the total of the interest and principal requirements for the current Fiscal Year for the Senior Obligations, the Third Subordinate Lien Purchase Agreement, this Agreement and the other of the Parity Subordinate Lien Obligations, treating, for purposes of such calculation, any Parity Subordinate Lien Obligations that bear interest at a variable rate as bearing their maximum annual tax-exempt, non-default interest rate and being amortized over a 30-year period in approximately equal annual installments of principal and interest such that the total annual debt service is equal in each Fiscal Year thereafter for such Parity Subordinate Lien Obligations, such 30-year period beginning July 1, [2024], and ending July 1, [2054], or if at any time it appears that the revenues from the Excise Taxes and the State Shared Revenues will not be sufficient to meet such requirements, Town shall, to the extent permitted by applicable law, impose new exactions of the type of the Excise Taxes which will be part of the Excise Taxes or increase the rates for the Excise Taxes currently imposed fully sufficient at all times, after making allowance for contingencies and errors, in each Fiscal Year in order that (a) the revenues from the Excise Taxes and the State Shared Revenues will be sufficient to meet all current requirements hereunder, and (b) the revenues from the Excise Taxes and the State Shared Revenues will be reasonably calculated to attain the level as required by the first sentence of this subsection.

(b) Notwithstanding anything to the contrary herein, particularly the provisions of Subsection (a) of this Section, upon payment or provision for payment in full of the Third Subordinate Lien Purchase Agreement, the provisions of Subsection (a) of this Section shall no longer be in effect and the provisions of this Subsection (b) shall control. To the extent permitted by applicable law, the revenues from the Excise Taxes shall be retained and maintained so that the amounts received from the revenues from the Excise Taxes and the State Shared Revenues, when combined mathematically for such purpose only, all within and for the most recently completed Fiscal Year, shall have been equal to at least two (2) times the total of interest and principal requirements for the current Fiscal Year for the Senior Obligations, this Agreement and the other of the Parity Subordinate Lien Obligations, treating, for purposes of such calculation, (i) any Senior Obligations or Parity Subordinate Lien Obligations that bear interest at a variable rate as bearing their maximum annual, non-default, non-taxable (so long as such Senior Obligations or Parity Subordinate Lien Obligations are executed and delivered such that the interest with respect thereto is excluded from gross income for federal income tax purposes) interest rate and being amortized over a 30-year period in approximately equal annual installments of principal and interest such that the total annual debt service is equal in each Fiscal Year thereafter for such Senior Obligations or Parity Subordinate Lien Obligations, such 30-year period commencing in the Fiscal Year next succeeding the Fiscal Year such Senior Obligations or Parity Subordinate Lien Obligations are incurred, and (ii) any Senior Obligations or Parity Subordinate Lien Obligations that mature within five years of incurrence thereof and bear interest at a fixed rate as bearing their non-default, non-taxable (so long as such Senior Obligations or Parity Subordinate Lien Obligations are executed and delivered such that the interest with respect thereto is excluded from gross income for federal income tax purposes) interest rate and being amortized over a 30-year period in approximately equal annual

installments of principal and interest such that the total annual debt service is equal in each Fiscal Year thereafter for such Senior Obligations or Parity Subordinate Lien Obligations, such 30-year period commencing in the Fiscal Year next succeeding the Fiscal Year such Senior Obligations or Parity Subordinate Lien Obligations are incurred. If the revenues from the Excise Taxes and the State Shared Revenues for any such Fiscal Year shall not have been equal to at least one and one-quarter (1¼) times the total of the interest and principal requirements for the current Fiscal Year for the Senior Obligations, this Agreement and the other of the Parity Subordinate Lien Obligations, treating, for purposes of such calculation, (i) any Senior Obligations or Parity Subordinate Lien Obligations that bear interest at a variable rate as bearing their maximum annual, non-default, non-taxable (so long as such Senior Obligations or Parity Subordinate Lien Obligations are executed and delivered such that the interest with respect thereto is excluded from gross income for federal income tax purposes) interest rate and being amortized over a 30-year period in approximately equal annual installments of principal and interest such that the total annual debt service is equal in each Fiscal Year thereafter for such Senior Obligations or Parity Subordinate Lien Obligations, such 30-year period commencing in the Fiscal Year next succeeding the Fiscal Year such Senior Obligations or Parity Subordinate Lien Obligations are incurred, and (ii) any Senior Obligations or Parity Subordinate Lien Obligations that mature within five years of incurrence thereof and bear interest at a fixed rate as bearing their non-default, non-taxable (so long as such Senior Obligations or Parity Subordinate Lien Obligations are executed and delivered such that the interest with respect thereto is excluded from gross income for federal income tax purposes) interest rate and being amortized over a 30-year period in approximately equal annual installments of principal and interest such that the total annual debt service is equal in each Fiscal Year thereafter for such Senior Obligations or Parity Subordinate Lien Obligations, such 30-year period commencing in the Fiscal Year next succeeding the Fiscal Year such Senior Obligations or Parity Subordinate Lien Obligations are incurred, or if at any time it appears that the revenues from the Excise Taxes and the State Shared Revenues will not be sufficient to meet such requirements, Town shall, to the extent permitted by applicable law, impose new exactions of the type of the Excise Taxes which will be part of the Excise Taxes or increase the rates for the Excise Taxes currently imposed fully sufficient at all times, after making allowance for contingencies and errors, in each Fiscal Year in order that (a) the revenues from the Excise Taxes and the State Shared Revenues will be sufficient to meet all current requirements hereunder, and (b) the revenues from the Excise Taxes and the State Shared Revenues will be reasonably calculated to attain the level as required by the first sentence of this subsection

(c) (i) In order to secure payment of this Agreement and to create a separate and special fund which shall contain only the revenues from the Excise Taxes and shall not contain any other moneys of Town, Town shall continue to maintain the special fund known as the “Town of Queen Creek Excise Tax Revenue Fund” (the “Excise Tax Revenue Fund”) established by the First Loan Repayment Agreement. Upon receipt by Town, the revenues from the Excise Taxes shall be deposited in and to the Excise Tax Revenue Fund. The Excise Tax Revenue Fund shall be funded only from the revenues from the Excise Taxes received by Town and from no other source. After paying therefrom amounts of the revenues from the Excise Taxes for the purposes described herein, the Excise Tax Revenue Fund may be reduced to zero each December

16 and June 16 after the amount required to be paid as described hereinabove has been paid, including by transferring any such balance to the General Fund of Town.

(ii) In order to secure payment of this Agreement and to create a separate and special fund which shall contain only the State Shared Revenues and shall not contain any other moneys of Town, Town shall also continue to maintain the special fund known as the “Town of Queen Creek State Shared Revenue Fund” (the “State Shared Revenue Fund”) established by the First Loan Repayment Agreement. Upon receipt by Town, the State Shared Revenues shall be deposited in and to the State Shared Revenue Fund. The State Shared Revenue Fund shall be funded only from the State Shared Revenues received by Town and from no other source. After paying therefrom amounts of the State Shared Revenues for the purposes described herein, the State Shared Revenue Fund may be reduced to zero each December 16 and June 16 after the amount required to be paid as described hereinabove has been paid, including by transferring any such balance to the General Fund of Town.

**Section 7. Certain Matters with Respect to Project.**

(a) Except with respect to its power and authority to enter into this Agreement and to perform its covenants hereunder, Seller has made and makes no representation or warranty, express or implied, and assumes no obligation with respect to the title, merchantability, condition, quality or fitness of the Project for any particular purpose or the conformity of the Project to any plans, specifications, construction contract, purchase order, model or sample, or as to their design, construction, delivery, installation, construction oversight and operation or their suitability for use by Town after completion. All such risks shall be borne by Town without in any way excusing Town from its obligations under this Agreement, and Seller shall not be liable to Town for any damages on account of such risks. Except with respect to any acts by Seller which are not undertaken at the request of Town or with the prior approval of Town, Town waives all claims against Seller growing out of the acquisition, construction, installation or otherwise of the Project. Seller shall have no liability to Town for any failure of any contractor to perform any contract or other undertaking with respect to the Project in any respect. Seller shall have no obligation to obtain or insure compliance with any required permits or approval procedures with respect to the Project. In the event of any defect in any item of the Project or other claim with respect to the Project, recourse of Town shall be against the contractors, manufacturers, suppliers, etc. of the Project and, where applicable, the person selling the property to Seller, and not against Seller. For such purpose, Seller hereby assigns and transfers to Town the right, title and interest of Seller in and to all representations, warranties, guarantees and service agreements relating to the Project made or entered into by Seller and by any contractor, manufacturers, suppliers, etc. of the Project. Seller further designates Town as its attorney-in-fact granting to Town the right to initiate and take all actions necessary to enforce any and all construction contracts and all such warranties and service agreements. Seller is entering into this Agreement solely as Trustee, shall not be personally liable hereunder and shall be afforded the same rights, protections, immunities and indemnities acting hereunder as afforded to it as Trustee under the Trust Agreement. Notwithstanding anything to the contrary herein, at no time shall Seller be listed in the chain of title to the Project.



(b) Town has the power to enter into this Agreement; this Agreement is a lawful, valid and binding obligation of Town, enforceable against Town in accordance with its terms, and has been duly authorized, executed and delivered by Town; all required procedures for execution and performance hereof, including publication of notice, public hearing or competitive bidding, if applicable, have been or will be complied with in a timely manner and all Payments hereunder will be paid when due out of funds which are legally available for such purposes.

(c) The Project complies with all applicable environmental laws, rules and regulations (including, without limitation, all federal, state and local laws) and with Title III of the Americans with Disabilities Act and the regulations issued thereunder by the United States Department of Justice concerning accessibility of places of public accommodation and commercial facilities if and to the extent such Act and regulations apply to the Project.

**Section 8. Providing for Payment.** Town may provide for the payment of any of the Payments in any one or more of the following ways:

(a) by paying such Payment as provided herein as and when the same becomes due and payable at its scheduled due date pursuant to Section 1 hereof or on a date on which it can be prepaid;

(b) by depositing with a Depository Trustee, in trust for such purposes, money which, together with the amounts then on deposit with Trustee and available for such Payment is fully sufficient to make, or cause to be made, such Payment at its scheduled due date or on a date on which it can be prepaid; or

(c) by depositing with a Depository Trustee, in trust for such purpose, any Government Obligations which are noncallable, in such amount as shall be certified to Seller and Town, by a national firm of certified public accountants acceptable to both Seller and Town, as being fully sufficient, together with the interest to accrue thereon and moneys then on deposit with Seller and available for such Payment, to make, or cause to be made, such Payment at its scheduled due date or on a date on which it can be prepaid pursuant to Section 4.1 of the Trust Agreement.

Upon any partial payment of a Payment resulting in a redemption of Obligations, each installment of interest which shall thereafter be payable as a part of the subsequent Payments shall be reduced, taking into account the interest rate or rates on the Obligations remaining outstanding after the partial payment or redemption of Obligations from the proceeds of such payment so that the interest remaining payable as a part of the subsequent Payments shall be sufficient to pay the interest on such outstanding Obligations when due.

**Section 9. Continuation of Agreement.** The obligations of Town under this Agreement, including, without limitation, its obligation to pay the Payments, shall survive any action brought as provided in the next Section, and Town shall continue to pay the Payments and perform all other obligations provided in this Agreement; provided, however, that Town shall be credited with any amount received by Trustee pursuant to actions brought under the next Section.

**Section 10. Default; Remedies Upon Default.**

(a) (i) Upon (A) the nonpayment of the whole or any part of any of the Payments at the time when the same is to be paid as provided herein or in the Trust Agreement; (B) the violation by Town of any other covenant or provision of this Agreement or the Trust Agreement; (C) the occurrence of an event of default with respect to any of the Senior Obligations, the Third Subordinate Lien Purchase Agreement or the other of the Parity Subordinate Lien Obligations; or (D) the insolvency or bankruptcy of Town as the same may be defined under any law of the United States of America or the State, or any voluntary or involuntary action of Town or others to take advantage of, or to impose, as the case may be, any law for the relief of debtors or creditors, including a petition for reorganization, and

(ii) if such default has not been cured (A) in the case of nonpayment of any of the Payments as required hereunder or under the Trust Agreement on the due date or the nonpayment of payments on their due dates with respect to any of the Senior Obligations, the Third Subordinate Lien Purchase Agreement or the other of the Parity Subordinate Lien Obligations; (B) in the case of the breach of any other covenant or provision of the Trust Agreement or this Agreement not cured within sixty (60) days after notice in writing from Seller specifying such default; and (C) in the case of any other default under any of the Senior Obligations, the Third Subordinate Lien Purchase Agreement or the other of the Parity Subordinate Lien Obligations after any notice and passage of time provided for under the proceedings under which such obligations were issued then,

(iii) subject to the limitations of the Trust Agreement, Seller may take whatever action at law or in equity, including the remedy of specific performance, may appear necessary or desirable to collect the Payments and any other amounts payable by Town under the Trust Agreement or this Agreement then due (but not the Payments and such other amounts accruing), or to enforce performance and observance of any pledge, obligation, agreement or covenant of Town under the Trust Agreement or this Agreement, and with respect to the revenues from the Excise Taxes and the State Shared Revenues, subject in each case to the senior rights with respect to the Senior Obligations (including as affected by Agency/Authority Loan Agreements), without notice and without giving any bond or surety to Town or anyone claiming under Town, may have a receiver appointed of the amounts of the revenues from the Excise Taxes and the State Shared Revenues, subject in each case to the senior rights with respect to the Senior Obligations (including as affected by Agency/Authority Loan Agreements), which are pledged to the payment of amounts due hereunder, with such powers as the court making such appointment shall confer (and Town does hereby irrevocably consent to such appointment); provided, however, that under no circumstances may the Payments be accelerated.

Each right, power and remedy of Seller provided for in this Agreement shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for herein, or, unless prohibited by the terms hereof, now or hereafter existing at law or in equity or by statute or otherwise, in any jurisdiction where such rights, powers and remedies are sought to be

enforced, and the exercise or beginning of the exercise by Seller of any one or more of the rights, powers or remedies provided for herein or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by either party of any or all of such other rights, powers or remedies. The failure to insist upon strict performance of any of the covenants or agreements herein set forth shall not be considered or taken as a waiver or relinquishment for the future of the rights of Seller to insist upon a strict compliance by Seller with all the covenants and conditions hereof. Town shall, upon not less than 10 days' prior request by Seller, execute, acknowledge and deliver to Trustee a statement in writing certifying that this Agreement is unmodified and in full force and effect (or, if this Agreement has been modified, that it is in full force and effect except as modified, and stating the modification), and the dates to which the amounts payable hereunder have been paid in advance, if any.

(b) Seller shall in no event be in default in the performance of any of its obligations hereunder unless and until Seller shall have failed to perform such obligation within 30 days or such additional time as is reasonably required to correct any such default after notice by Town properly specifying wherein Seller has failed to perform any such obligation. No default by Seller shall relieve Town of its obligations to make the various payments herein required, so long as any of the Obligations remain outstanding; however, Town may exercise any other remedy available at law or in equity to require Seller to remedy such default so long as such remedy does not interfere with or endanger the payments required to be made to Trustee under the Trust Agreement.

**Section 11. Assignment.**

(a) Except as otherwise provided herein, Town shall not assign, transfer, pledge or hypothecate or otherwise dispose of this Agreement or any interest therein.

(b) Subject to the terms of the Trust Agreement, all and every part of the right, title and interest of Town in and to this Agreement and all payments of any kind due or which become due to Seller hereunder are sold, pledged, assigned and transferred pursuant to the Trust Agreement.

**Section 12. Federal Law Provisions.**

(a) As described in further detail in the Tax Certificate, no direction for the making of any investment or other use of the proceeds of any of the Obligations or of the Project shall be made, permitted to be made or omitted from being made which would cause the Obligations to be "arbitrage bonds" as that term is defined in section 148 (or any successor provision thereto) of the Code or "private activity bonds" as that term is defined in section 141 (or any successor provision thereto) of the Code, and the requirements of such sections and related regulations of the Code shall be complied with throughout the term of the Obligations. (Particularly, Town shall be the owner of the Project for federal income tax purposes. Town shall not enter into any management or service contract with any entity other than a governmental entity for the operation of any portion of the Project unless the management or service contract complies with the requirements of such authority as may control at the time or any lease or other arrangement with any entity other than a governmental entity that gives such entity special legal entitlements with respect to any portion thereof.) Also, the payment of

principal and interest with respect to the Obligations shall not be guaranteed (in whole or in part) by the United States or any agency or instrumentality of the United States. The proceeds of the Obligations, or amounts treated as proceeds of the Obligations, shall not be invested (directly or indirectly) in federally insured deposits or accounts, except to the extent such proceeds may be so invested for an initial temporary period until needed for the purpose for which the Obligations are being executed and delivered, may be so used in making investments in a *bona fide* debt service fund or may be invested in obligations issued by the United States Treasury. In consideration of the purchase and acceptance of the Obligations by the owners from time to time thereof and of retaining such exclusion and as authorized by Title 35, Chapter 3, Article 7, Arizona Revised Statutes, Town shall, and the appropriate officials of Town are hereby directed, to take all action required to retain such exclusion or to refrain from taking any action prohibited by the Code which would adversely affect in any respect such exclusion.

(b) (i) Town shall take all necessary and desirable steps, as determined by the Mayor and Council of Town, to comply with the requirements hereunder in order to ensure that the Interest Portion is excluded from gross income for federal income tax purposes under the Code; provided, however, compliance with any such requirement shall not be required in the event Town receives a Bond Counsel's Opinion (as such term is defined in the next Section) that either compliance with such requirement is not required to maintain the exclusion from gross income of the Interest Portion or compliance with some other requirement will meet the requirements of the Code. In the event Town receives such a Bond Counsel's Opinion, the parties agree to amend this Agreement to conform to the requirements set forth in such opinion.

(ii) If for any reason any requirement hereunder is not complied with, Town shall take all necessary and desirable steps, as determined by Town, to correct such noncompliance within a reasonable period of time after such noncompliance is discovered or should have been discovered with the exercise of reasonable diligence and Town shall pay any required interest or penalty under hereinafter described Regulations section 1.148-3(h) with respect to the Code.

(c) Written procedures have been established for Town to ensure that all nonqualified obligations are remediated according to the requirements under the Code and related Regulations and to monitor the requirements of section 148 of the Code relating to arbitrage, with which Town will comply.

(d) The procedures required by any arbitrage rebate provision or separate agreement executed in connection with the execution and delivery of the Obligations (initially, those in the next Section) shall be complied with for so long as compliance is necessary pursuant to the Code.

### **Section 13. Rebate Provisions.**

(a) Terms not otherwise defined in Subsection (b) hereof shall have the meanings given to them in the Tax Certificate.

(b) The following terms shall have the following meanings:

Bond Counsel's Opinion shall mean an opinion signed by an attorney or firm of attorneys of nationally recognized standing in the field of law relating to municipal bonds selected by Town.

Bond Year shall mean each one-year period beginning on the day after the expiration of the preceding Bond Year. The first Bond Year shall begin on the date of execution and delivery of the Obligations and shall end on the date selected by Town, provided that the first Bond Year shall not exceed one calendar year. The last Bond Year shall end on the date of retirement of the last Obligation.

Bond Yield is as indicated in the Tax Certificate. Bond Yield shall mean the yield on the Obligations under Regulations Section 1.148-4. In the case of the Obligations, yield is computed as of each Computation Date for the period from the prior Computation Date (or from the Closing Date in the case of the first Computation Date) to the current Computation Date, and is based upon (a) the actual payments of principal and interest on the issue (including amounts treated as interest such as payments in respect of a "qualified guarantee" (as such term is used in Regulations Section 1.148-4(f)) or payments under a "qualified hedge" (as such term is used in Regulations Section 1.148-4(h)) and (b) the assumed receipt on such date of an amount equal to the value of the outstanding Obligations. In the context of the Obligations, the Computation Dates may be selected, using all information available, so as to minimize rebate liability. Such selection may be made up to the first Required Payment Date (as defined herein). Periods as short as one year or as long as five years may be selected. Following the selection, all subsequent periods must be one-year or five-year periods. Use of shorter periods does not accelerate the Required Payment Dates.

Computation Date shall mean a date as of which the Rebate Requirement with respect to the Obligations must be calculated under Regulations Section 1.148-3(e). The first Computation Date may not be later than five years after the Closing Date. Each subsequent Computation Date must not be later than five years after the previous Computation Date.

Computation Period shall mean the period between Computation Dates. The first Computation Period begins on the Closing Date and ends on the first Computation Date. Each succeeding Computation Period begins on the date immediately following the Computation Date and ends on the next Computation Date.

Gross Proceeds shall mean:

(i) any amounts actually or constructively received by Town from the sale of the Obligations but excluding amounts used to pay accrued interest on the Obligations within one year of the date of execution and delivery of the Obligations;

(ii) transferred proceeds of the Obligations under Regulations section 1.148-9;

(iii) any amounts actually or constructively received from investing amounts described in (i), (ii) or this (iii); and

(iv) replacement proceeds of the Obligations within the meaning of Regulations section 1.148-1(c). Replacement proceeds include amounts reasonably expected to be used directly or indirectly to pay debt service on the Obligations, pledged amounts where there is reasonable assurance that such amounts will be available to pay principal or interest on the Obligations in the event Town or Trustee encounters financial difficulties and other replacement proceeds within the meaning of Regulations section 1.148-1(c)(4). Whether an amount is Gross Proceeds is determined without regard to whether the amount is held in any fund or account established under the Trust Agreement.

Investment Property shall mean any security, obligation (other than a tax-exempt bond within the meaning of Code section 148(b)(3)(A)), annuity contract or investment-type property within the meaning of Regulations section 1.148-1(b).

Issue Price is as indicated in the Tax Certificate and shall be determined as provided in Regulations section 1.148-1(b).

Nonpurpose Investment shall mean any Investment Property acquired with Gross Proceeds and which is not acquired to carry out the governmental purposes of the Obligations.

Obligation Payment shall mean any payment within the meaning of Regulations section 1.148-3(d)(1) with respect to a Nonpurpose Investment.

Rebate Requirement shall mean at any time the excess of the future value of all Receipts over the future value of all Obligation Payments. For purposes of calculating the Rebate Requirement the Bond Yield shall be used to determine the future value of Receipts and Obligation Payments in accordance with Regulations section 1.148-3(c). The Rebate Requirement is zero for any Nonpurpose Investment meeting the requirements of a rebate exception under section 148(f)(4) of the Code or Regulations section 1.148-7.

Receipt shall mean any receipt within the meaning of Regulations section 1.148-3(d)(2) with respect to a Nonpurpose Investment.

Regulations shall mean the sections 1.148-1 through 1.148-11 and section 1.150-1 of the regulations of the United States Department of the Treasury promulgated under the Code, including and any amendments thereto or successor regulations.

(c) Within 60 days after the end of each Bond Year, unless an exception to the requirement to do is properly established, Town shall cause the Rebate Requirement to be calculated and shall pay to the United States of America:

(1) not later than 60 days after the end of the fifth Bond Year and every fifth Bond Year thereafter, an amount which, when added to the future value of all previous rebate payments with respect to the Obligations (determined as of such Computation Date), is equal to at least 90% of the sum of the Rebate Requirement (determined as of the last day of such Bond Year) plus the future value of all previous rebate payments with respect to the Obligations (determined as of the last day of such Bond Year); and

(2) not later than 60 days after the retirement of the last Obligation, an amount equal to 100% of the Rebate Requirement (determined as of the date of retirement of the last Obligation). Each such applicable date may be referred to herein as a “Required Payment Date.”

Each payment required to be made under this Section shall be filed on or before the date such payment is due, with the Internal Revenue Service at the appropriate location and with required forms and other materials, currently by addressing it to IRS Service Center, Ogden, Utah 84201, and accompanying it with IRS Form 8038-T.

(d) No Nonpurpose Investment shall be acquired for an amount in excess of its fair market value. No Nonpurpose Investment shall be sold or otherwise disposed of for an amount less than its fair market value.

(e) For purposes of Subsection (d), whether a Nonpurpose Investment has been purchased or sold or disposed of for its fair market value shall be determined as follows:

(1) The fair market value of a Nonpurpose Investment generally shall be the price at which a willing buyer would purchase the Nonpurpose Investment from a willing seller in a bona fide arm’s length transaction. Fair market value shall be determined on the date on which a contract to purchase or sell the Nonpurpose Investment becomes binding.

(2) Except as provided in Subsection (f) or (g), a Nonpurpose Investment that is not of a type traded on an established securities market, within the meaning of Code section 1273, is rebuttably presumed to be acquired or disposed of for a price that is not equal to its fair market value.

(3) If a United States Treasury obligation is acquired directly from or sold or disposed of directly to the United States Treasury, such acquisition or sale or disposition shall be treated as establishing the fair market value of the obligation.

(f) The purchase price of a certificate of deposit that has a fixed interest rate, a fixed payment schedule and a substantial penalty for early withdrawal is considered to be its fair market value if the yield on the certificate of deposit is not less than:

(1) the yield on reasonably comparable direct obligations of the United States; and

(2) the highest yield that is published or posted by the provider to be currently available from the provider on reasonably comparable certificates of deposit offered to the public.

(g) A guaranteed investment contract shall be considered acquired and disposed of for an amount equal to its fair market value if:

(1) A bona fide solicitation in writing for a specified guaranteed investment contract, including all material terms, is timely forwarded to all potential

providers. The solicitation must include a statement that the submission of a bid is a representation that the potential provider did not consult with any other potential provider about its bid, that the bid was determined without regard to any other formal or informal agreement that the potential provider has with Town or any other person (whether or not in connection with the Obligations), and that the bid is not being submitted solely as a courtesy to Town or any other person for purposes of satisfying the requirements in the Regulations that Town receive bids from at least one reasonably competitive provider and at least three providers that do not have a material financial interest in the Obligations.

(2) All potential providers have an equal opportunity to bid, with no potential provider having the opportunity to review other bids before providing a bid.

(3) At least three reasonably competitive providers (i.e. having an established industry reputation as a competitive provider of the type of investments being purchased) are solicited for bids. At least three bids must be received from providers that have no material financial interest in the Obligations (e.g., a lead underwriter within 15 days of the issue date of the Obligations or a financial advisor with respect to the investment) and at least one of such three bids must be from a reasonably competitive provider. If Town uses an agent to conduct the bidding, the agent may not bid.

(4) The highest-yielding guaranteed investment contract for which a qualifying bid is made (determined net of broker's fees) is purchased.

(5) The determination of the terms of the guaranteed investment contract takes into account as a significant factor the reasonably expected deposit and drawdown schedule for the amounts to be invested.

(6) The terms for the guaranteed investment contract are commercially reasonable (i.e. have a legitimate business purpose other than to increase the purchase price or reduce the yield of the guaranteed investment contract).

(7) The provider of the investment contract certifies the administrative costs (as defined in Regulations section 1.148-5(e)) that it pays (or expects to pay) to third parties in connection with the guaranteed investment contract.

(8) Town retains until three years after the last outstanding Obligation is retired, (i) a copy of the guaranteed investment contract, (ii) a receipt or other record of the amount actually paid for the guaranteed investment contract, including any administrative costs paid by Town and a copy of the provider's certification described in (7) above, (iii) the name of the person and entity submitting each bid, the time and date of the bid, and the bid results and (iv) the bid solicitation form and, if the terms of the guaranteed investment contract deviate from the bid solicitation form or a submitted bid is modified, a brief statement explaining the deviation and stating the purpose of the deviation.

(h) Such experts and consultants shall be employed by Town to make, as necessary, any calculations in respect of rebates to be made to the United States of America in accordance with section 148(f) of the Code with respect to the Obligations. Trustee has no duties



or obligations under this Section 13 and no duty to monitor compliance by Town with this Section 13.

**Section 14. Quiet Possession; Town’s Easement to Seller.** Town, by keeping and performing the covenants and agreements herein contained, shall at all times during the term of this Agreement, peaceably and quietly, have, hold and enjoy the Project, without suit, trouble or hindrance from Seller. Town hereby grants and conveys to Seller, and all persons claiming by, through or under Seller, including its successors and assigns under the Trust Agreement and the Owners for whom it acts, a nonexclusive easement upon, in and to the Project for the purpose of permitting the Project to be maintained upon the premises.

**Section 15. Covenant as to Conflict of Interest; Other Statutory Restrictions.**

(a) To the extent applicable by provision of law, Seller acknowledges that this Agreement is subject to cancellation pursuant to Section 38-511, Arizona Revised Statutes, the provisions of which are incorporated herein and which provides that Town may within three (3) years after its execution cancel any contract (including this Agreement) without penalty or further obligation made by Town if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of Town is at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party to the contract with respect to the subject matter of the contract. The cancellation shall be effective when written notice is received by all other parties to the contract unless the notice specifies a later time.

(b) To the extent applicable under Section 41-4401, Arizona Revised Statutes, Trustee shall comply with all federal immigration laws and regulations that relate to its employees and its compliance with the “e-verify” requirements under Section 23-214(A), Arizona Revised Statutes. The breach by Seller of the foregoing shall be deemed a material breach of this Agreement and may result in the termination of the services of Seller by Town. Town retains the legal right to randomly inspect the papers and records of Seller to ensure that Seller is complying with the above-mentioned warranty. Seller shall keep such papers and records open for random inspection during normal business hours by Town. Seller shall cooperate with the random inspections by Town including granting Town entry rights onto its property to perform such random inspections and waiving its respective rights to keep such papers and records confidential. Town shall preserve the confidentiality of any information, records or papers Town views, accesses or otherwise obtains during any and every such random inspection, including, without limitation, such information.

(c) To the extent applicable under Section 35-393 et seq., Arizona Revised Statutes, Trustee hereby certifies it is not currently engaged in, and for the duration of this Agreement shall not engage in, a boycott of Israel. The term “boycott” has the meaning set forth in Section 35-393, Arizona Revised Statutes. If Town determines that Trustee’s certification above is false or that it has breached such agreement, Town may impose remedies as provided by law.

(d) To the extent applicable under Section 35-394, Arizona Revised Statutes, Trustee hereby certifies it does not currently, and for the duration of this Agreement

shall not use: (i) the forced labor of ethnic Uyghurs in the People’s Republic of China, (ii) any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China, and (iii) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China. The foregoing certification is made to the best knowledge of Trustee without any current independent investigation or without any future independent investigation for the duration of this Agreement. If Trustee becomes aware during the duration of this Agreement that it is not in compliance with such certification, Trustee shall take such actions as provided by law, including providing the required notice to Town. If Town determines that Trustee is not in compliance with the foregoing certification and has not taken remedial action, Town shall terminate Trustee’s role as Trustee hereunder pursuant to Article VIII of the Trust Agreement.

**Section 16. Seller’s Limited Authority.** Notwithstanding any other terms or provisions of this Agreement, the interest of Seller in the Project, if any, is solely in its capacity as Trustee for the purpose of facilitating the financing of the Project, and Seller shall not have the power, authority or obligation to assume any responsibility for the overall management or maintenance of the Project, including, without limitation, any day-to-day decision-making or operational aspects of the Project. The elements of the Project and the sites therefor were selected by Town, and all design and engineering criteria and specifications for the Project were constructed or acquired or will be determined by Town.

**Section 17. Seller as Trustee.** Seller is acting hereunder in its capacity as Trustee under the Trust Agreement and the term “Seller”, when used herein, shall mean Trustee as defined in the Trust Agreement.

**Section 18. Notices; Mailing Addresses.** All notices, consents or other communications required or permitted hereunder shall be deemed sufficient if given in writing addressed and mailed by registered or certified mail, or delivered to the party for which the same is intended or certified, as follows:

If to Seller:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: Global Corporate Trust

If to Town:

Town of Queen Creek, Arizona  
22358 South Ellsworth Road  
Queen Creek, Arizona 85142-9311  
Attention: Town Manager

**Section 19. Miscellaneous.**

(a) No covenant or obligation herein to be performed by Town may be waived except by the written consent of Seller, and a waiver of any such covenant or obligation or a forbearance to invoke any remedy on any occasion shall not constitute or be treated as a waiver of such covenant or obligation as to any other occasion and shall not preclude Seller from invoking such remedy at any later time prior to the cure by Town of the condition giving rise to such remedy.

(b) This Agreement shall be construed and governed in accordance with the laws of the State in effect from time to time.

(c) The recitals set forth at the beginning of this Agreement are incorporated in this Agreement by this reference. This Agreement constitutes the entire agreement between the parties and shall not be modified, waived, discharged, terminated, amended, supplemented, altered or changed in any respect except by a written document signed by both Seller and Town, subject to the restrictions with regard thereto provided by the Trust Agreement.

(d) Any term or provision of this Agreement found to be prohibited by law or unenforceable or which would cause this Agreement to be invalid, prohibited by law or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without, to the extent reasonably possible, causing the remainder of this Agreement to be invalid, prohibited by law or unenforceable.

(e) Seller hereunder shall have the right at any time or times, by notice to Town, to designate or appoint any person or entity to act as agent or trustee for Seller for any purposes hereunder.

(f) The captions set forth herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

(g) Except as otherwise provided herein, this Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, assigns and personal representatives, as the case may be. Any person or entity acquiring any interest in or to the right, title or interest of Seller herein shall be and have the rights of a third-party beneficiary hereunder.

(h) This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

[Signature page follows.]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the first day of \_\_\_\_\_ 2023.

**Seller:**

\_\_\_\_\_, as Trustee

By.....  
Authorized Representative

**Town:**

**TOWN OF QUEEN CREEK, ARIZONA, a  
municipal corporation and political subdivision  
under the laws of the State of Arizona**

By.....  
Mayor

**ATTEST:**

.....  
Town Clerk

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**FOURTH SUBORDINATE LIEN TRUST AGREEMENT**

by and between

\_\_\_\_\_,  
as Trustee

and

**THE TOWN OF QUEEN CREEK, ARIZONA**

Dated as of \_\_\_\_\_ 1, 2023

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## **FOURTH SUBORDINATE LIEN TRUST AGREEMENT**

**THIS FOURTH SUBORDINATE LIEN TRUST AGREEMENT**, dated as of \_\_\_\_\_ 1, 2023 (together with any duly authorized, executed and delivered supplement thereto, this “Trust Agreement” or “Agreement”), by and between \_\_\_\_\_, a national banking association, as trustee, or any successor thereto acting as trustee pursuant to this Trust Agreement (the “Trustee”), and in its capacity as “Seller” pursuant to the Fourth Subordinate Lien Purchase Agreement, dated as of \_\_\_\_\_ 1, 2023 (together with any duly authorized, executed and delivered amendment thereto, the “Purchase Agreement”) by and between the hereinafter defined Town and the Trustee, as “Seller”, and **THE TOWN OF QUEEN CREEK, ARIZONA**, a municipal corporation organized under the laws of the State of Arizona (the “Town”);

### **W I T N E S S E T H:**

**WHEREAS**, the Town heretofore determined that it would be beneficial to its citizens to refinance the Loan Repayment Agreement, dated as of October 1, 2003, between the Town and the Greater Arizona Development Authority, a body corporate and politic constituting a governmental instrumentality duly organized and existing within the State of Arizona under the Constitution and laws of the State of Arizona (“GADA”); and

**WHEREAS**, in order to finance the costs thereof, the Town deemed it necessary and desirable to borrow \$3,845,000 from GADA; and

**WHEREAS**, in connection therewith, the Town and GADA entered into the Sixth Loan Repayment Agreement, dated as of March 1, 2014 (the “Sixth Loan Repayment Agreement”); and

**WHEREAS**, the Town also heretofore determined that it would be beneficial to its citizens to refinance the Second Loan Repayment Agreement, the Third Loan Repayment Agreement, the Fourth Loan Repayment Agreement, and the Fifth Loan Repayment Agreement, each between the Town and GADA, the First Purchase Agreement, between the Town, as buyer, and a trustee, as seller, and to prepay assessments associated with Town property in a certain district, which assessments were levied pursuant to Title 48, Chapter 4, Article 2, Arizona Revised Statutes; and

**WHEREAS**, in order to finance and refinance the costs thereof, the Town deemed it necessary and desirable to cause the execution and delivery of obligations in the principal amount of \$47,990,000, representing interests in a Second Purchase Agreement, dated as of October 1, 2016 (the “Second Purchase Agreement”), between the Town, as buyer, and a trustee, as seller; and

**WHEREAS**, the Town also heretofore determined that it would be beneficial to its citizens to finance the costs of street improvements and public safety facilities; and

**WHEREAS**, in order to finance the costs thereof, the Town deemed it necessary and desirable to cause the execution and delivery of obligations in two series in the aggregate principal amount of \$65,960,000, representing interests in a Third Purchase Agreement, dated as

of February 1, 2018 (the “Third Purchase Agreement”), between the Town, as buyer, and a trustee, as seller; and

**WHEREAS**, the Town also heretofore determined that it would be beneficial to its citizens to finance the costs of additional street improvements and additional public safety facilities; and

**WHEREAS**, in order to finance the costs thereof, the Town deemed it necessary and desirable to cause the execution and delivery of obligations in the principal amount of \$78,605,000, representing interests in a Fourth Purchase Agreement, dated as of June 1, 2020 (the “Fourth Purchase Agreement”), between the Town, as buyer, and a trustee, as seller; and

**WHEREAS**, the Town also heretofore determined it would be beneficial to its citizens to finance the costs of improvements to the Town’s utility system; and

**WHEREAS**, in order to finance the costs thereof, the Town deemed it necessary and desirable to cause the execution and delivery of obligations in the principal amount of \$85,000,000, representing interests in a Third Subordinate Lien Purchase Agreement, dated as of December 1, 2021 (the “Third Subordinate Lien Purchase Agreement”), between the Town, as buyer, and a trustee, as seller; and

**WHEREAS**, the Town also heretofore determined that it would be beneficial to its citizens to finance the costs of parks and recreation projects in and for the Town; and

**WHEREAS**, in order to finance the costs thereof, the Town deemed it necessary and desirable to cause the execution and delivery of obligations in the principal amount of \$106,980,000, representing interests in a Fifth Purchase Agreement, dated as of June 1, 2022 (the “Fifth Purchase Agreement”), between the Town, as buyer, and a trustee, as seller; and

**WHEREAS**, the Town also heretofore determined that it would be beneficial to its citizens to finance the costs of additional parks and recreation projects in and for the Town; and

**WHEREAS**, in order to finance the costs thereof, the Town deemed it necessary and desirable to cause the execution and delivery of obligations in the principal amount of \$24,223,000, representing interests in a Sixth Purchase Agreement, dated as of June 1, 2022 (the “Sixth Purchase Agreement”), between the Town, as buyer, and a trustee, as seller; and

**WHEREAS**, the Town has now determined it will be beneficial to its citizens to finance and/or reimburse the costs of street improvements, improvements to the Town’s utility system and related infrastructure improvements in and for the Town (the “Project”); and

**WHEREAS**, for the purpose of financing the Project, the Town has heretofore agreed to make purchase payments to the Trustee, and the Trustee has agreed to provide for the Project pursuant to the Purchase Agreement, the payment of which shall be limited to amounts from the revenues from the Excise Taxes (as such term and all other terms not otherwise defined hereinabove are hereinafter defined) and the State Shared Revenues; and

**WHEREAS**, pursuant to Section 3 of the Sixth Loan Repayment Agreement, the Town has irrevocably pledged for the payment of the amounts due thereunder the revenues from the Excise Taxes and the State Shared Revenues, such pledge being a first lien pledge upon such amounts of the revenues from the Excise Taxes and the State Shared Revenues as will be sufficient to make the payments pursuant thereto when due; and

**WHEREAS**, pursuant to such Section of the Sixth Loan Repayment Agreement, except as limited by Section 10(a)(iii) of the Sixth Loan Repayment Agreement and by the corresponding sections in any agreement for any additional loan from GADA or for any loan from the Water Infrastructure Finance Authority of Arizona (“WIFA”), subject to Section 49-1225(F) or 49-1245(F), Arizona Revised Statutes, hereinafter consummated (collectively, “Additional Agency/Authority Loan Agreements” and, together with the Sixth Loan Repayment Agreement, “Agency/Authority Loan Agreements”), the rights of GADA to payment from the revenues from the Excise Taxes and the State Shared Revenues will be on a parity with the rights to payment from the revenues from the Excise Taxes and the State Shared Revenues of any obligations hereafter issued on a parity with the Sixth Loan Repayment Agreement, as permitted pursuant to Section 6 of the Sixth Loan Repayment Agreement (the “Parity Lien Obligations”), which includes Additional Agency/Authority Loan Agreements; and

**WHEREAS**, the Second Purchase Agreement, the Third Purchase Agreement, the Fourth Purchase Agreement, the Fifth Purchase Agreement and the Sixth Purchase Agreement were executed and delivered as Parity Lien Obligations (the Sixth Loan Repayment Agreement, the Second Purchase Agreement, the Third Purchase Agreement, the Fourth Purchase Agreement, the Fifth Purchase Agreement, the Sixth Purchase Agreement and any other Parity Lien Obligations hereafter incurred are referred to herein collectively as the “Senior Obligations”), and the Town has irrevocably pledged for the payment of the amounts due under this Agreement the revenues from the Excise Taxes and the State Shared Revenues, such pledge being a second lien pledge upon such amounts of the revenues from the Excise Taxes and the State Shared Revenues (including as diminished by Agency/Authority Loan Agreements) as will be sufficient to make the payments pursuant hereto when due, such pledge being subordinate to the pledge of the revenues from the Excise Taxes and the State Shared Revenues to the Senior Obligations; and

**WHEREAS**, after giving effect to the Purchase Agreement, the Town shall not further encumber the revenues from the Excise Taxes and the State Shared Revenues on a basis equal to or senior to the pledge under the Purchase Agreement unless the revenues from the Excise Taxes plus the State Shared Revenues, when combined mathematically for such purpose only, in the most recently completed Fiscal Year of the Town, shall have amounted to at least two (2) times the highest combined interest and principal requirements for any succeeding Fiscal Year of the Town for the Senior Obligations, the Third Subordinate Lien Purchase Agreement and the Purchase Agreement and any obligations secured or so proposed to be secured by such pledge of the revenues from the Excise Taxes and the State Shared Revenues on a parity of lien with the Third Subordinate Lien Purchase Agreement and the Purchase Agreement (with the Third Subordinate Lien Purchase Agreement and the Purchase Agreement, the “Parity Subordinate Lien Obligations”); and

**WHEREAS**, Section 10(a) of the Sixth Loan Repayment Agreement provides that GADA may in the case of nonpayment, among other things, certify to the Treasurer of the State and notify the Mayor and Council of Town that Town has failed to make a required payment and direct a withholding of the State Shared Revenues as provided in Sections 41-2257(L) and (M) and 41-2258(I), (J) and (K), Arizona Revised Statutes (the “State Intercept of Funds”), and Additional Agency/Authority Loan Agreements may provide that GADA or WIFA provide for enforcement with the State Intercept of Funds; and

**WHEREAS**, the Town is a political subdivision duly organized and validly existing under the laws of the State; the Constitution and the laws of the State authorize the Town to enter into this Agreement and to enter into the agreements and transactions contemplated by, and to carry out its obligations under, said agreements; the Town has duly authorized and executed all of the aforesaid agreements; this Agreement is a lawful, valid and binding obligation of the Town, enforceable against the Town in accordance with its terms, and has been duly authorized, executed and delivered by the Town; all required procedures for execution and performance of this Agreement, including publication of notice, public hearing or competitive bidding, if applicable, have been or will be complied with in a timely manner; the Payments will be paid when due out of funds which are legally available for such purposes; and neither the execution and delivery of this Agreement or the Purchase Agreement, nor the fulfillment of or compliance with the terms and conditions hereof or thereof nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Town is now a party or by which the Town is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Town; and

**WHEREAS**, the Trustee has full legal authority and is duly empowered to enter into this Agreement and has taken all actions necessary to authorize the execution and delivery hereof; and

**WHEREAS**, the Town and the Trustee will enter into this Trust Agreement to facilitate the administration of the financing of the Project; and

**WHEREAS**, for the purpose of obtaining money to be deposited with the Trustee to finance the Project, the Trustee will execute and deliver Subordinate Lien Excise Tax and State Shared Revenue Obligations, Series 2023 (the “Obligations”), each evidencing a proportionate interest in the Purchase Agreement and the Payments made by the Town under the Purchase Agreement, in exchange for the moneys required herein to be deposited for the Project;

**NOW, THEREFORE**, in consideration for the Obligations executed, delivered and Outstanding under this Trust Agreement, the acceptance by the Trustee of the trusts created herein and the purchase and acceptance of the Obligations by the Owners, and to secure the payment of principal thereof and interest thereon (to the extent provided herein), the rights of the Owners of the Obligations and the performance and the observance of the covenants and conditions contained in the Obligations, the Purchase Agreement and herein, the Trustee hereby declares an irrevocable trust and acknowledges its acceptance of all right, title and interest in and to the following described trust estate, which shall be administered by the Trustee according to

the provisions of this Trust Agreement and for the equal and proportionate benefit of the Owners of Obligations:

A. All right, title and interest of Seller in, under and pursuant to the Purchase Agreement, the Payments and any other amounts payable by the Town under the Purchase Agreement and the present and continuing right to (i) make claim for, collect or cause to be collected, receive or cause to be received all such revenues, receipts and other sums of money payable or receivable thereunder, (ii) bring actions and proceedings thereunder or for the enforcement of such rights, and (iii) do any and all other things which the Seller is or may become entitled to do thereunder;

B. Amounts on deposit from time to time in the funds created pursuant hereto, subject to the provisions of this Trust Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein; and

C. Any and all other real or personal property of any kind from time to time hereafter by delivery or by writing of any kind specifically conveyed, pledged, assigned or transferred, as and for additional security hereunder for the Obligations, by Seller or by anyone on its behalf or with its written consent, in favor of the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof,

**TO HAVE AND TO HOLD**, all and singular, the trust estate, including all additional property which by the terms hereof has or may become subject to the encumbrance of this Trust Agreement, unto the Trustee and its successors and assigns, forever, subject, however, to the rights of the Town, its successors and assigns, under the Purchase Agreement;

**IN TRUST**, however, for the equal and proportionate benefit and security of the Owners from time to time of the Obligations executed and delivered hereunder and Outstanding; and conditioned, however, that if the Town shall well and truly pay or cause to be paid fully and promptly when due all indebtedness, liabilities, obligations and sums at any time secured hereby, including interest and attorneys' fees, and shall promptly, faithfully and strictly keep, perform and observe or cause to be kept, performed and observed all of its covenants, warranties and agreements contained herein, this Trust Agreement shall be and become void and of no further force and effect; otherwise, the same shall remain in full force and effect, and upon the trust and subject to the covenants and conditions hereinafter set forth. For such purposes, the Town and the Trustee hereby agree as follows:

## **ARTICLE I DEFINITIONS**

**Section 1.1. Definitions.** In addition to the terms defined in the Recitals hereto and unless the context otherwise requires, the terms defined in this Section 1.1 shall, for all purposes of this Trust Agreement, have the meanings herein specified.

**“Acquisition Fund”** means the fund of that name created pursuant to Article III hereof.

“**Advances**” has the meaning assigned to such term in the Continuing Covenant Agreement.

“**Applicable Spread**” means \_\_\_\_\_.

“**Authorized Denominations**” means \$1,000,000 of principal and integral multiples of \$5,000 of principal in excess thereof; provided that, as a result of prepayment, an Obligation may be in a denomination of less than \$1,000,000 of principal.

“**Authorized Officers**” means any Town Representative and those officers of the Town listed in an incumbency certificate with the authority to provide Instructions and containing specimen signatures of such authorized officers, which incumbency certificate shall be amended by the Town, whenever a person is to be added or deleted from the listing.

“**Business Day**” means a day which is not (a) a Saturday, Sunday or legal holiday on which banking institutions in New York, New York or Queen Creek, Arizona or the principal corporate trust office of the Trustee is located are authorized by law to close, (b) a day on which the New York Stock Exchange or the Federal Reserve Bank is closed or (c) a day on which the principal office of the Purchaser is closed.

“**Certificate of Completion**” means the notice of completion, filed with the Trustee by a Town Representative, stating that the Project has been substantially completed.

“**Closing Date**” means \_\_\_\_\_, 2023.

“**Code**” means the Internal Revenue Code of 1986, as amended. References to the Code and Sections thereof include applicable regulations and temporary regulations thereunder and any successor provisions to those Sections, regulations or temporary regulations and any applicable regulations or temporary regulations issued pursuant to the Internal Revenue Code of 1954.

“**Completion Date**” means the date on which the Certificate of Completion is filed with the Trustee by a Town Representative.

“**Computation Date**” means \_\_\_\_\_.

“**Continuing Covenant Agreement**” means the Continuing Covenant Agreement, dated as of \_\_\_\_\_ 1, 2023, by and between the Town and the Purchaser, as the same may be amended, modified or supplemented from time to time.

“**Costs of Issuance Fund**” means the fund of that name created pursuant to Article III hereof.

“**Default Rate**” means \_\_\_\_\_.

“**Defaulted Interest**” has the meaning provided in Section 2.9(d).

“**Delivery Costs**” means all items of expense directly or indirectly payable by or reimbursable to the Town or the Trustee relating to the execution, sale and delivery of the Purchase Agreement, this Trust Agreement and the Obligations, including but not limited to filing and recording costs, settlement costs, printing costs, reproduction and binding costs, initial fees and charges of the Trustee, financing discounts, legal fees and charges, insurance fees and charges, financial and other professional consultant fees, costs of rating agencies for credit ratings, fees for execution, transportation and safekeeping of the Obligations and charges and fees in connection with the foregoing.

“**Depository Trustee**” means any bank or trust company, which may include the Trustee, designated by the Town, with a combined capital and surplus of at least Fifty Million Dollars (\$50,000,000) and subject to supervision or examination by federal or State authority.

“**Designated Office**” means the office designated as such by the Trustee in writing to the Town.

“**Determination of Taxability**” means \_\_\_\_\_.

“**Electronic Means**” means the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services hereunder.

“**Electronically**” means with respect to notice, one transmitted through a time-sharing terminal, computer network or facsimile machine, if operative as between any two parties, or if not operative, by telephone (promptly confirmed in writing).

“**Event of Default**” means an event of default under the Purchase Agreement as provided in Section 10 thereof or an event of default under the Continuing Covenant Agreement as provided in Section 7.01 thereof.

“**Event of Taxability**” means \_\_\_\_\_.

“**Excise Taxes**” means the unrestricted transaction privilege (sales) tax, business license and franchise fees, parks and recreation fees and permits and fines and forfeitures which the Town imposes; provided that the Mayor and Council of the Town may impose other transaction privilege taxes in the future, the uses of revenue from which will be restricted, at the discretion of such Council.

“**Federal Funds Rate**” means \_\_\_\_\_.

“**Fiscal Year**” means the period commencing each July 1 and ending June 30 of the succeeding calendar year, unless otherwise determined and designated by the Town.

“**Fitch**” means Fitch Ratings, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency,

“Fitch” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Town by notice to the Trustee.

“**Government Obligations**” means direct general obligations of, or obligations the timely payment of principal and interest on which are fully and unconditionally guaranteed by, the United States of America (including, without limitation, the interest portion of obligations issued by the Resolution Funding Corporation in book entry form and stripped by request to the Federal Reserve Bank of New York), including Government Obligations which have been stripped of their unmatured interest coupons and interest coupons stripped from Government Obligations, provided any stripped Government Obligations have been stripped by the applicable U.S. Governmental Agency.

“**Gross-Up Amount**” means \_\_\_\_\_.

“**Independent Counsel**” means an attorney duly admitted to the practice of law before the highest court of the state in which such attorney maintains an office and who is not an employee of the Town or the Trustee.

“**Instructions**” means instructions, including funds transfer instructions given pursuant to this Agreement and delivered using Electronic Means.

“**Interest Payment Date**” means each June 1 and December 1, commencing \_\_\_\_\_ 1, 20\_\_, and upon final payment because of maturity or redemption while any Obligations are Outstanding; provided that, if any such day is not a Business Day, any payment due on such date may be made on the next Business Day, without additional interest and with the same force and effect as if made on the specified date for such payment.

“**Interest Portion**” means \_\_\_\_\_.

“**Market Value**” means the indicated bid value of the investment or investments to be valued as shown in The Wall Street Journal or any publication having general acceptance as a source of valuation of the same or similar types of securities or any securities pricing service available to or used by the Trustee and generally accepted as a source of valuation.

“**Maximum Federal Corporate Tax Rate**” means \_\_\_\_\_.

“**Maximum Interest Rate**” means a per annum interest rate equal to ten percent (10%).

“**Moody’s**” means Moody’s Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Town by notice to the Trustee.

“**Notification**” shall have the meaning provided in Section 11.3.



**“Outstanding”**, when used with respect to the Obligations, refers to Obligations issued in accordance with this Agreement, excluding: (i) Obligations which have been exchanged or replaced, or delivered to the Trustee for credit against a mandatory redemption installment; (ii) Obligations which have been paid; (iii) Obligations which have become due and for the payment of which moneys have been duly provided to the Trustee; and (iv) Obligations for which there have been irrevocably set aside with a Depository Trustee sufficient moneys or obligations permitted by the Purchase Agreement bearing interest at such rates and with such maturities as will provide sufficient funds to pay the principal of and premium, if any, and interest on such Obligations, provided, however, that if any such Obligations are to be redeemed prior to maturity, the Town shall have taken all action necessary to redeem such Obligations and notice of such redemption shall have been duly mailed in accordance with the proceedings under which such Obligations were issued or irrevocable instructions so to mail shall have been given to the Trustee.

**“Owner”** or any similar term, when used with respect to an Obligation means the Purchaser or the entities described in Section 2.7.

**“Payment Fund”** means the fund of that name established and held by the Trustee pursuant to Article V hereof.

**“Payment Request Form”** means the form set forth in Exhibit B which is attached hereto and made a part hereof.

**“Payments”** means all payments required to be paid by the Town on any date pursuant to Section 1 of the Purchase Agreement.

**“Permitted Investments”** means any of the following:

- (a) Government Obligations;
- (b) CATS and TIGRS;
- (c) Advance-Refunded Municipal Obligations;

(d) bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the agency itself): U.S. Export-Import Bank (Eximbank) - direct obligations or fully guaranteed certificates of beneficial ownership; Farmers Home Administration (FmHA) - certificates of beneficial ownership; Federal Financing Bank; Federal Housing Administration Debentures (FHA); General Services Administration - participation certificates; Government National Mortgage Association (GNMA or “Ginnie Mae”) GNMA - guaranteed mortgage-backed bonds and GNMA - guaranteed pass-through obligations; U.S. Maritime Administration - guaranteed Title XI financing; U.S. Department of Housing and Urban Development (HUD) - project notes, local authority bonds, new communities debentures U.S. Government guaranteed debentures, U.S. Public Housing notes and bonds - U. S. Government guaranteed public housing notes and bonds;

(e) bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit U.S. government agencies (stripped securities are only permitted if they have been stripped by the agency itself): Federal Home Loan Bank System - senior debt obligations; Federal Home Loan Mortgage Corporation (FHLMC or “Freddie Mac”) - participation certificates and senior debt obligations; Federal National Mortgage Association (FNMA or “Fannie Mae”) - mortgage-backed securities and senior debt obligations; Student Loan Marketing Association (SLMA or Sallie Mae) - senior debt obligations; Resolution Funding Corp. (REFCORP) obligations; and Farm Credit System - consolidated systemwide bonds and notes;

(f) money market mutual funds registered under the Federal Investment Company Act of 1940, or whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of AAAm-G, AAA-m, or AA-m and if rated by Moody’s rated Aaa, Aa1 or Aa2 including, without limitation, any mutual fund for which the Trustee or an affiliate of the Trustee serves as investment manager, administrator, shareholder servicing agent, and/or custodian or subcustodian, notwithstanding that (i) the Trustee or an affiliate of the Trustee receives and retains fees from funds for services rendered to the fund, (ii) the Trustee collects fees for services rendered pursuant to this Agreement, which fees are separate from the fees received from such funds, and (iii) services performed for such funds and pursuant to this Agreement may at times duplicate those provided to such funds by the Trustee or an affiliate of the Trustee;

(g) certificates of deposit (i) secured at all times by collateral described in (a), (b), (c) or (d) above, (ii) issued by commercial banks, savings and loan associations or mutual savings banks and (iii) the collateral must be held by a third party and the Trustee must have a perfected first security interest in the collateral;

(h) bank deposit products, time deposits, overnight banking deposits, interest bearing money market account, certificates of deposit, savings accounts, deposit accounts or money market deposits (including those of the Trustee or any of its affiliates) which are fully insured by FDIC, including BIF and SAIF;

(i) investment agreements, including guaranteed investment contracts, which meet the following criteria:

(i) the investment agreement must be collateralized by the transfer of qualifying securities from a dealer bank or securities firm to the Trustee;

(ii) the investment agreement must be between the Trustee and a provider which is rated “A” or better by S&P and Moody’s;

(iii) the written investment agreement must include the following:  
(A) securities which are acceptable for collateral are Government Obligations, or Federal agencies backed by the full faith and credit of the U.S. government (and FNMA & FHLMC); (B) the collateral must be delivered to the Trustee (if Trustee is not supplying the collateral) or third party acting as agent for the Trustee (if the Trustee is supplying the collateral) before/simultaneous with payment (perfection

by possession of certificated securities); (C) the securities must be valued weekly, marked-to-market at current market price plus accrued interest and the value of collateral must be equal to at least 103 percent of the amount invested by the Trustee under the investment agreement plus accrued interest and if the value of securities held as collateral slips below 103 percent of the required value, then additional cash and/or acceptable securities must be transferred, provided however, if the securities used as collateral are FNMA or FHLMC then the value of collateral must equal at least 104 percent; and

(iv) a legal opinion must be delivered to the Trustee that the investment agreement meets guidelines under state law for legal investment of public funds;

(j) commercial paper rated, at the time of purchase, Prime-1 by Moody's and "A-1" or better by S&P;

(k) bonds or notes issued by any state or municipality which are rated by Moody's and S&P in one of the two highest rating categories assigned by such agencies;

(l) federal funds or bankers acceptances with a maximum term of one year of any bank which has an unsecured, uninsured and unguaranteed obligation rating of Prime-1 or "A3" or better by Moody's and "A-1" or "A" or better by S&P;

(m) repurchase agreements (including those of the Trustee or any of its affiliates) which meet the following criteria:

(i) the repurchase agreement (the "repo") must provide for the transfer of securities from a dealer bank or securities firm to the Trustee, and the transfer of cash from the Trustee to the dealer bank or securities firm with an agreement that the dealer bank or securities firm will repay the cash plus a yield to the Trustee in exchange for the securities at a specified date;

(ii) repo must be between the Trustee and a dealer bank or securities firm which is either a primary dealer on the Federal Reserve reporting dealer list which is rated "A" or better by S&P and Moody's, or a bank rated "A" or above by S&P and Moody's;

(iii) the written repo contract must include the following: (A) securities which are acceptable for transfer are Government Obligations, or Federal agencies backed by the full faith and credit of the U.S. government (and FNMA & FHLMC); (B) the collateral must be delivered to the Trustee (if Trustee is not supplying the collateral) or third party acting as agent for the Trustee (if the Trustee is supplying the collateral) before/simultaneous with payment (perfection by possession of certificated securities); (C) the securities must be valued weekly, marked-to-market at current market price plus accrued interest and the value of collateral must be equal to 103% of the amount of cash transferred by the Trustee to the counter-party under the repo plus accrued interest and if the value of securities held as collateral slips below 103% of the value of the cash transferred by Trustee, then additional cash and/or acceptable securities must be transferred,

provided however, if the securities used as collateral are FNMA or FHLMC then the value of collateral must equal 104%; and

(iv) legal opinion which must be delivered to the Trustee that the repo meets guidelines under state law for legal investment of public funds;

(n) any other investment that is permitted under applicable Arizona law.

Notwithstanding the foregoing, moneys derived from the sale of the Obligations shall be invested only in obligations described in (a), (b), (d) or (g) (other than certificates of deposit with a savings and loan association or mutual savings bank as described in (g)) or in (f), (i) or (n) (where such investment described in (f), (i) or (n) consists solely of, or are secured by, obligations described in (a), (b), (d) or (g) (other than certificates of deposit with a savings and loan association or mutual savings bank as described in (g))).

**“Prime Rate”** means \_\_\_\_\_.

**“Project Costs”** means, with respect to the Project, all architectural, engineering, soils, survey, archaeology, demolition, construction management fees, development fees, contingencies and other related costs of acquiring and constructing the Project and all costs incurred by the Trustee or the Town with respect to the transaction to which this Trust Agreement pertains.

**“Purchaser”** means, initially, \_\_\_\_\_, and its successors and assigns (including the entities described in Section 9.13 of the Continuing Covenant Agreement).

[**“Rating”** means the long-term unenhanced rating assigned by each Rating Agency to the Senior Obligations.

**“Rating Agency”** means all or any of S&P, Moody’s and Fitch, as the context may require.]

**“Regular Record Date”** means the close of business on the fifteenth day of the month preceding each Interest Payment Date.

**“Reimbursement Request Form”** means the form set forth in Exhibit C which is attached hereto and made a part hereof.

**“Responsible Officer”** means, when used with respect to the Trustee, any managing director, the president, any vice president, any assistant vice president, the secretary, any assistant secretary, the treasurer, any assistant treasurer, senior associate, associate or any other officer of the Trustee within the office of the Trustee designated in Section 13.3 hereof (the “Corporate Trust Office”) (or any successor corporate trust office) customarily performing functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person’s knowledge of and familiarity with the particular subject and having direct responsibility for the administration of this Agreement.

“**S&P**” means Standard & Poor’s Financial Services, LLC, a limited liability company organized and existing under the laws of the State of New York, its successors and assigns, and, if such entity shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “S&P” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Town by notice to the Trustee.

“**Special Record Date**” has the meaning provided in Section 2.9(d).

“**State**” means the State of Arizona.

“**State Shared Revenues**” means any amounts of excise taxes, transaction privilege (sales) taxes and income taxes imposed by the State of Arizona or any agency thereof and returned, allocated or apportioned to the Town, except the Town’s share of any such taxes which by State law, rule or regulation must be expended for other purposes, such as motor vehicle fuel taxes.

“**Tax Certificate**” means the Certificate Relating To Federal Tax Matters delivered by the Town at the time of original execution and delivery of the Obligations.

“**Taxable Date**” means \_\_\_\_\_.

“**Taxable Period**” means \_\_\_\_\_.

“**Taxable Rate**” means \_\_\_\_\_.

“**Taxable Rate Factor**” means \_\_\_\_\_.

“**Town Representative**” means the Manager, the Finance Director or any other person authorized by the Manager, the Finance Director or the Town Council of the Town to act on behalf of the Town with respect to this Agreement.

Words importing persons include firms, associations and corporations, and the singular and plural forms of words shall be deemed interchangeable wherever appropriate.

## ARTICLE II SPECIAL REVENUE OBLIGATIONS

**Section 2.1. Authorization of the Obligations.** The Trustee is hereby authorized and directed to execute and deliver to the Purchaser the Obligations in the total principal amount of \$\_\_\_\_,000, evidencing proportionate ownership interests in the Purchase Agreement and the Payments and certain amounts payable pursuant to the Continuing Covenant Agreement. The Obligations shall be in Authorized Denominations. In no event shall the Obligations be deemed liabilities, debts or obligations of the Trustee.

**Section 2.2. Date; Interest Accrual.** Each Obligation shall be dated the Closing Date, and interest with respect thereto shall be payable from such date or from the most

recent Interest Payment Date to which interest has previously been paid or made available for payment with respect to the Outstanding Obligations.

**Section 2.3. Maturity.** The Obligations shall mature on June 1, 20\_\_, in the principal amount of \$ \_\_\_\_,000. Such maturity date is subject to the provisions of Section 4.09 of the Continuing Covenant Agreement and Section 9.1 hereof.

**Section 2.4. Interest on Obligations.**

(a) The Interest Portion shall be payable on the Interest Payment Dates.

(b) If the amount of interest payable for any period in accordance with the terms of the Obligations exceeds the amount of interest that would be payable for such period had interest for such period been calculated at the Maximum Interest Rate, then interest for such period shall be payable in an amount calculated at the Maximum Interest Rate.

**Section 2.5. Form.** The Obligations shall be in fully registered, physically certificated form, registered in the name of the Owners. The Obligations shall be substantially in the form set forth in Exhibit A which is attached hereto and made a part hereof. The Obligations shall not be (i) assigned a rating by any rating agency, (ii) registered with The Depository Trust Company or any other securities depository, (iii) issued pursuant to any type of official statement, private placement memorandum or other offering document, or (iv) offered by a broker-dealer in the capacity of an underwriter.

**Section 2.6. Execution.** The Obligations shall be executed by and in the name of the Trustee by the manual signature of an authorized representative of the Trustee. If any representative whose signature appears on any Obligation ceases to be such representative before the Closing Date, such signature shall nevertheless be as effective as if the representative had remained in office until the Closing Date. Any Obligation may be executed on behalf of the Trustee by such person as at the actual date of the execution of such Obligation shall be the proper authorized representative of the Trustee although at the nominal date of such Obligation such person shall not have been such authorized representative of the Trustee. No Obligation shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Agreement unless and until executed and delivered by the Trustee. The execution by the Trustee of any Obligation shall be conclusive evidence that the Obligation so executed has been duly authorized and delivered hereunder and is entitled to the security and benefit of this Agreement.

**Section 2.7. Transfer and Exchange.**

(a) Subject to the requirements of Section 9.13 of the Continuing Covenant Agreement, any Obligation may be transferred upon the registration books for the Obligations required to be kept pursuant to the provisions of Section 2.11 hereof by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Obligation for cancellation, accompanied by delivery of a written instrument of transfer in a form approved by the Trustee, duly executed, to an entity described in Section 9.13 of the Continuing Covenant Agreement. Whenever the Obligation shall be surrendered for transfer, the Trustee shall execute and deliver a new Obligation in fully registered, physically certificated

form for the remaining unpaid principal amount with respect to such Obligation. The Trustee shall have no duty or obligation to determine whether or not any transferee meets the requirements set forth in the Continuing Covenant Agreement and shall be fully protected in relying on any Purchaser Letter delivered to it in accordance with the Continuing Covenant Agreement, if so required to be delivered.

(b) Obligations may be exchanged at the Designated Office for a like aggregate principal amount of Obligations of Authorized Denominations. In connection with any such exchange or transfer of Obligations, the Owner requesting such exchange or transfer shall, as a condition precedent to the exercise of the privilege of making such exchange or transfer, remit to the Trustee an amount sufficient to pay any tax or other governmental charge required to be paid, other than one imposed by the Town (which will not be payable by the Trustee), or any fee or expense of the Trustee or the Town with respect to such exchange or transfer.

(c) The Trustee may, but shall not be obligated to, exchange or register the transfer of an Obligation (i) if the Obligation is to be redeemed, in whole or in part, or (ii) during a period of 15 days preceding the giving of a notice of redemption. If an Obligation subject to redemption is to be transferred after having been selected for redemption, any notice of redemption which has been given to the transferor shall be binding on the transferee and a copy of the notice of redemption shall be delivered by the Trustee to the transferee along with the duly registered Obligation or Obligations.

**Section 2.8. Obligations Mutilated, Lost, Destroyed or Stolen.** If any Obligation shall become mutilated, the Trustee, at the expense of the Owner of said Obligation, shall execute and deliver a new Obligation for the remaining unpaid principal amount in exchange and substitution for the Obligation so mutilated, but only upon surrender to the Trustee of the Obligation so mutilated. Any mutilated Obligation so surrendered to the Trustee shall be cancelled by it and redelivered to, or upon the order of, the Owner of such Obligation. If any Obligation shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee, and, if such evidence is satisfactory to the Trustee and, if an indemnity satisfactory to the Trustee shall be given, the Trustee, at the expense of the Owner of such Obligation, shall execute and deliver a new Obligation for the remaining unpaid principal amount as the Trustee shall determine in lieu of and in substitution for the Obligation so lost, destroyed or stolen. The Trustee may require payment of an appropriate fee for each new Obligation delivered under this Section and of the expenses which may be incurred by the Trustee in carrying out the duties under this Section. Any Obligation issued under the provisions of this Section in lieu of any Obligation alleged to be lost, destroyed or stolen shall be equally and proportionately entitled to the benefits of this Agreement with all other Obligations secured by this Agreement. The Trustee shall not be required to treat both the original Obligation and any replacement Obligation as being Outstanding for the purpose of determining the principal amount of Obligations which may be executed and delivered hereunder or for the purpose of determining any percentage of Obligations Outstanding hereunder, but both the original and replacement Obligation shall be treated as one and the same. Notwithstanding any other provision of this Section, in lieu of delivering a new Obligation for an Obligation which has been mutilated, lost, destroyed or stolen, and which has matured, the Trustee may make payment with respect to such Obligation upon receipt of the aforementioned indemnity.

**Section 2.9. Payment.**

(a) The principal and interest with respect to the Obligations shall be payable in lawful money of the United States of America.

(b) Payment of interest and other amounts not otherwise provided for herein due with respect to any Obligation shall be made to the person appearing on the registration books for the Obligation maintained by the Trustee as the Owner thereof as of the Regular Record Date.

(c) Except as otherwise provided in this subsection, interest and principal payable to the Owners shall be paid by wire transfer in immediately available funds to an account in the United States of America as directed on the Regular Record Date by the Owners specifying the account address without surrender of the Obligations except as set forth below. The notice may provide that it shall remain in effect for subsequent payments until otherwise requested in a subsequent written notice. Interest and principal payable to the Owners on the final date for payment of principal and interest shall be paid upon presentation of the Obligations by the persons appearing on the registration books for the Obligations maintained by the Trustee as the Owners thereof on such date at the Designated Office.

(d) Any interest on any Obligation which is payable on, but is not punctually paid or duly provided for on, any Interest Payment Date (“Defaulted Interest”) shall forthwith cease to be payable to the Owner on the relevant Regular Record Date solely by virtue of such Owner having been such Owner. Such Defaulted Interest shall thereupon be paid, together with interest thereon at the same rate per annum as such Defaulted Interest, by the Trustee (out of funds provided to it by the Town) to the persons in whose names such Obligations are registered at the close of business on a special record date for the payment of such portion of Defaulted Interest as may then be paid from the sources herein provided (the “Special Record Date”). When the Trustee has funds available to pay the Defaulted Interest and interest thereon, the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest and interest thereon which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment by the Trustee. The Trustee shall promptly cause notice of the proposed payment of such Defaulted Interest and interest thereon and the Special Record Date therefor to be mailed, first class postage prepaid, to each Owner of an Obligation at his address as it appears in the registration books by the Trustee for the Obligation not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and interest thereon and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest and interest thereon shall be paid to the persons in whose names the Obligations are registered on such Special Record Date.

(e) In the event the Obligations are not presented for payment at maturity, if moneys sufficient to pay the principal and interest related to the Obligations have been deposited pursuant hereto for such payment, all liability to the Owners thereof for the payment thereof will forthwith cease and be completely discharged, and thereupon it will be the duty of the Trustee to hold such moneys as provided herein, without liability for interest thereon, for the benefit of the Owners, who will thereafter be restricted exclusively to such moneys, for any claim of whatever nature on his part hereunder or on, or with respect to, the Obligations.



(f) In the event a Determination of Taxability occurs, the Trustee shall remit to each Owner (or former Owner, as the case may be), their applicable portion of the Gross-Up Amount received from the Town pursuant to Subsection 1(c) of the Purchase Agreement.

**Section 2.10. Execution of Documents and Proof of Ownership.** Any request, direction, consent, revocation of consent or other instrument in writing required or permitted by this Agreement to be signed or executed by Obligation Owners may be in any number of concurrent instruments of similar tenor, and may be signed or executed by such Owners in person or by their attorneys or agents appointed by an instrument in writing for that purpose, or by any bank, trust company or other depository for such Obligations. Proof of the execution of any such instrument, or of any instrument appointing any such attorney or agent, and of the ownership of Obligations shall be sufficient for any purpose of this Agreement (except as otherwise herein provided), if made in the following manner:

(a) The fact and date of the execution by any Owner or the attorney or agent thereof of any such instrument and of any instrument appointing any such attorney or agent, may be proved by a certificate, which need not be acknowledged or verified, of an officer of any bank or trust company located within the United States of America, or of any notary public, or other officer authorized to take acknowledgments of deeds to be recorded in such jurisdictions, that the persons signing such instruments acknowledged the execution thereof. Where any such instrument is executed by an officer of a corporation or association or a member of a partnership on behalf of such corporation, association or partnership, such certificate shall also constitute sufficient proof of his authority.

(b) The fact of the ownership of Obligations by any person and the amount and the numbers of such Obligations and the date of his holding the same be proved on the registration books maintained pursuant to Section 2.11 hereof.

Nothing contained in this Article II shall be construed as limiting the Trustee to such proof, it being intended that the Trustee may accept any other evidence of the matters herein stated which the Trustee may deem sufficient. Any request or consent of the Owner of any Obligation shall bind every future Owner of the same Obligation in respect of anything done or suffered to be done by the Trustee in pursuance of such request or consent.

**Section 2.11. Obligation Register.** The Trustee will keep or cause to be kept, at the Designated Office, sufficient books for the registration and transfer of the Obligations which shall at all times during regular business hours on any Business Day be open to inspection by the Town and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, the Obligations as hereinbefore provided.

### ARTICLE III

#### APPLICATION OF PROCEEDS RECEIVED BY TRUSTEE; ACQUISITION FUND; COSTS OF ISSUANCE FUND

##### **Section 3.1. Application of Proceeds.**

(a) On the Closing Date, \$ \_\_\_\_\_ of the proceeds received by the Trustee from the sale of the Obligations shall forthwith be set aside by the Trustee in the Costs of Issuance Fund and the balance of such proceeds (\$ \_\_\_\_\_) shall forthwith be set aside by the Trustee in the Acquisition Fund.

(b) Thereafter, proceeds of the Obligations shall be disbursed in installments through the making of Advances by the Purchaser in accordance with the Continuing Covenant Agreement. The date and amount of each Advance shall be, when made, noted on the “Table of Advances” attached to the Obligation to which such Advance relates by the Owner (or the Trustee, if the Trustee is holding such Obligation on behalf of the Owner); provided that the failure to record any such Advance on the Table of Advances shall not affect the principal amount due with respect to any Obligation. In no event may the total amount of all Advances exceed the maximum principal amount of the Obligations (\$\_\_\_\_,000). Notwithstanding anything to the contrary herein, interest payable on the Obligations shall be determined based on the principal amount of the Obligations having been advanced by way of Advances and then Outstanding hereunder.

**Section 3.2. Establishment and Application of Acquisition Fund.**

(a) The Trustee shall establish a special trust fund designated as the “Town of Queen Creek Subordinate Lien Acquisition Fund (2023)” (herein referred to as the “Acquisition Fund”), shall keep such fund separate and apart from all other funds and moneys held by it and shall administer such fund as provided in this Agreement.

(b) Upon receipt of a duly executed Payment Request Form, the Trustee shall remit to the payee designated in the Payment Request Form for Project Costs, the amount requested to be paid in such Payment Request Form for Project Costs within three Business Days following submission of such Payment Request Form. Notwithstanding the foregoing, the Trustee shall apply moneys on deposit in the Acquisition Fund to reimburse the Town for any Project Costs incurred or advanced by the Town within three Business Days of receipt of a duly executed Reimbursement Request Form. The Trustee has no duty or obligation to confirm that any requested disbursement constitutes a Project Cost.

(c) On the Completion Date, the Trustee shall transfer any remaining amounts in the Acquisition Fund to the Payment Fund to be applied by the Trustee to the Payments due from the Town on the next succeeding Interest Payment Date, and the Acquisition Fund shall be closed.

(d) Any amount remaining in the Acquisition Fund upon the occurrence of an Event of Default shall not be disbursed as provided in this Section, but shall be immediately transferred to the Payment Fund and used to pay principal and interest represented by the Obligations.

**Section 3.3. Establishment and Application of Costs of Issuance Fund.**

(a) The Trustee shall establish a special trust fund designated as the “Town of Queen Creek Subordinate Lien Costs of Issuance Fund (2023)” (herein referred to as the “Costs

of Issuance Fund”), shall keep such fund separate and apart from all other funds and moneys held by it and shall administer such fund as provided in this Agreement.

(b) Amounts in the Costs of Issuance Fund shall be disbursed for Delivery Costs. Disbursements from the Costs of Issuance Fund shall be made by the Trustee upon receipt of a requisition for disbursement on which the Trustee is entitled to conclusively rely, executed or approved by the Town Representative. Each such certificate shall set forth the amounts to be disbursed for payment, or reimbursement of previous payments, of Delivery Costs and the person or persons to whom said amounts are to be disbursed. The Trustee has no duty or obligation to confirm that such disbursements constitute Delivery Costs.

(c) On the earlier of November 1, 2023, or when all Delivery Costs associated with the Obligations have been paid (as shown by a certificate of a Town Representative, if requested by the Trustee), the Trustee shall transfer any amounts remaining in the Costs of Issuance Fund to the Payment Fund and the Costs of Issuance Fund shall be closed.

#### **ARTICLE IV REDEMPTION OF OBLIGATIONS**

**Section 4.1. Redemption Provisions.** The Obligations are subject to redemption in whole or in part from prepayments made at the option of the Town pursuant to Section 8 of the Purchase Agreement, on \_\_\_\_\_, at a redemption price equal to the principal amount of Obligations or portions thereof to be redeemed, together with unpaid interest as of, and accrued to, the date fixed for redemption, but without premium.

**Section 4.2. Selection of Obligations for Redemption.** The Obligations shall be redeemed only in the principal amounts of \$5,000 each or integral multiples thereof. The Town shall, at least 15 Business Days prior to the redemption date, notify the Trustee of such redemption date of the Obligations and the principal amount of the Obligations to be redeemed on such date. For the purposes of any redemption of less than all of the Obligations, the particular Obligations or portions of Obligations to be redeemed shall be *pro-rata* based on principal amount.

**Section 4.3. Notice of Redemption; Effect.**

(a) The Trustee shall cause notice of any optional redemption of Obligations hereunder to be transmitted by Electronic Means to the Owners and to be mailed to such Owners at the addresses appearing in the Register kept for such purpose pursuant to Section 2.11 hereof. Each such notice shall be sent no less than 10 Business Days prior to the redemption date, and state the principal amount to be redeemed and that on the redemption date the Obligations to be redeemed will be payable as provided herein, and that from that date interest will cease to accrue. No defect affecting any Obligation, whether in the notice of redemption or the delivery thereof (including any failure to mail such notice), shall affect the validity of the redemption proceedings for any other Obligations.

(b) If at the time of providing of notice of an optional redemption of Obligations, there has not been deposited with the Trustee moneys or Government Obligations

sufficient to redeem all Obligations subject to such redemption and the requirements of (d) below are not satisfied, then such notice shall state that the redemption is conditional upon the deposit of moneys or Government Obligations sufficient for the redemption with the Trustee and satisfaction of such requirements not later than the opening of business on the redemption date, and such notice will be of no effect and such Obligations shall not be redeemed unless such moneys or Government Obligations are so deposited and such requirements in (d) below are met.

(c) Notice having been provided in the manner provided in (a) above, the Obligations and portions thereof called for redemption shall become due and payable on the redemption date and shall be paid at the redemption price, plus interest unpaid as of, and accrued to, the redemption date, as provided herein.

(d) If the money or Governmental Obligations for the redemption of all of the Obligations and portions thereof to be redeemed, together with interest unpaid as of, and accrued thereon to, and any other amounts due hereunder with respect to, the redemption date, is held by the Trustee on the redemption date, so as to be available therefor on that date, then from and after the redemption date those Obligations and portions thereof to be redeemed shall cease to bear interest and no longer shall be considered to be Outstanding hereunder. If those moneys shall not be so available on the redemption date, those Obligations and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption.

(e) All moneys deposited in the Payment Fund and held by the Trustee for the redemption of particular Obligations shall be held in trust for the account of the Owners thereof and shall be paid to them, as provided herein.

**Section 4.4. Partial Redemption of Obligation.** Upon surrender of any Obligation redeemed in part only, the Trustee shall, at the request of an affected Owner, execute and deliver to such registered Owner, at the expense of the Town, a new Obligation or Obligations of Authorized Denominations equal in aggregate principal amount to the unredeemed portion of the Obligation surrendered; provided, however, that so long as the Purchaser is the registered Owner of the Obligation, the Purchaser shall not be required to surrender the Obligation in connection with any partial redemption.

## ARTICLE V PAYMENTS; PAYMENT FUND

**Section 5.1. Trustee's Rights in Purchase Agreement.** The Trustee holds in trust hereunder all of its rights and duties in the Purchase Agreement, including but not limited to all of the rights to receive and collect all of the Payments and all other amounts required to be deposited in the Payment Fund pursuant to the Continuing Covenant Agreement or the Purchase Agreement or pursuant hereto. All of the Payments and such other amounts to which the Seller may at any time be entitled shall be paid directly to the Trustee in trust, and all of the Payments collected or received by the Trustee shall be held by the Trustee in trust hereunder in the Payment Fund for the benefit of the Owners.

**Section 5.2. Establishment of Payment Fund.** The Trustee shall establish a special trust fund designated as the “Town of Queen Creek Subordinate Lien Payment Fund 2023” (herein referred to as the “Payment Fund”). All moneys at any time deposited by the Trustee in the Payment Fund shall be held by the Trustee in trust for the benefit of the Owners (or former Owners, as applicable). So long as any Obligations are Outstanding, the Town shall have no beneficial right or interest in the Payment Fund or the moneys deposited therein, except only as provided in this Agreement, and such moneys shall be used and applied by the Trustee as hereinafter set forth.

**Section 5.3. Payments by Town; Deposits.** Subject to the limitations pursuant to the Purchase Agreement with respect to the revenues from the Excise Taxes and the State Shared Revenues, the Town shall be required to make the Payments for deposit to the Payment Fund. The Town shall also be required to make payments due pursuant to Articles IV and VIII of the Continuing Covenant Agreement for deposit to the Payment Fund. In both cases, the Trustee shall take into account any funds on deposit in the Payment Fund as a credit towards any payment amount then due. The Trustee, not less than one Business Day prior to any date upon which amounts are to be paid hereunder, shall notify the Town of the amount required to be paid after taking into account earnings on investments which will be transferred to the Payment Fund in accordance herewith, on or before such date. All amounts received by the Trustee pursuant to the Continuing Covenant Agreement and the Purchase Agreement shall be deposited in the Payment Fund for such purposes.

**Section 5.4. Application of Moneys.** All amounts in the Payment Fund shall be used and withdrawn by the Trustee solely for the purpose of paying amounts with respect to the Obligations as the same shall become due and payable, in accordance with the provisions of Articles II and IV hereof, and also as provided in Articles IV and VIII of the Continuing Covenant Agreement.

**Section 5.5. Surplus.** Any surplus remaining in any of the funds created hereunder, after redemption and payment of all Obligations, including unpaid and accrued interest, if any, and payment of any applicable fees, expenses or indemnities to the Trustee, or provision for such redemption and payment having been made to the satisfaction of the Trustee, shall be withdrawn by the Trustee and remitted to the Town.

## **ARTICLE VI PLEDGE AND LIEN**

**Section 6.1. Pledge.** None of the Obligations shall be entitled to priority or distinction one over the other in the application of the revenues from the Excise Taxes and the State Shared Revenues pledged by the Purchase Agreement to the payment thereof, regardless of the delivery of any of the Obligations prior to the delivery of any other of the Obligations. All of the Obligations are co-equal as to the pledge of and lien on the revenues from the Excise Taxes and the State Shared Revenues pledged for the payment thereof and share ratably, without preference, priority or distinction, as to the source or method of payment from revenues from the Excise Taxes or the State Shared Revenues or security therefor.

**Section 6.2. Protection of Lien.** Except for any Senior Obligations, no assignment or lien having priority or preference over the assignment and lien hereof upon the interests granted hereby or any part thereof shall be made or created or suffered to be made or created. No obligations the payment of which is secured by an equal claim on or interest in property or revenues pledged hereunder will be issued or delivered except those obligations incurred pursuant to Section 5 of the Purchase Agreement or the corresponding section of any other Parity Subordinate Lien Obligations or in lieu of, or upon transfer of registration or exchange of, any Obligation as provided herein.

**Section 6.3. Existing Senior Pledge.** The pledge of the revenues from the Excise Taxes and the State Shared Revenues under the Purchase Agreement is subordinate to the pledge of the revenues from the Excise Taxes and the State Shared Revenues to payment due on or with respect to the Senior Obligations. Subject to Section 5 of the Purchase Agreement and Section \_\_\_\_ of the Continuing Covenant Agreement, nothing herein or in the Purchase Agreement limits the incurrence by the Town of obligations on parity with the Senior Obligations.

## **ARTICLE VII MONEYS IN FUNDS; INVESTMENT; CERTAIN TAX COVENANTS**

**Section 7.1. Held in Trust.** The moneys and investments held by the Trustee under this Agreement are irrevocably held in trust for the benefit of the Owners of the Obligations and for the purposes herein specified, and such moneys, and any income or interest earned thereon, shall be expended only as provided in this Agreement and shall not be subject to levy or attachment or lien by or for the benefit of any creditor of the Town or any Owner of Obligations.

**Section 7.2. Investments Authorized.** Upon written order of the Town Representative, moneys held by the Trustee hereunder shall be invested and reinvested by the Trustee, to the maximum extent practicable in Permitted Investments. The Town Representative shall direct such investment in specific Permitted Investments. The Town Representative shall be solely responsible for ascertaining that all proposed investments and reinvestments are Permitted Investments and that they comply with federal, state and local laws, regulations and ordinances governing investment of such funds and for providing appropriate notice to the Trustee for the reinvestment of any maturing investment. Such investments, if registrable, shall be registered in the name of the Trustee and shall be held by the Trustee. The Trustee may purchase or sell to itself or any affiliate, as principal or agent, investments authorized by this Section. Such investments and reinvestments shall be made giving full consideration to the time at which funds are required to be available. The Trustee may act as purchaser or agent in the making or disposing of any investment. Absent written direction of the Town, the Trustee shall hold such moneys held under this Trust Agreement uninvested in cash, without liability for interest. Ratings of Permitted Investments shall be determined at the time of purchase of such Permitted Investments and without regard to ratings subcategories. The Trustee shall have no responsibility to monitor the ratings of Permitted Investments after the initial purchase of such Permitted Investments, including at the time of reinvestment of earnings thereof. In no event shall the Trustee be liable for the selection of investments. The Trustee may conclusively rely

upon such written direction from the Town Representative as to both the suitability and legality of the directed investments and the Trustee shall have no obligation to confirm that any such directed investment constitutes a Permitted Investment. The Town acknowledges that regulations of the Comptroller of the Currency grant the Town the right to receive brokerage confirmations of the security transactions as they occur, at no additional cost. To the extent permitted by law, the Town specifically waives compliance with 12 C.F.R. 12 and hereby notifies the Trustee that no brokerage confirmations need be sent relating to the security transactions as they occur. The Trustee may elect, but shall not be obligated, to credit the funds and accounts held by it with moneys representing income or principal payments due on, or sales proceeds due in respect of, Permitted Investments in such funds and accounts, or to credit to Permitted Investments intended to be purchased with such moneys, in each case before actually receiving the requisite moneys from the payment source, or to otherwise advance funds for account transactions. The Town acknowledges that the legal obligation to pay the purchase price of any Permitted Investments arises immediately at the time of the purchase. Notwithstanding anything else in this Trust Agreement, (i) any such crediting of funds or assets shall be provisional in nature, and the Trustee shall be authorized to reverse any such transactions or advances of funds in the event that it does not receive good funds with respect thereto, and (ii) nothing in this Trust Agreement shall constitute a waiver of any of Trustee's rights as a securities intermediary under Uniform Commercial Code Section 9-206.

**Section 7.3. Accounting.** The Trustee shall furnish to the Town, not less than semiannually, an accounting (which may be in the form of its customary statement) of all investments made by the Trustee. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with Section 7.2 hereof.

**Section 7.4. Allocation of Earnings.** Any income, profit or loss on such investments shall be deposited in or charged to the respective funds from which such investments were made, and any interest on any deposit of funds shall be deposited in the fund from which such deposit was made, except as otherwise provided herein. At the direction of the Town Representative, any such income, profit or interest shall be transferred and applied if necessary to pay amounts due pursuant to Section 13(c) of the Purchase Agreement.

**Section 7.5. Valuation and Disposition of Investments.** For the purpose of determining the amount in any fund, all Permitted Investments credited to such fund shall be valued at Market Value. The Trustee may sell or present for redemption, any Permitted Investment so purchased by the Trustee whenever it shall be necessary in order to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund to which such Permitted Investment is credited, and the Trustee shall not be liable or responsible for any loss resulting from such investment. In determining the Market Value of Permitted Investments, the Trustee may use and rely conclusively and without liability upon any generally recognized pricing information service (including brokers and dealers in securities) available to it.

**Section 7.6. Limitation of Investment Yield.** In the event the Town (while it is directing investments) is of the opinion that it is necessary to restrict or limit the yield on the investment of any amounts paid to or held by the Trustee hereunder in order to avoid the

Obligations, or any of them, being considered “arbitrage bonds” within the meaning of section 148 of the Code, the Town Representative may issue to the Trustee a written certificate to such effect (along with appropriate instructions), in which event the Trustee will take such action as is instructed so to restrict or limit the yield on such investment in accordance with the specific instructions contained in such certificate.

**Section 7.7. Other Tax Covenants.** In consideration of the acceptance and execution of the Purchase Agreement by the Trustee and the purchase by the Owners, from time to time, and in consideration of retaining the exclusion of interest income from gross income on the Purchase Agreement and the Obligations for federal income tax purposes, the Town shall, from time to time, neither take nor fail to take any action, which action or failure to act is within its power and authority and would result in interest income on the Purchase Agreement or the Obligations to become subject to inclusion in gross income for federal income tax purposes under either laws existing on the date of execution of the Purchase Agreement or such laws as they may be modified or amended or tax laws later adopted. The Town shall comply with such requirement(s) and will take any such action(s) as are necessary to prevent interest income on the Purchase Agreement or the Obligations from becoming subject to inclusion in gross income for federal income tax purposes. Such requirements may include but are not limited to making further specific covenants; making truthful certifications and representations and giving necessary assurances; complying with all representations, covenants and assurances contained in certificates or agreements to be prepared by special counsel; to pay to the United States of America any required amounts representing rebates of arbitrage profits relating to the Purchase Agreement or the Obligations; filing forms, statements and supporting documents as may be required under the federal tax laws; limiting the term of and yield on investments made with moneys relating to this Agreement and limiting the use of the proceeds of the Obligations and property financed thereby.

## **ARTICLE VIII THE TRUSTEE**

**Section 8.1. Appointment of Trustee.** The Town hereby authorizes and directs the Trustee to, and the Trustee shall, execute and deliver the Purchase Agreement, as Seller, and receive all moneys required to be deposited with the Trustee hereunder and shall allocate, use and apply the same as provided in this Agreement. The Town shall maintain as the Trustee a bank or trust company with a combined capital and surplus of at least Fifty Million Dollars (\$50,000,000), and subject to supervision or examination by federal or State authority, so long as any of the Obligations are Outstanding. If such bank or trust company publishes a report of condition at least annually pursuant to law or to the requirements of any supervising or examining authority above referred to then for the purpose of this Section 8.1 the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

**Section 8.2. Liability of Trustee; Standard of Care.** Except with respect to its authority and power generally and authorization to execute this Trust Agreement, the recitals of facts, covenants and agreements herein, in the Purchase Agreement and in the Obligations shall be taken as statements, covenants and agreements of the Town, and the Trustee assumes no



responsibility for the correctness of the same, or makes any representations as to the validity hereof or sufficiency of this Agreement, the Purchase Agreement or of the Obligations or shall incur any responsibility in respect hereof or thereof, other than in connection with the duties or obligations herein or in the Obligations assigned to or imposed upon them, respectively. Prior to the occurrence of an Event of Default, or after the timely cure of an Event of Default, the Trustee shall perform only such duties as are specifically set forth in this Trust Agreement and no implied obligations or covenants should be read into this Agreement against the Trustee. After the occurrence, and during the continuance, of an Event of Default, the Trustee shall exercise such of the rights and powers vested in it, and use the same degree of care and skill in such exercise, as a prudent person would exercise under the circumstances in the conduct of its own affairs.

**Section 8.3. Merger or Consolidation.** Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided that such company shall be eligible under Section 8.1 hereof, shall be the successor to the Trustee without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

**Section 8.4. Protection and Rights of the Trustee.** (a) The Trustee shall be protected and shall incur no liability in acting or proceeding in good faith upon any resolution, notice, telegram, request, consent, waiver, certificates, statements, affidavit, voucher, bond, requisition or other paper or document which it shall in good faith believe to be genuine and to have been passed or signed by the proper board or person or to have been prepared and furnished pursuant to any of the provisions of this Agreement, and the Trustee shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument, but may accept and rely upon the same as conclusive evidence of the truth and accuracy of such statements. The Trustee shall not be bound to take any action at the request of the Owners unless the Obligations shall be deposited with the Trustee. The Trustee may consult with counsel with regard to legal questions, and the advice or opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith in accordance therewith.

(b) Whenever in the administration of its duties under this Agreement, the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) shall be deemed to be conclusively proved and established by the certificate of the Town Representative and such certificate shall be full warranty to the Trustee for any action taken or suffered under the provisions of this Agreement upon the faith thereof, but in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

(c) The Trustee may acquire and dispose of other bonds or evidence of indebtedness of the Town with the same rights it would have if it were not the Trustee and may act as a depository for and permit any of its officers or directors to act as a member of, or in any

other capacity with respect to, any committee formed to protect the rights of Owners of Obligations, whether or not such committee shall represent the Owners of the Obligations.

(d) The recitals, statements and representations by the Town contained in this Agreement or in the Obligations shall be taken and construed as made by and on the part of the Town and not by the Trustee, and the Trustee does not assume, and shall not have, any responsibility or obligation for the correctness of any thereof.

(e) The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, or receivers, and shall be entitled to advice of counsel concerning all matters of trust and its duty hereunder, and the Trustee shall not be answerable for the default or misconduct of any such attorney, agent, or receiver selected by it with reasonable care. The Trustee shall not be answerable for the exercise of any discretion or power under this Agreement or for anything whatever in connection with the funds and accounts established hereunder, except only for its own willful misconduct or negligence.

(f) No provision in this Trust Agreement shall require the Trustee to risk or expend its own funds or otherwise incur any financial liability (including, without limitation, any and all environmental liability) in the performance of any of its duties hereunder or in the exercise of any of its rights or powers.

(g) The Trustee shall not be accountable for the use or application by the Town or any other party of any funds, including proceeds of the Obligations, which the Trustee has released in accordance with the terms of this Trust Agreement.

(h) The Trustee makes no representation or warranty, express or implied, as to the title, value, design, compliance with specifications or legal requirements, quality, durability, operation, condition, merchantability or fitness for any particular purpose or fitness for the use contemplated by the Town of the Project. In no event shall the Trustee be liable for incidental, indirect, special or consequential damages in connection with or arising from the Purchase Agreement or this Trust Agreement for the acquisition of the Project.

(i) Notwithstanding any provision in this Trust Agreement, the Purchase Agreement or the Continuing Covenant Agreement to the contrary, the Trustee shall not be required to take notice or be deemed to have notice of an Event of Default, except an Event of Default under Section 10(a)(i)(A) of the Purchase Agreement, unless a Responsible Officer of the Trustee has actual notice thereof or is specifically notified in writing of such default by the Town or the Owners of the Obligations. The Trustee shall have no duty to monitor or ascertain compliance by the Town with the provisions of the Continuing Covenant Agreement.

(j) The Trustee shall have the right to accept and act upon Instructions delivered using Electronic Means. If the Town elects to give the Trustee Instructions using Electronic Means, and the Trustee in its discretion elects to act upon such Instructions, the Trustee's understanding of such Instructions shall be deemed controlling. The Town understands and agrees that the Trustee cannot determine the identity of the actual sender of such Instructions and that the Trustee shall conclusively presume that directions that purport to have

been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The Town shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Trustee and that the Town and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Town. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The Town agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Town; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures.

(k) The Trustee shall not be liable to the parties hereto or deemed in breach or default hereunder if and to the extent its performance hereunder is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the Trustee and could not have been avoided by exercising due care. Force majeure shall include acts of God, terrorism, war, riots, strikes, fire, floods, earthquakes, epidemics or other similar occurrences. In acting or omitting to act pursuant to the Purchase Agreement or any other documents executed in connection herewith or therewith, the Trustee shall be entitled to all of the rights, immunities and indemnities accorded to it under this Trust Agreement, including, but not limited to, this Article VIII.

(l) The Trustee shall have no responsibility or liability with respect to any information, statements or recitals in any offering memorandum or other disclosure material prepared or distributed with respect to the issuance of the Obligations.

(m) The permissive right of the Trustee to do things enumerated in this Agreement shall not be construed as a duty and the Trustee shall not be answerable for other than its negligence or willful default. The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the Project.

(n) Before taking any action under this Agreement relating to an Event of Default or in connection with its duties under this Agreement other than making payments of principal and interest on the Obligations as they become due, the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all expenses to which it may be put and to protect it against all liability, including, but not limited to, any liability arising directly or indirectly under any federal, state or local statute, rule, law or ordinance related to the protection of the environment or hazardous substances and except liability which is adjudicated, to have resulted from its negligence or willful misconduct in connection with any action so taken.

(o) The Trustee shall not be liable for any action taken by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Agreement.

(p) The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Owners of the Obligations relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Agreement.

**Section 8.5. Compensation of Trustee.** The Town shall from time to time, pursuant to a fee schedule as agreed upon between the Town and the Trustee (which fee schedule may be amended in writing), pay to the Trustee reasonable compensation for its services, including its fees, costs and expenses after an Event of Default and shall reimburse the Trustee for all its advances and expenditures, including but not limited to advances to, and reasonable fees and expenses of, independent appraisers, accountants, consultants, counsel, agents and attorneys-at-law or other experts employed by it in the exercise and performance of its powers and duties hereunder. When the Trustee incurs expenses or renders services after the occurrence of an Event of Default, such expenses, costs and the compensation for such services are intended to constitute expenses of administration under any federal or state bankruptcy, insolvency, arrangement, moratorium, reorganization or other debtor relief law.

**Section 8.6. Removal of Trustee.** (a) The Town (but only if no Event of Default has occurred and is continuing) or the Owners of the Obligations, at any time upon 30 days' prior written notice, and for any reason, may remove the Trustee and any successor thereto, but any such successor shall be a bank or trust company having a combined capital (exclusive of borrowed capital) and surplus of at least Fifty Million Dollars (\$50,000,000) and subject to supervision or examination by federal or State authority. If such bank or trust company publishes a report of condition at least annually, pursuant to law or the requirements of any supervising or examining authority above referred to, then, for the purposes of this Section, the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(b) The Trustee may at any time resign by giving written notice to the Town. Upon receiving such notice of resignation, the Town shall promptly appoint a successor trustee by an instrument in writing; provided, however, that in the event that the Town does not appoint a successor trustee within 30 days following receipt of such notice of resignation, or the giving of notice of removal, the retiring Trustee may petition the appropriate court having jurisdiction to appoint a successor trustee. Any resignation or removal of the Trustee and appointment of a successor trustee shall become effective upon acceptance of appointment by the successor trustee. The Trustee and the Town shall execute any documents reasonably required to effect the transfer of rights and obligations of the Trustee to the successor trustee subject, however, to the terms and conditions herein set forth, including, without limitation, the right of the predecessor Trustee to be paid and reimbursed in full for its reasonable charges and expenses (including reasonable fees and expenses of its counsel) and the indemnification under Sections 8.4 and 11.3 hereof. Upon such acceptance, the successor trustee shall mail notice thereof to the Owners of the Obligations at their addresses set forth on the registration books for the Obligations maintained pursuant to Section 2.11 hereof.

**Section 8.7. Appointment of Agent.** The Trustee may appoint an agent or agents to exercise any of the powers, rights or remedies granted to the Trustee under this Trust Agreement and to hold title to property or to take any other action which may be desirable or necessary.

**Section 8.8. Commingling.** The Trustee may commingle any of the funds held by it pursuant to this Trust Agreement in a separate fund or funds for investment purposes only; provided, however, that all funds or accounts held by the Trustee hereunder shall be accounted for separately notwithstanding such commingling by the Trustee.

**Section 8.9. Records.** The Trustee shall keep complete and accurate records of all moneys received and disbursed by the Trustee under this Trust Agreement, which shall be available for inspection by the Town, or any of its agents, at any time, upon reasonable prior notice, during regular business hours. The Trustee shall provide the Town Representative with monthly reports or statements of funds transactions and balances.

## **ARTICLE IX MODIFICATION OR AMENDMENT OF AGREEMENTS**

**Section 9.1. Amendments Permitted.** (a) This Agreement and the rights and obligations of the Owners of the Obligations and the Purchase Agreement and the rights and obligations of the parties thereto, may be modified or amended at any time by a supplemental or amending agreement which shall become effective when the written consent of the Owners of a majority in aggregate principal amount of all Obligations then Outstanding shall have been filed with the Trustee. No such modification or amendment shall (1) extend or have the effect of extending the maturity of any Obligation or reducing the interest rate with respect thereto or extending the time of payment of interest, or reducing the amount of principal thereof or reducing any premium payable upon the redemption thereof, without the express written consent of the Owner of such Obligation, or (2) reduce or have the effect of reducing the percentage of Obligations required for the affirmative vote or written consent to an amendment or modification of this Trust Agreement or the Purchase Agreement, or (3) modify any of the rights or obligations of the Trustee without its written assent thereto. Any such supplemental or amending agreement shall become effective as provided in Section 9.2 hereof.

(b) This Agreement and the rights and obligations of the Owners of the Obligations and the Purchase Agreement and the rights and obligations of the parties thereto, may be modified or amended at any time by a supplemental or amending agreement, without the consent of any such Owners, but only (1) to provide for additions or modifications to the Project, (2) to add to the covenants and agreements of any party, other covenants to be observed, or to surrender any right or power herein reserved to the Trustee (for its own behalf) or the Town, (3) to secure additional revenues or provide additional security or reserves for payment of the Obligations, (4) to comply with the requirements of any state or federal securities laws or the Trust Indenture Act of 1939, as from time to time amended, if required by law or regulation lawfully issued thereunder, (5) to provide for the appointment of a successor trustee pursuant to the terms hereof, (6) to preserve the exclusion of the interest on the Obligations from gross income for purposes of federal or State income taxes and to preserve the power of the Town to

continue to issue or incur bonds or other obligations the interest on which is likewise exempt from federal and State income taxes, (7) to cure, correct or supplement any ambiguous or defective provision contained herein or therein, (8) with respect to rating matters, (9) to facilitate the issuance or incurrence of Senior Obligations or Parity Subordinate Lien Obligations, or (10) in regard to questions arising hereunder or thereunder, as the parties hereto or thereto may deem necessary or desirable and which shall not materially, adversely affect the interests of the Owners of the Obligations as evidenced by an opinion of counsel delivered by the Town to the Trustee. Any such supplemental or amending agreement shall become effective upon execution and delivery by the parties hereto or thereto as the case may be. The Trustee may rely upon an opinion of counsel as conclusive evidence that any such supplemental or amending agreement is authorized or permitted under this Trust Agreement (and, if applicable, the Purchase Agreement), and complies with this Section or Section 9.2.

**Section 9.2. Procedure for Amendment With Written Consent of Obligation Owners.** (a) This Agreement and the Purchase Agreement may be amended by supplemental or amending agreement as provided in this Section in the event the consent of the Owners of the Obligations is required pursuant to Section 9.1 hereof. A copy of such supplemental or amending agreement, together with a request to the Owners of the Obligations for their consent thereto, shall be mailed by the Trustee to each Owner of an Obligation at the address thereof as set forth on the registration books for the Obligations maintained pursuant to Section 2.11 hereof, but failure to mail copies of such supplemental or amending agreement and request shall not affect the validity of the supplemental or amending agreement when assented to as provided in this Section 9.2.

(b) Such supplemental or amending agreement shall not become effective unless there shall be filed with the Trustee the written consent of the Owners of a majority in principal amount of all Obligations then Outstanding and a notice shall have been mailed as hereinafter in this Section provided. The consent of an Owner of an Obligation shall be effective only if accompanied by proof of ownership of the Obligations for which such consent is given, which proof shall be such as is permitted by Section 2.10 hereof. Any such consent shall be binding upon the Owner of the Obligation giving such consent and on any subsequent Owner (whether or not such subsequent Owner has notice thereof) unless such consent is revoked in writing by the Owner giving such consent or a subsequent Owner by filing such revocation with the Trustee prior to the date when the notice hereinafter in this Section provided for has been mailed.

(c) After the Owners of the required percentage of Obligations shall have filed their consents to such supplemental or amending agreement, the Trustee shall mail a notice to the Owners of the Obligations in the manner hereinbefore provided in this Section for the mailing of such supplemental or amending agreement of the notice of adoption thereof, stating in substance that such supplemental or amending agreement has been consented to by the Owners of the required percentage of Obligations and will be effective as provided in this Section (but failure to mail copies of said notice shall not affect the validity of such supplemental agreement or consents thereto). A record, consisting of the papers required by this Section to be filed with the Trustee, shall be conclusive proof of the matters therein stated. Such supplemental or amending agreement shall become effective upon the mailing of such last-mentioned notice, and such supplemental or amending agreement shall be deemed conclusively binding upon the

parties hereto and the Owners of all Obligations at the expiration of 60 days after such filing, except in the event of a final decree of a court of competent jurisdiction setting aside such consent in a legal action or equitable proceeding for such purpose commenced within such 60 day period.

**Section 9.3. Effect of Supplemental Agreement.** From and after the time any supplemental or amending agreement becomes effective pursuant to this Article IX, this Agreement or the Purchase Agreement, as the case may be, shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations of the parties hereto or thereto and all Owners of Obligations Outstanding, as the case may be, shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any supplemental or amending agreement shall be deemed to be part of the terms and conditions of this Agreement or the Purchase Agreement, as the case may be, for any and all purposes.

**Section 9.4. Endorsement or Replacement of Obligations Delivered After Amendments.** The Trustee or the Town may determine that Obligations delivered after the effective date of any action taken as provided in this Article shall bear a notation, by endorsement or otherwise, in form approved by the Trustee and the Town, as to such action. In that case, upon demand of the Owner of any Obligation Outstanding at such effective date and presentation of his Obligation for the purpose at the office of the Trustee, a suitable notation shall be made on such Obligation. The Trustee or the Town may determine that the delivery of substitute Obligations, so modified as in the opinion of the Trustee is necessary to conform to such Obligation Owners' action, which substitute Obligations shall thereupon be prepared, executed and delivered. In that case, upon demand of the Owner of any Obligation then Outstanding, such substitute Obligation shall be exchanged at the Designated Office of the Trustee, without cost to such Owner, for an Obligation of the same character then Outstanding, upon surrender of such Outstanding Obligation.

**Section 9.5. Amendatory Endorsement of Obligations.** The provisions of this Article shall not prevent any Obligation Owner from accepting any amendment or supplement as to the particular Obligations held thereby, provided that proper notation thereof is made on such Obligations.

## ARTICLE X COVENANTS, NOTICES

**Section 10.1. Compliance With and Enforcement of Purchase Agreement.** The Town shall perform all obligations and duties imposed on it under the Purchase Agreement and shall not do or permit anything to be done, or omit or refrain from doing anything, in any case where any such act done or permitted to be done, or any such omission of or refraining from action, would or might be an Event of Default. The Town, immediately upon receiving or giving any notice, communication or other document in any way relating to or affecting any such action will deliver the same, or a copy thereof, to the Trustee.

**Section 10.2. Observance of Laws and Regulations.** The Town shall well and truly keep, observe and perform all valid and lawful obligations or regulations now or hereafter imposed on it by contract, or prescribed by any law of the United States of America, or of the State, or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired by the Town, including its right to exist and carry on business as a political subdivision, to the end that such rights, privileges and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired.

**Section 10.3. Recordation and Filing.** The Town shall file this Agreement (or a memorandum thereof or a financing statement with respect thereto), and all such documents as may be required by law (and shall take all further actions which may be necessary or be reasonably required by the Trustee, the Trustee having no obligation to make such requirements), all in such manner, at such times and in such places as may be required by law in order fully to preserve, protect and perfect the security of the Trustee and the Owners.

**Section 10.4. Further Assurances.** The Trustee (at the reasonable request, and at the expense, of the Town) and the Town shall make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Agreement and the Purchase Agreement and for the better assuring and confirming unto the Owners the rights and benefits provided herein.

**Section 10.5. Notification to the Town of Failure to Make Payments.** The Trustee shall notify the Town and the Owners of any failure by the Town to make any Payment or other payment required under the Purchase Agreement to be made to the Trustee, in writing and within one Business Day of any such failure. Such notice shall not be a prerequisite for the occurrence of an Event of Default.

**Section 10.6. Business Days.** Except as otherwise required herein, if this Agreement or the Purchase Agreement requires any party to act on a specific day and such day is not a Business Day, such party need not perform such act until the next succeeding Business Day, and such act shall be deemed to have been performed on the day required.

## ARTICLE XI LIMITATION OF LIABILITY

**Section 11.1. Limited Liability of the Town.** Except for the payment of the Payments from revenues from the Excise Taxes and the State Shared Revenues when due in accordance with the Purchase Agreement and the performance of the other covenants and agreements of the Town contained in the Purchase Agreement and herein, the Town shall have no pecuniary obligation or liability to any of the other parties or to the Owners with respect to this Agreement or the terms, execution, delivery or transfer of the Obligations or the distribution of Payments to the Owners by the Trustee.



**Section 11.2. No Liability of the Town for Trustee Performance.** The Town shall have no obligation or liability to any of the other parties or to the Owners with respect to the performance by the Trustee of any duty imposed upon it under this Agreement.

**Section 11.3. Indemnification of the Trustee.** (a) To the extent permitted by law, the Town shall indemnify and save the Trustee and its officers, directors, agents and employees, harmless for, from and against all claims, losses, costs, expenses, liability and damages, including legal fees and expenses, arising out of: (i) the use, maintenance, condition or management of, or from any work or thing done on, the Project or the sites of the Project or any portion thereof or interest therein by the Town; (ii) any breach or default on the part of the Town in the performance of any of its obligations under this Agreement and any other agreement made and entered into for purposes of the Project or any interest therein; (iii) any act of negligence of the Town or of any of its agents, contractors, servants, employees or licensees with respect to the Project; (iv) any act of negligence of any assignee of, or purchaser from, the Town or of any of its or their agents, contractors, servants, employees or licensees with respect to the Project; (v) the construction or acquisition of the Project or any interest therein; (vi) the actions of any other party, including but not limited to the operation or use of the Project or the sites of the Project or interest therein by the Town; (vii) the ownership of the Project or the sites of the Project or interest therein, (viii) the exercise and performance by the Trustee of its powers and duties hereunder, under the Purchase Agreement or in connection with any document or transaction contemplated herewith or therewith, or (ix) any matters with respect to the Project, including the costs and expenses of defending itself against any claim of liability arising under this Trust Agreement. No indemnification will be made under this Section or elsewhere in this Agreement for willful misconduct or negligence under this Agreement by the Trustee, or by its officers, agents, employees, successors or assigns. As security for the payment of amounts under Section 8.5 and this Section 11.3, the Trustee shall be secured under this Agreement by a lien prior to the Obligations. The obligations of the Town hereunder for indemnification under this Section shall remain valid and binding notwithstanding, and shall survive, the maturity and payment or redemption of the Obligations or resignation or removal of the Trustee or the termination of this Agreement.

(b) Promptly after determining that any event or condition which requires or may require indemnification by the Town hereunder exists or may exist, or after receipt of notice of the commencement of any action in respect of which indemnity may be sought hereunder, shall notify the Town in writing of such circumstances or action (the "Notification"). Failure to give such notification shall not affect the right of the Trustee to receive the indemnification provided for herewith. Upon giving of the Notification, the Trustee shall cooperate fully with the Town in order that the Town may defend, compromise or settle any such matters or actions which may result in payment by the Town hereunder. The Town shall give the Trustee notice of its election within 15 days after receiving the Notification whether the Town, at its sole cost and expense, shall represent and defend the Trustee in any claim or action which may result in a request for indemnification hereunder. If the Town timely gives the notice that it will represent and defend the Trustee thereafter, the Trustee shall not settle or compromise or otherwise interfere with the defense or undertakings of the Town hereunder; provided, however, the Trustee may retain its own counsel and still be indemnified against the cost of employing counsel and all other expenses despite an assumption of the defense by the Town if the Trustee believes in good faith that there are defenses available to it which are not available to the Town

or which are adverse to or in conflict with those available to the Town and which the Trustee believes in good faith cannot be effectively asserted by common counsel. The Town shall not settle or compromise any claim or action against the Trustee without the written approval of the Trustee, except to the extent that the Town shall pay all losses and the Trustee shall be fully released from such claim or action. If the Town either fails to timely give its notice or notifies the Trustee that the Town will not represent and defend the Trustee, the Trustee may defend, settle, compromise or admit liability as it shall determine in the reasonable exercise of its discretion, at the expense of the Town. In the event the Town is required to and does indemnify the Trustee as herein provided, the rights of the Town shall be subrogated to the rights of the Trustee to recover such losses or damages from any other person or entity.

**Section 11.4. Opinion of Counsel.** Before being required to take any action, the Trustee may require an opinion of Independent Counsel acceptable to the Trustee, which opinion shall be made available to the other parties hereto upon request, which counsel may be counsel to any of the parties hereto, or a verified certificate of any party hereto, or both, concerning the proposed action. If it does so in good faith, the Trustee shall be absolutely protected in relying thereon.

## **ARTICLE XII EVENTS OF DEFAULT AND REMEDIES OF OBLIGATION OWNERS**

**Section 12.1. Seller's Rights Held in Trust.** As provided herein, the Trustee holds in trust hereunder all of the Seller's rights in and to the Purchase Agreement, including without limitation all of the Seller's rights to exercise such rights and remedies conferred on the Seller pursuant to the Purchase Agreement as may be necessary or convenient to enforce payment of the Payments and any other amounts required to be deposited in the Payment Fund and enforcement of the pledge of the revenues from the Excise Taxes and the State Shared Revenues for the payment of the Obligations.

**Section 12.2. Remedies Upon Default; No Acceleration.** Upon an Event of Default and if such event has not been cured as provided in the Purchase Agreement, the Trustee may take whatever action at law or in equity, including the remedy of specific performance, may appear necessary or desirable to collect the Payments and any other amounts payable by the Town hereunder or under the Purchase Agreement, then due (but not the Payments and other such amounts accruing), or to enforce performance and observance of any pledge, obligation, agreement, or covenant of the Town under this Trust Agreement or the Purchase Agreement as provided in the Purchase Agreement. Nothing herein shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Owner any plan of reorganization, arrangement, adjustment, or composition affecting the Obligations or the rights of any Owner thereof, or to authorize the Trustee to vote in respect of the claim of any Owner in any such proceeding without the approval of the Owners so affected. Neither the Trustee nor the Owners of the Obligations shall have any right under any circumstances to accelerate the payment dates of the Obligations or otherwise declare any of the Payments not then past due or in default to be immediately due and payable.

**Section 12.3. Application of Funds.** (a) Subject to Subsection (b), amounts held by the Trustee hereunder and proceeds from the exercise of any remedies hereunder or

under the Purchase Agreement after payment or reimbursement of the reasonable fees, costs and expenses of the Trustee in connection therewith, including reasonable attorneys' fees and expenses and the creation of a reasonable reserve for anticipated fees, costs and expenses, shall be applied as follows:

**First:** To the payment to the persons entitled thereto of all installments of interest then due on, and other amounts with respect to, Obligations in the order of the maturity of such installments and other amounts, and, if the amount available shall not be sufficient to pay in full any installment or installments an amount or amounts coming due on the same date, then to the payment thereof ratably, according to the amounts due thereon to the persons entitled thereto, without any discrimination or preference; and

**Second:** To the payment to the persons entitled thereto of the unpaid principal installments of any Obligations which shall have become due, whether at maturity or because of selection for redemption, in the order of their due dates, and if the amounts available shall not be sufficient to pay in full all Obligations due on any date, then to the payment thereof ratably, according to the amounts of principal installments due on such date, to the persons entitled thereto, without any discrimination or preference; and

(b) Whenever moneys are to be applied pursuant to this section, the Trustee shall fix the date (which shall be the first of a month unless the Trustee shall deem another date more suitable) upon which such application is to be made, and upon such date interest on the amounts of principal paid on such date shall cease to accrue. The Trustee shall give or cause to be given notice of such payment, by first-class mail, to the Owners of Obligations at least eight days before such date. The Trustee shall not be required to make payment to the Owner of any Obligation until such Obligation shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid. Any surplus thereof shall be paid to the Town as directed by the Town Representative.

**Section 12.4. Institution of Legal Proceedings.** If one or more Events of Default shall happen and be continuing, the Trustee in its discretion may, and upon the written request of the Owners of a majority in aggregate principal amount of all Obligations then Outstanding, and upon being indemnified to its satisfaction therefor, shall, proceed to protect or enforce its rights or the rights of the Owners of Obligations by a suit in equity or action at law for the specific performance of any covenant or agreement contained herein.

**Section 12.5. Non-waiver.** Except as otherwise provided in this Article, the Obligation Owners have the right to institute suit to enforce and collect the Payments as provided in the Purchase Agreement. No delay or omission of the Trustee or of any Owner of any of the Obligations to exercise any right or power arising upon the happening of any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein, and every power and remedy given by this Article to the Trustee or the Owners of Obligations may be exercised from time to time and as often as shall be deemed expedient by the Trustee or the Obligation Owners.

**Section 12.6. Power of Trustee to Control Proceedings.** In the event that the Trustee, upon the happening of an Event of Default, shall have taken any action, by judicial proceedings or otherwise, pursuant to its duties hereunder, whether upon its own discretion or upon the request of the Owners of a majority in aggregate principal amount of the Obligations then Outstanding, it shall have full power, in the exercise of its discretion for the best interests of the Owners of the Obligations, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action; provided, however, that the Trustee shall not discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity, without the consent of the Owners of a majority in aggregate principal amount of the Obligations Outstanding.

**Section 12.7. Limitation on Obligation Owners' Right to Sue.** (a) No Owner of any Obligation issued hereunder shall have the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Agreement, unless (a) such Owner shall have previously given to the Trustee written notice of the occurrence of an Event of Default hereunder; (b) the Owners of at least a majority in aggregate principal amount of all Obligations then Outstanding shall have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (c) said Owners shall have tendered to the Trustee indemnity satisfactory to it against the costs, expenses, and liabilities to be incurred in compliance with such request and (d) the Trustee shall have refused or omitted to comply with such request for a period of 60 days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee.

(b) Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of Obligations of any remedy hereunder; it being understood and intended that no one or more Owners of Obligations shall have any right in any manner whatever by his or their action to enforce any right under this Agreement, except in the manner herein provided, and that all proceedings at law or in equity with respect to an Event of Default shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Owners of the Outstanding Obligations.

(c) The right of any Owner of any Obligation to receive payment of said Owner's proportionate interest in the Payments as the same become due, or to institute suit for the enforcement of such payment, shall not be impaired or affected without the consent of such Owner, notwithstanding the foregoing provisions of this Section or any other provision of this Agreement.

## **ARTICLE XIII MISCELLANEOUS**

**Section 13.1. Defeasance.** (a) If and when any Outstanding Obligation or portion thereof shall be paid and discharged in any one or more of the following ways:

(i) By paying or causing to be paid the principal of, interest and other amounts due with respect to such Obligations Outstanding, as and when the same become due and payable;

(ii) By depositing with a Depository Trustee, in trust for such purpose, at or before maturity, money which, together with the amounts then on deposit in the Payment Fund is fully sufficient to pay or cause to be paid such Obligations Outstanding, including all principal, interest and other amounts due; or

(iii) By depositing with a Depository Trustee, in trust for such purpose, any Government Obligations which are noncallable in such amount as shall be certified to the Trustee and the Town by a national firm of certified public accountants acceptable to the Town, as being fully sufficient, together with the interest to accrue thereon and moneys then on deposit in the Payment Fund together with the interest to accrue thereon, to pay and discharge or cause to be paid and discharged such Obligations (including all principal, interest and other amounts due) at maturity or prior redemption dates, which deposit may be made in accordance with the provisions of Section 8 of the Purchase Agreement;

notwithstanding that any Obligations shall not have been surrendered for payment, all obligations of the Trustee and the Town with respect to such Outstanding Obligations shall cease and terminate, except only the obligation of the Trustee to pay or cause to be paid, from funds deposited pursuant to subsections (ii) or (iii) of this Section and paid to the Trustee by the Depository Trustee, to the Owners of the Obligations not so surrendered and paid all sums due with respect thereto, and in the event of deposits pursuant to subsections (ii) or (iii), the Obligations shall continue to represent direct and proportionate interests of the Owners thereof in such funds.

(b) Any funds held by the Trustee, at the time of one of the events described in paragraph (a) of this Section, which are not required for the payment to be made to Owners or for the payment of any other amounts due and payable by the Town hereunder or under the Purchase Agreement, shall be paid over to the Town.

(c) Any Obligation or portion thereof in Authorized Denominations may be paid and discharged as provided in this Section; provided however, that if any such Obligation or portion thereof is to be redeemed, notice of such redemption shall have been given in accordance with the provisions hereof or the Town shall have submitted to the Trustee instructions expressed to be irrevocable as to the date upon which such Obligation or portion thereof is to be redeemed and as to the giving of notice of such redemption; and provided further, that if any such Obligation or portion thereof will not mature within 60 days of the deposit referred to in subsections (ii) or (iii) of subsection (a) of this Section, the Trustee shall give notice of such deposit by first class mail to the Owners.

(d) No Obligation may be provided for as provided in this Section if, as a result thereof, or of any other action in connection with which the provisions for payment of such Obligation is made, the interest payable on any Obligation is thereby made includable in gross income for federal income tax purposes. The Trustee, the Depository Trustee, and the Town

may rely upon an opinion of Independent Counsel which is nationally recognized bond counsel to the effect that the provisions of this subsection will not be breached by so providing for the payment of any Obligations.

**Section 13.2. Records.** The Trustee shall keep complete and accurate records of all moneys received and disbursed under this Agreement, which shall be available for inspection by the Town and any Owner, or the agent of any of them, upon reasonable prior notice, at any time during regular business hours.

**Section 13.3. Notices.** All written notices to be given under this Agreement shall be given by mail or personal delivery to the party entitled thereto at its address set forth below, or at such address as the party may provide to the other party in writing from time to time. Notice shall be effective upon email, deposit in the United States mail, postage prepaid or, in the case of personal delivery, upon delivery to the address or email address set forth below:

If to the Town:           Town of Queen Creek, Arizona  
                                  22358 South Ellsworth Road  
                                  Queen Creek, Arizona 85142-9311  
                                  Attention: Town Manager

If to the Trustee:       \_\_\_\_\_  
                                  \_\_\_\_\_  
                                  \_\_\_\_\_  
                                  Attention: Global Corporate Trust

All notices, approvals, consents, requests and any communications to the Trustee hereunder or under the Purchase Agreement must be in writing in English and must be in the form of a document that is signed manually or by way of an electronic signature (including electronic images of handwritten signatures and digital signatures provided by DocuSign, Orbit, Adobe Sign or any other electronic signature provider acceptable to the Trustee). Electronic signatures believed by the Trustee to comply with the ESIGN ACT of 2000 or other applicable law shall be deemed original signatures for all purposes. If the Town chooses to use electronic signatures to sign documents delivered to the Trustee, the Town agrees to assume all risks arising out of its use of electronic signatures, including without limitation the risk of the Trustee acting on an unauthorized document and the risk of interception or misuse by third parties. Notwithstanding the foregoing, the Trustee may in any instance and in its sole discretion require that an original document bearing a manual signature be delivered to the Trustee in lieu of, or in addition to, any document signed via electronic signature.

**Section 13.4. Incorporation of State Statutes.** (a) Section 38-511, Arizona Revised Statutes, as amended, provides that the Town may, within three years after its execution, cancel any contract (including this Agreement), without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the Town is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract (including in the case of this Agreement, the Trustee) in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract. In addition, the Town may recoup any fee or

commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the Town from any other party to the contract arising as a result of the contract.

(b) To the extent applicable under Section 41-4401, Arizona Revised Statutes, the Trustee shall comply with all federal immigration laws and regulations that relate to its employees and its compliance with the “e-verify” requirements under Section 23-214(A), Arizona Revised Statutes. The breach by the Trustee of the foregoing shall be deemed a material breach of this Agreement and may result in the termination of the services of the Trustee by the Town. The Town retains the legal right to randomly inspect the papers and records of the Trustee to ensure that the Trustee is complying with the above-mentioned warranty. The Trustee shall keep such papers and records open for random inspection during normal business hours by the Town. The Trustee shall cooperate with the random inspections by the Town including granting the Town entry rights onto its property to perform such random inspections and waiving its respective rights to keep such papers and records confidential. To the extent permitted by applicable law, the Town shall preserve the confidentiality of any information, records, or papers the Town needs, accesses, or otherwise obtains during any and every such random inspection, including, without limitation, such information.

(c) To the extent applicable under Section 35-393 et seq., Arizona Revised Statutes, the Trustee hereby certifies it is not currently engaged in, and for the duration of this Agreement shall not engage in, a boycott of Israel. The term “boycott” has the meaning set forth in Section 35-393, Arizona Revised Statutes. If the Town determines that the Trustee’s certification above is false or that it has breached such agreement, the Town may impose remedies as provided by law.

(d) To the extent applicable under Section 35-394, Arizona Revised Statutes, the Trustee hereby certifies it does not currently, and for the duration of this Trust Agreement shall not use: (i) the forced labor of ethnic Uyghurs in the People’s Republic of China, (ii) any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China, and (iii) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China. The foregoing certification is made to the best knowledge of the Trustee without any current independent investigation or without any future independent investigation for the duration of this Trust Agreement. If the Trustee becomes aware during the duration of this Trust Agreement that it is not in compliance with such certification, the Trustee shall provide the required notice to the Town and resign as Trustee hereunder in accordance with the provisions of Article VIII. If the Town determines that the Trustee is not in compliance with the foregoing certification and has not taken remedial action, the Town shall terminate the Trustee’s role as the Trustee hereunder pursuant to Article VIII.

**Section 13.5. Governing Law.** This Agreement shall be construed and governed in accordance with the laws of the State.

**Section 13.6. Binding Effect and Successors.** This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. Whenever in this Agreement either the Town or the Trustee is named or referred to, such

reference shall be deemed to include successors or assigns thereof, and all the covenants and agreements in this Agreement contained by or on behalf of the Town or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

**Section 13.7. Execution in Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same Agreement.

**Section 13.8. Destruction of Cancelled Obligations.** Whenever in this Agreement provision is made for the surrender to or cancellation by the Trustee and the delivery to the Town of any Obligations, the Trustee may destroy such Obligations and, upon the Town's request, deliver a certificate of such destruction to the Town.

**Section 13.9. Headings.** The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Agreement. All references herein to "Articles", "Sections", and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Agreement; and the words "herein", "hereof", "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or subdivision hereof.

**Section 13.10. Parties Interested Herein.** Nothing in this Trust Agreement or the Obligations, expressed or implied, is intended or shall be construed to confer upon, or to give or grant to, any person or entity, other than the Town, the Trustee and the Owners, any legal or equitable right, remedy or claim under or by reason of this Trust Agreement or any covenant, condition or stipulation hereof, and all covenants, stipulations, provisions and agreements in this Trust Agreement contained by and on behalf of the Town shall be for the sole and exclusive benefit of the Town, the Trustee and the Owners of the Obligations.

**Section 13.11. Waiver of Notice.** Whenever in this Agreement the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

**Section 13.12. Severability of Invalid Provisions.** In case any one or more of the provisions contained in this Agreement or in the Obligations shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The parties hereto hereby declare that they would have entered into this Agreement and each and every other section, paragraph, sentence, clause or phrase hereof and authorized the delivery of the Obligations pursuant thereto irrespective of the fact that any one or more sections, paragraphs, sentences, clauses or phrases of this Agreement may be held illegal, invalid or unenforceable.



[Signature page follows.]

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the day and year first above written.

\_\_\_\_\_, **as Trustee**

By.....  
Authorized Representative

**THE TOWN OF QUEEN CREEK, ARIZONA**

By.....  
Mayor

**ATTEST:**

.....  
Town Clerk

**EXHIBIT A**

(Form of Obligation)

**THIS OBLIGATION IS SUBJECT TO RESTRICTIONS  
UPON TRANSFER AS PROVIDED IN THE WITHIN  
DESCRIBED TRUST AGREEMENT**

Number: .....

Principal Amount: \$.....

**SUBORDINATE LIEN EXCISE TAX AND  
STATE SHARED REVENUE OBLIGATION, SERIES 2023**

Evidencing a Proportionate Interest of the Owner  
Hereof in Certain Payments to be Made by

**THE TOWN OF QUEEN CREEK, ARIZONA**

to

\_\_\_\_\_ ,

as Trustee

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Dated Date</u>
VARIABLE RATE	June 1, 20__	_____, 2023

Registered Owner: .....

Principal Amount: ..... DOLLARS

**THIS IS TO CERTIFY THAT** the registered owner identified above, or registered assigns, as the registered owner of this Subordinate Lien Excise Tax and State Shared Revenue Obligation, Series 2023 (this "Obligation") is the owner of an undivided, participatory, proportionate interest in the right to receive the Payments (as such term and all other capitalized terms used but not otherwise defined herein are defined in the hereinafter defined Trust Agreement) under the Purchase Agreement as well as certain amounts to be paid pursuant to the Continuing Covenant Agreement. The Payments and other rights and interests under the Purchase Agreement and payments pursuant to the Continuing Covenant Agreement are held in trust under that certain Fourth Subordinate Lien Trust Agreement, dated as of \_\_\_\_\_ 1, 2023 (the "Trust Agreement"), by and between the Town of Queen Creek, Arizona, a municipal corporation and a political subdivision existing under the laws of the State of Arizona and \_\_\_\_\_.

The registered owner of this Obligation is entitled to receive, subject to the terms hereof, on the maturity date set forth above, the total principal amount set forth above, representing a portion of the Payments designated as principal, and to receive the Interest Portion on the Interest Payment Dates; provided, however, that the Interest Portion shall be calculated on the sum of the Advances made by the Purchaser as described in Section 3.1(b) of the Trust Agreement and as

reflected in the “Table of Advances” attached hereto. Said amounts representing the registered owner’s share of the Payments designated as interest and principal as well as other amounts payable pursuant to the Purchase Agreement and amounts payable pursuant to the Continuing Covenant Agreement are payable to the registered owner (or prior registered owner, as applicable) as provided in the Trust Agreement.

If the amount of interest payable for any period in accordance with the terms of this Obligation exceeds the amount of interest that would be payable for such period had interest for such period been calculated at the Maximum Interest Rate, then interest for such period shall be payable in an amount calculated at the Maximum Interest Rate.

In the event a Determination of Taxability occurs, the Gross-Up Amount shall be paid.

The Trustee has no obligation or liability to the registered owners of the Obligations for the payment of interest or principal pertaining to the Obligations. The Trustee’s sole obligations are to administer, for the benefit of the registered owners of the Obligations, the various funds and accounts established pursuant to the Trust Agreement.

This Obligation has been executed and delivered by the Trustee pursuant to the terms of the Trust Agreement. The Town is authorized to enter into the Purchase Agreement and the Trust Agreement under the laws of the State of Arizona and by resolution of the Mayor and Council of the Town adopted September 6, 2023. Reference is hereby made to the Purchase Agreement and the Trust Agreement (copies of which are on file at the Designated Office) for further definitions, a description of the terms on which the Obligations are delivered, the rights thereunder of the registered owners of the Obligations, the rights, duties and immunities of the Trustee and the rights and obligations of the Town under the Purchase Agreement (including with respect to certain obligations secured and to be secured senior to the security for the Payments and to be secured on a parity with the security for the Payments), to all of the provisions of which Purchase Agreement and Trust Agreement the registered owner of this Obligation, by acceptance hereof, assents and agrees. (The recitals, statements, covenants and representations made in this Obligation shall be taken and construed as made by and on the part of the Town, and not by the Trustee, and the Trustee does not assume, and shall not have, any responsibility or obligation for the correctness of any thereof.)

The Obligations are payable from payments to be made by the Town pursuant to the Purchase Agreement and the Continuing Covenant Agreement. The Town is required under the Purchase Agreement to make such payments from the revenues from the Excise Taxes and the State Shared Revenues.

The Payments are payable from a pledge of, and secured by a lien on, the revenues from the Excise Taxes and the State Shared Revenues as are necessary for prompt and punctual payment, all as more fully described in, and provided by, the Purchase Agreement with respect to the pledge of the revenues from the Excise Taxes and the State Shared Revenues. All Obligations of the total authorized amount are co-equal as to such pledge of and lien on the revenues from the Excise Taxes and the State Shared Revenues securing the payment thereof, and share ratably without any preference, priority or distinction as to the source or method of payment from the revenues from the Excise Taxes and the State Shared Revenues and security thereof. The

registered owner hereof shall never have the right to demand payment of this Obligation, the Payments or amounts due pursuant to the Continuing Covenant Agreement out of any funds other than the revenues from the Excise Taxes and the State Shared Revenues. The rights of the holder hereof to payment from the revenues from the Excise Taxes and the State Shared Revenues are (i) subordinate to the rights to payment from the revenues from the Excise Taxes and the State Shared Revenues for certain obligations which have been, and may in the future be, executed and delivered senior thereto pursuant to the documents associated with such senior obligations, and (ii) on a parity with the rights to payment from the revenues from the Excise Taxes and the State Shared Revenues for the Third Subordinate Lien Purchase Agreement and certain obligations which may in the future be executed and delivered on a parity with this Obligation pursuant to the Purchase Agreement.

The Obligations, the Purchase Agreement and the obligation of the Town to make the Payments thereunder and the Continuing Covenant Agreement and the obligation of the Town to make payments thereunder are not a liability, debt or obligation of the Trustee and do not represent or constitute a general obligation of the Town, the State of Arizona or any political subdivision thereof for which the Town or the State of Arizona or any political subdivision thereof is obligated to levy or pledge any form of taxation (other than the obligation of the Town to levy the Excise Taxes) nor do the Obligations, the Purchase Agreement or the obligation to make the Payments thereunder or the Continuing Covenant Agreement or the obligation of the Town to make payments thereunder constitute an indebtedness of the Town, the State of Arizona or any of its political subdivisions within the meaning of any constitutional or statutory debt limitation or restriction or otherwise. (This Obligation represents an interest in a limited obligation of the Town (as described herein), and no Council member, officer or agent, as such, past, present or future, of the Town shall be personally liable for the payment hereof.)

The Obligations are issuable only as fully registered obligations in the denominations authorized and in fully registered, physically certificated form. The Obligations shall not be transferable or exchangeable, except as provided in the Trust Agreement.

This Obligation is transferable by the registered owner hereof, in person or by his attorney duly authorized in writing, at the Designated Office, but only in the manner, subject to the limitations and upon payment of the charges provided in the Trust Agreement and upon surrender and cancellation of this Obligation. Upon such transfer a new Obligation for the remaining unpaid principal amount will be delivered to the transferee in exchange therefor. The Town and the Trustee may treat the registered owner hereof as the absolute owner hereof for all purposes, whether or not this Obligation shall be overdue, and the Town and the Trustee shall not be affected by any notice to the contrary.

The Trustee may require a registered owner, among other things, to furnish appropriate endorsements and transfer documents and to pay any taxes or governmental charges required by law in connection with the exchange or transfer.

The Trustee may, but shall not be obligated to, exchange or register the transfer of this Obligation (i) if this Obligation has been selected for redemption, in whole or in part, or (ii) during a period of 15 days preceding the giving of a notice of redemption. If this Obligation is transferred after having been selected for redemption, any notice of redemption which has

been given to the transferor shall be binding on the transferee, and a copy of the notice of redemption shall be delivered by the Trustee to the transferee along with the duly registered Obligation or Obligations.

The registered owner of this Obligation shall have no right to enforce the provisions of the Trust Agreement or the Purchase Agreement or to institute any action to enforce the covenants thereof, or to take any action with respect to a default thereunder or hereunder, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Trust Agreement.

To the extent and in the manner permitted by the terms of the Trust Agreement, the provisions of the Trust Agreement and the Purchase Agreement may be amended by the parties thereto with the written consent of the owners of a majority in aggregate principal of all Obligations then outstanding, and may be amended without such consent under certain circumstances but in no event such that the interests of the owners of the Obligations are adversely affected, provided that no such amendment shall impair the right of any owner to receive in any case such owner's proportionate share of any Payment thereof in accordance with such owner's Obligation.

Obligations will be subject to redemption in whole or in part from prepayments made at the option of the Town on \_\_\_\_\_, at a redemption price equal to the principal amount of the Obligation or portion thereof to be redeemed, together with unpaid and accrued interest to the date fixed for redemption, but without premium.

Redemption shall be in authorized denominations or any integral multiples of \$5,000 in excess thereof. So long as \_\_\_\_\_ is the owner of this Obligation, \_\_\_\_\_ shall not be required to surrender this Obligation in connection with any partial redemption.

The Trustee shall give notice of any redemption of this Obligation as provided above no less than 10 Business Days prior to the redemption date to the registered owner by Electronic Means and at its address shown on the registration books maintained by the Trustee. A certificate of the Trustee shall conclusively establish the transmission/ mailing of any such notice for all purposes.

If at the time of mailing of the notice of redemption there has not been deposited with the Trustee moneys or eligible securities sufficient to redeem all Obligations subject to redemption and other requirements set forth in the Trust Agreement are not met, such notice shall state that it is conditional, subject to the deposit of moneys sufficient for the redemption and satisfaction of such conditions. If Obligations or portions thereof are subject to redemption and if on the redemption date moneys for the redemption thereof are held by the Trustee and those other conditions are met, thereafter those Obligations or portions thereof to be redeemed shall cease to bear interest, and shall cease to be secured by, and shall not be deemed to be outstanding under, the Trust Agreement. The failure to receive any notice of redemption, or any defect in such notice in respect of any Obligation, shall not affect the validity of redemption of any Obligation.

It is hereby certified, recited and declared that all conditions, acts and things required by the Constitution and laws of the State of Arizona to happen, to be done, to exist and to be per-

formed precedent to and in the execution and delivery of this Obligation have happened, have been done, do exist and have been performed in regular and due form and time as required by law.

This Obligation shall not be entitled to any security or benefit under the Trust Agreement until executed by the Trustee.

IN WITNESS WHEREOF, this Obligation has been executed and delivered by the Trustee, acting pursuant to the Trust Agreement.

Date of Execution: .....

\_\_\_\_\_, as Trustee

By.....  
Authorized Representative

The following abbreviations, when used in the inscription on the face of this Obligation, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM -	as tenants in common	UNIF GIFT/TRANS MIN ACT
TEN ENT -	as tenants by the entireties	.....Custodian.....
JT TEN -	as joint tenants with right of survivorship and not as tenants in common	(Cust) (Minor)
		under Uniform Gifts/Transfers to Minors Act
		.....

Additional abbreviations may also be used though not in the above list.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

Insert Social Security or Other Identifying Number of Transferee

.....  
.....

.....  
(Please Print or Typewrite Name and Address of Transferee)

the within certificate and all rights thereunder, and hereby irrevocably constitutes and appoints

....., attorney to transfer the within certificate on the books kept for registration thereof, with full power of substitution in the premises.

Dated .....

.....  
Note: The signature(s) on this assignment must correspond with the name(s) as written on the face of the within registered certificate in every particular without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

.....  
The signature(s) should be guaranteed by an eligible guarantor institution pursuant to Securities and Exchange Commission

Rule 17Ad-15



## TABLE OF ADVANCES

Upon receipt of any Advance described in Section 3.1(b) of the Trust Agreement, the Owner of this Obligation (or the Trustee, if the Trustee is holding this Obligation on behalf of the Owner) shall make the appropriate notation on the table below:

Date of Advance	Amount of Advance	Total Principal Payments	Remaining Principal Balance	Signature of Owner or Trustee
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**EXHIBIT B**

**Payment Request Form**

Application No. ....

The Trustee is hereby requested to pay from the “Acquisition Fund” established by the Fourth Subordinate Lien Trust Agreement, dated as of \_\_\_\_\_ 1, 2023 (the “Trust Agreement”), between the Town of Queen Creek, Arizona (the “Town”) and \_\_\_\_\_, as trustee (the “Trustee”) to the person or corporation designated below as “Payee,” the sum set forth below such designation, in payment of the Project Costs (as such term is and other undefined terms used herein are defined in the Trust Agreement) described below. The amount shown below is due and payable under a purchase order or contract with respect to the Project Costs described below and has not formed the basis of any prior request for payment.

Payee: .....

Address: .....

Amount: .....

Description of Project Costs or portion thereof authorized to be paid to the Payee:

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

The Town acknowledges that it has received and inspected each item of the Project described above and has found each item of the Project so described to be in good condition, in conformity with the Town’s specifications and satisfactory for the Town’s purposes and in accordance with the applicable purchase order or contract and the plans for the Project. Notwithstanding anything herein to the contrary, the Town shall not be deemed to have waived or released the Payee from any liability or obligation to the Town in the event the Town’s acknowledgment herein is discovered to be inaccurate in any respect as to any item of the Project described above.

By execution of this Payment Request Form, the Town requests and approves the payment of the amount stated above to Payee set forth above.

DATED: ....., 20.....

.....  
Town Representative

Please forward payment to Payee at the following address:

.....  
.....  
.....

**EXHIBIT C**

**Reimbursement Request Form**

Application No. ....

The Trustee is hereby requested to pay from the "Acquisition Fund" established by the Fourth Subordinate Lien Trust Agreement, dated as of \_\_\_\_\_ 1, 2023 (the "Trust Agreement"), between the Town of Queen Creek, Arizona (the "Town"), and \_\_\_\_\_, as trustee (the "Trustee"), to the Town, the sum set forth below as reimbursement of (all/a portion) of the Project Costs (as such term and all other undefined terms used herein are defined in the Trust Agreement) described below. The amount shown below was paid by the Town as Project Costs and has not formed the basis of any prior request for payment.

The Town acknowledges that it has received and has inspected each item of the Project to which the foregoing relates and has found each item of the Project so described to be in good condition, in conformity with the Town's specifications and satisfactory for the Town's purposes. Notwithstanding anything herein to the contrary, the Town shall not be deemed to have waived or released any entity named on the attached documentation, from any liability or obligation to the Town in the event the Town's acknowledgment herein is discovered to be inaccurate in any respect as to any item of the Project described below.

Amount: .....

Description of Project Costs or portion thereof for which reimbursement is hereby requested:

.....  
.....  
.....

DATED: ....., 20.....

.....  
Town Representative

Dated Received: ....., 20.....