



## NOTICE OF REGULAR MEETING OF THE TOWN OF GUADALUPE COUNCIL

DECEMBER 13, 2018

Pursuant to A.R.S. 38-431.02, notice is hereby given to the members of the Town of Guadalupe Council and to the general public that the Town of Guadalupe Council will hold a meeting, open to the public, on Thursday, December, 13, 2018, at 6:00 P.M., at Guadalupe Town Hall, 9241 South Avenida del Yaqui, Guadalupe, Arizona, in the Council Chambers.

Valerie Molina  
Mayor

Anita Cota  
Vice Mayor

Mary Bravo  
Councilmember

Gloria Cota  
Councilmember

Elvira Osuna  
Councilmember

Joe Sánchez  
Councilmember

Ricardo Vital  
Councilmember

Online agendas and results  
available at  
[www.guadalupeaz.org](http://www.guadalupeaz.org)

Town Council Chambers  
9241 S. Avenida del Yaqui  
Guadalupe, AZ 85283  
Phone: (480) 730-3080  
Fax: (480)-505-5368

### AGENDA

A. CALL TO ORDER

B. ROLL CALL

C. INVOCATION/PLEDGE OF ALLEGIANCE

D. APPROVAL OF MINUTES:

1. Approval of the minutes of the Town Council Regular Meeting held on November 26, 2018.

E. CALL TO THE PUBLIC. An opportunity is provided to the public to address the Council on items that are not on the agenda or included on the consent agenda. A total of 3 minutes will be provided for the Call to the Audience agenda item, unless the Council requests an exception to this limit. Please note that those wishing to comment on agenda items posted for action will be provided the opportunity at the time the item is heard.

F. MAYOR and COUNCIL PRESENTATIONS: None.

G. DISCUSSION AND POSSIBLE ACTION ITEMS:

1. **VICE MAYOR SELECTION:** The Mayor and Councilmembers may consider, nominate and vote for a Councilmember(s) to serve as Vice Mayor for a two year term, ending November 5, 2020.
2. **ENERGY PRESENTATION:** Representatives from Midstate Energy will present an energy conservation plan for Town of Guadalupe facilities. Council may provide direction to the Town Manager.
3. **TOWN COURT QUARTERLY REPORT:** Town Magistrate and court staff will present the Quarterly Report of the Town of Guadalupe Courts for Town Council discussion and direction.
4. **PUBLIC HEARING – REZONING REQUEST:** Hold a public for a rezoning request from R1-9 to R1-6 to allow proper zoning of a lot split for construction of single family home. This rezoning request is for the property located at 5706 East Calle Mexico, Guadalupe, Arizona, and is further described as parcel 301-06-164B, in Block 11 of East Guadalupe, a subdivision recorded in Book 211, Page 18, Maricopa County, Arizona records. This rezoning request of the property owner, Mr. Salah Smoudi, would allow for the construction of a new single family home on the property. *(Note: this item is related to agenda items G5)*



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5. **REZONING REQUEST:** Council will consider and may approve the rezoning request for 5706 East Calle Mexico, Guadalupe, Arizona, further described as parcel 301-06-164B, in Block 11 of East Guadalupe, a subdivision recorded in Book 211, Page 18, Maricopa County, Arizona, records from R1-9 to R1-6 to allow proper zoning of a lot split for construction of single family home. This rezoning request of the property owner, Mr. Salah Smoudi, would allow for the construction of a new single family home on the property. *(Note: this item is related to agenda items G4)*
6. **PUBLIC HEARING – TOWN OF GUADALUPE 2018 TAX CODE AMENDMENTS:** Hold a public hearing for proposed changes to the Town of Guadalupe Tax Code pursuant to A.R.S. § 42-6053. The proposed changes relating to the Transaction Privilege Tax will adopt the 2018 Amendments, Sections 1 through 7, to the Town of Guadalupe Tax Code, by reference. *(Note: this item is related to agenda items G7 & G8)*
7. **TOWN OF GUADALUPE 2018 TAX CODE AMENDMENTS (ORDINANCE NO. O2018.03):** Council will review and may adopt Ordinance No. O2018.03 related to the 2018 Tax Code Amendments, Sections 1 through 7, to amend and include in the Town of Guadalupe Tax Code, and direct staff to move forward with implementation. Ordinance No. O2018.03 adopts the 2018 Tax Code Amendments, by reference, to Resolution No. R2018.25. *(Note: this item is related to agenda items G6 & G8)*
8. **TOWN OF GUADALUPE 2018 TAX CODE AMENDMENTS (RESOLUTION NO. R2018.25):** Council will review and may adopt Resolution No. R2018.25 related to the 2018 Tax Code Amendments to amend and include in the Town of Guadalupe Tax Code, and direct staff to move forward with implementation. If adopted, the Amendments will be incorporated into the Tax Code of the Town of Guadalupe. *(Note: this item is related to agenda items G6 & G7)*
9. **AK-CHIN INDIAN COMMUNITY GAMING GRANT – RESOLUTION NO. R2018.26:** Council will consider and may adopt Resolution No. R2018.26 authorizing the Mayor to execute an intergovernmental agreement, IGA 2018-01, between the Ak-Chin Indian Community and the Town of Guadalupe to accept awarded 12% Contribution Grant in the amount of \$80,000 towards building renovations and equipment replacement for the Guadalupe Head Start / Ed Pastor Senior Center; and, sign all necessary documents in furtherance of this agreement.
10. **TOHONO O’ODHAM NATION GAMING GRANT – RESOLUTION NO. R2018.27:** Council will consider and may adopt Resolution No. R2018.27 authorizing the Mayor to execute a Grant-In-Aid-Agreement, IGA 2018-02, between the Tohono O’odham Nation and the Town of Guadalupe to accept awarded 12% local revenue sharing contribution in the amount of \$62,500 as a partial payment towards the purchase of a replacement Type 1 Fire Engine; and, sign all necessary documents in furtherance of this agreement.



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Mayor

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Vice Mayor

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11. **CONTRACT EXTENSION – PUBLIC DEFENDER:** Council will consider and may approve a contract extension in the form of a second amendment to the public defender contract for Matthew Marnier to provide services to the Guadalupe Magistrate Court as a Public Defender and, sign all necessary documents in furtherance of this agreement. The extension would extend the term of the contract for a period of approximately 6 months, ending on June 30, 2019. All other terms of the original August 30, 2016, contract agreement remain in full force, and are not changed.
12. **GAMING GRANT STATUS REPORT:** Town staff will present a status report of the 2018 12% local revenue sharing gaming grant requests from the Town of Guadalupe. Council may provide direction to the Town Manager.
13. **COUNCIL MEETING SCHEDULE:** Council will review and may modify and/or approve the Town Council Regular Meeting schedule for calendar year 2019; and, provide direction to the Town Manager.

- H. TOWN MANAGERS' COMMENTS
- I. COUNCILMEMBERS' COMMENTS
- J. ADJOURNMENT



# Minutes Town Council Regular Meeting November 28, 2018

Valerie Molina  
Mayor

Anita Cota  
Vice Mayor

Mary Bravo  
Councilmember

Gloria Cota  
Councilmember

Elvira Osuna  
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Joe Sanchez  
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Minutes of the Guadalupe Town Council Regular Meeting held on Thursday, November 28, 2018, at 6:00 P.M., at Guadalupe Town Hall, 9241 South Avenida del Yaqui, Guadalupe, Arizona, in the Council Chambers.

## A. CALL TO ORDER

Mayor Molina called the meeting to order at 6:05 P.M..

## B. ROLL CALL

Councilmembers Present: Mayor Valerie Molina, Councilmember Mary Bravo, Councilmember Gloria Cota, Councilmember Joe Sánchez, and Councilmember Ricardo Vital

Councilmembers Absent: Vice Mayor Anita Cota and Councilmember Elvira Osuna

Staff Present: Jeff Kulaga – Town Manager / Clerk, Nancy Holguin, Community Development, David Ledyard – Town Attorney, and Kay Savard – Deputy Town Clerk

## C. INVOCATION/PLEDGE OF ALLEGIANCE

Mayor Molina called for a moment of silence in memory of the passing of Congressman Ed Pastor; and, then led the Pledge of Allegiance.

## D. APPROVAL OF MINUTES:

1. **Motion by Councilmember Bravo to approve the November 8, 2018, Town Council Regular Meeting minutes; second by Councilmember Cota. Motion passed unanimously 5-0.**

Approved the minutes of the Town Council Regular Meeting held on November 8, 2018.

E. CALL TO THE PUBLIC – Mayor Molina announced that the Call to the Public will be postponed until later in the meeting.

F. MAYOR and COUNCIL PRESENTATIONS – None.

## G. DISCUSSION AND POSSIBLE ACTION ITEMS:

1. **PUBLIC HEARING:** Held a public hearing for the planning of Housing and Urban Development Community Block Grant projects for fiscal year 2019-2020. (*item related to G2 and G3*)

Jeff Kulaga, Town Manager / Clerk, stated that there are no speakers for the public hearing. Mr. Kulaga noted that proper notification of the public hearing was published in the newspaper.

**Motion by Councilmember Sánchez to close the public hearing; second by Councilmember Cota. Motion passed unanimously 5-0.**



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**2. COMMUNITY BLOCK GRANT PROGRAM (RESOLUTION NO. R2018.23):** Councilmembers adopted **RESOLUTION NO. R2018.23** authorizing the Town Manager to submit six recommended street repaving projects: Calle Brigido Valenzuela, Calle Maximo Solarez, Calle Fortunato Serrano, Calle Juan Tavena, Circulo S. Hernandez, and Jimenez Circle, to Maricopa County for possible funding through the Community Block Grant Program for fiscal year 2019-2020. The requested grant funding amount totals \$438,873. The application submittal deadline is December 6, 2018. *(item related to G1)*

Jeff Kulaga, Town Manager / Clerk, stated that the proposed Community Block Grant (CDBG) represents the Town of Guadalupe's sixth project that has been funded by CDBG monies. Staff anticipates that if funded, the project would begin in October, 2019.

Councilmembers discussed how CDBG projects are selected by a Committee; and, that projects are evaluated, partially, based on social components.

In response to a question, Mr. Kulaga stated that there are multiple jurisdictions competing for CDBG funding. There is currently infrastructure that is deteriorating; and, safe sidewalks and streets are needed.

Councilmember Vital explained the process a Committee utilizes to review CDBG funding requests. Mr. Kulaga noted that sufficient justification for each project is required in the application, any available alternative funding mechanisms for the project, and if funded, how will the project asset(s) be maintained.

**Motion by Councilmember Bravo to approve agenda item G2; second by Councilmember Sánchez. Motion passed unanimously 5-0.**

**3. COMMUNITY BLOCK GRANT PROGRAM (RESOLUTION NO. R2018.24):** Councilmembers adopted **RESOLUTION NO. R2018.24** authorizing the Town Manager to submit a recommended Biehn Colony Park Playground Equipment Replacement Project to Maricopa County for possible funding through the Community Block Grant Program for fiscal year 2019-2020. The requested grant funding amount totals \$143,500. The application submittal deadline is December 6, 2018. *(item related to G1)*

Jeff Kulaga, Town Manager / Clerk, stated that this Community Block Grant funding request is to repair/replace playground equipment at Biehn Colony Park due to vandalism and fire damage. The funding request is for \$143,000 to purchase equipment, provide accessibility for disabled persons, shipping costs, site design and preparation, and equipment installation costs.

Councilmembers discussed the importance of incorporating shade into the project. Mr. Kulaga acknowledged this and noted that shade structures could be a target for vandalism. In response to a question, Mr. Kulaga stated that the shade structure at Frank School could be incorporated into the project.

**Motion by Councilmember Bravo to approve agenda item G3; second by Councilmember Cota Sánchez. Motion passed unanimously 5-0.**

**E. CALL TO THE PUBLIC** *(item taken out of order)*

Kyle Mitchell discussed vandalism issues associated with the South Mountain Community College (College) branch located in the Town of Guadalupe, which poses a threat to staff and students. The College has been in the Town of Guadalupe for 20 years. Mr. Mitchell proposed hosting a summer camp for 40 youth, free of charge; and, that the College be utilized to provide education to community members.



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4. **CLAIMS:** Councilmembers approved the check register for October, 2018, totaling \$427,761.97.

**Motion by Councilmember Vital to approve agenda item G4; second by Councilmember Cota. Motion passed unanimously 5-0.**

H. TOWN MANAGER’S REPORT

Jeff Kulaga, Town Manager / Clerk, reported the following:

- Thanked representatives from the Maricopa County Sheriff’s Office for being in attendance, in anticipation of having members of the public at the meeting to discuss public safety concerns.
- The final Council Meeting for the year is scheduled for December 13, 2018.
- Thanked staff for their work on preparing the Mercado for the tree lighting ceremony scheduled for November 30, 2018.
- December 8, 2018 – Town of Guadalupe Christmas party.
- December 13, 2018 – turkey give away event.
- December 15, 2018 – church procession. Maricopa County Sheriff’s Office and Town staff will be overseeing the event.
- December 16, 2018 – Biehn Colony Park Christmas party.

I. COUNCILMEMBERS’ COMMENTS

- Councilmember Bravo  
Thanked Kyle Mitchell for offering a solution to the problems he discussed. She is happy in her role as a Councilmember.
- Councilmember Vital  
Thanked staff for their work.  
Thanked the Veteran’s Day Parade participants.  
Friday, November 30, 2018 – Christmas Tree Lighting.  
Thanked the Maricopa County Sheriff’s Office for their services.
- Councilmember Sánchez  
Thanked the Maricopa County Sheriff’s Office for their services.  
There have been improvements to animal control services.
- Councilmember Cota  
Thanked staff members for attending the meeting.  
Thanked Jeff Kulaga, Town Manager / Clerk, for keeping Councilmembers informed about a recent incident.
- Mayor Molina  
Thanked staff members for attending the meeting.  
Members of the public have been contacting her regarding their concerns about a recent incident that occurred in the Town.  
Invited members of the Maricopa County Sheriff’s Office to the upcoming Christmas party.  
Thanked Kyle Mitchell for offering a solution to the problems he discussed.  
Voiced concern about a parked car and speeding vehicles.

J. ADJOURNMENT

**Motion by Councilmember Sánchez to adjourn; second by Councilmember Vital. Motion passed unanimously 5-0.**



The meeting was adjourned at 6:33 p.m.

\_\_\_\_\_  
Valerie Molina, Mayor

ATTEST:

\_\_\_\_\_  
Jeff Kulaga, Town Manager / Town Clerk

Valerie Molina  
Mayor

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Vice Mayor

Mary Bravo  
Councilmember

Gloria Cota  
Councilmember

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Joe Sanchez  
Councilmember

Ricardo Vital  
Councilmember

**CERTIFICATION**

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Town Council Meeting of the Town Council of Guadalupe, Arizona held on the 28<sup>th</sup> day of November, 2018. I further certify the meeting was duly called and held and that a quorum was present.

\_\_\_\_\_  
Jeff Kulaga, Town Manager / Town Clerk

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December 7, 2018

To: The Honorable Mayor and Town Council

From: Jeff Kulaga, Town Manager / Clerk

**RE: December 13, 2018 Town Council Regular Meeting Information Report**

The purpose of this report is to provide brief information regarding each of the meeting's agenda items.

**Agenda Items:**

**G1. Vice Mayor Selection:** Councilmembers may nominate and vote to select a Councilmember to serve as the Vice Mayor. The term of office for the Vice Mayor expires in November 5, 2020.

**G2. Energy Presentation:** Representatives from Midstate Energy will present a proposed energy conservation plan for Town of Guadalupe facilities. During the past few months, Midstate Energy has toured Town facilities and has identified potential energy conservation and savings opportunities including water use and electricity use reductions thereby yielding a cost savings. This would be accomplished by replacing fixtures and interior and exterior lighting and street lights. As a potential second phase, Midstate Energy would investigate the installation of solar energy panels as shade structures in the Mercado / Town Hall parking lot. **(Pages 1-17)**

**G3. Town Court Quarterly Report:** The Town Magistrate and court staff will present the Quarterly Report of the Town of Guadalupe Municipal Court. **(Pages 18-19)**

**G4. Public Hearing – Rezoning Request:** This is a public hearing for a rezoning request from R1-9 to R1-6 for the property located at 5706 East Calle Mexico, Guadalupe, Arizona and is further described as parcel 301-06-164B, in Block 11 of East Guadalupe, a subdivision recorded in Book 211, Page 18, Maricopa County, Arizona records. The request for a rezoning public hearing notice for 5706 East Calle Mexico has been properly posted on site and in a newspaper of general circulation. Additionally, 16 properties within a 150 foot radius of the applicant's property were also notified via US Mail. To date, the Town administration has not received any public input. **(Page20)**

**G5. Rezoning Request:** Council will consider and may approve the rezoning request for 5706 East Calle Mexico, Guadalupe, Arizona, further described as parcel 301-06-164B, in Block 11 of East Guadalupe, a subdivision recorded in Book 211, Page 18, Maricopa County, Arizona records from R1-9 to R1-6 to allow proper zoning of a lot split for construction of single family home. This rezoning request of the property owner, Mr. Salah Smoudi, would allow for the construction of a new single family home on the property.

The Town of Guadalupe Code of Ordinances permits one family dwelling per a minimum of 9,000 square feet in an R-1-9 zoning district and 1 family dwelling per a minimum of 6,000 square feet in an R-1-6 zoning district. As a result of the lot split, parcel 301-06-164B is 6,090 square feet. Consequently, to properly allow for construction of a single family home, a property rezoning is requested. **(Pages 21-26)**

**G6. Public Hearing – 2018 Tax Code Amendments:** This is a public hearing to receive public input regarding a proposed change to the Town of Guadalupe Tax Code pursuant to A.R.S. § 42-6053 related to 2018 Amendments to the Town of Guadalupe Tax Code (Ordinance No. O2018.03). At the September 27, 2018, Regular Council Meeting, Town Council directed staff to proceed with a proposed change to the

Town of Guadalupe Tax Code. The proposed changes relating to the Transaction Privilege Tax will adopt 2018 amendments to the Tax Code of the Town of Guadalupe by reference; providing for severability and establishing effective dates. Adoption of the 2018 Amendments, Sections 1 through 7, would:

- remove the exemption for transactions with governmental agencies.
- establish Town Use Tax at a tax rate of four percent (4.0%).
- exempt the Town of Guadalupe from the Town Use Tax.

Overall, Sections 1 through 7 would better align the Town of Guadalupe, its residents, and businesses, with current municipal tax code policy in Arizona. The impacts of these amendments would allow the Town of Guadalupe to collect taxes from government agencies; and, by establishing a Use Tax, would level the playing field for local businesses and allow the Town of Guadalupe to collect Use Tax.

Adoption of these amendments includes adoption of Ordinance No. O2018.03, adopting the 2018 amendments by reference to a resolution (Resolution No. R2018.25), which includes Sections 1 through 7, in their entirety. Once adopted, staff will provide public notification of the changes to the Town of Guadalupe Tax Code. Notice of a Public Hearing has been properly published in a newspaper of general circulation 15 days prior to the date of this hearing. **(Page 27)**

**G7. 2018 Amendments to the Town of Guadalupe Tax Code (Ordinance No. O2018.03):** Council will review and may adopt Ordinance No. O2018.03 related to 2018 Amendments to the Town of Guadalupe Tax Code, and direct staff to move forward with implementation. In preparation for this agenda item, and agenda item G8, staff has complied with Arizona Revised Statutes requirements which includes advertising Ordinance No. O2018.03 which was the adoption of the 2018 Amendments to the Town of Guadalupe Tax Code, posting a Notice of Intention on the Town website, and notifying the Arizona Department of Revenue and the Arizona League of Cities and Towns of the proposed 2018 Amendments.

Ordinance No. O2018.03 adopts the 2018 Amendments, by reference, to Resolution No. R2018.25.

- Deselecting Local Option #B, removing the exemption for transactions with governmental agencies;
- Deselecting Model Option #15, hereby the Town Use Tax is established at a tax rate of four percent (4.0%); and
- Adopting Local Option #JJ exempting the Town from the Town Use Tax.

The impacts of these amendments would allow the Town of Guadalupe to collect taxes from government agencies; and, by establishing a Use Tax, would level the playing field for local businesses and allow the Town of Guadalupe to collect Use Tax. **(Page 28)**

**G8. 2018 Amendments to the Town of Guadalupe Tax Code (Resolution No. R2018.25):** Adoption of Resolution No. R2018.25 includes the 2018 Amendments to the Town of Guadalupe Tax Code, in their entirety. Once adopted, staff will provide public notification of the changes impacting the Town of Guadalupe Tax Code. **(Pages 29-54)**

**G9. Ak-Chin Gaming Grant (Resolution No. R2018.26):** The Ak-Chin Indian Community has awarded the Town of Guadalupe \$80,000 in 12% gaming grant funds for the renovations and equipment replacements as summarized on Table A and refers to Article I, 1.2c, of the IGA. Town of Guadalupe Town Council approved Resolution No. R2018.02 on March 22, 2018 authorizing the submittal of this grant request. Should Council approve, staff will initiate project implementation. Resolution No. R2018.26 and IGA 2018-01 are included. **Pages (55-68)**

**G10. Tohono O’odham Gaming Grant (Resolution No. R2018.27):** The Tohono O’odham Nation has awarded the Town of Guadalupe \$62,500 in a Grant-In-Aid agreement for exclusive purpose of funding a Type 1 Fire Engine replacement partial payment as awarded in the October 15, 2018 Grant-In-Aid letter from Tohono O’odham Nation. Should Council approve, staff will expeditiously begin coordinating with the Tohono O’odham Nation. Resolution No. R2018.27 and Grant-In-Aid IGA 2018-02 are included. **(Pages 69-75)**

**G11. Contract extension – public defender:** Council will consider and may approve a contract agreement extension in the form of a second amendment to the public defender contract for Matthew Marner to provide services to the Guadalupe Magistrate Court as a Public Defender; and, sign all necessary documents in furtherance of this agreement. The original one-year contract was entered into on August 30, 2016, and the first amendment to the contract allowing for a one-year extension was approved by Council on October 17, 2017. The extension would extend the term of the contract for a period of approximately 6 months, ending on June 30, 2019. All other terms of the original August 30, 2016, contract agreement remain in full force, and are not changed. **(Pages 76-87)**

**G12. Gaming grant status report:** Town staff will present a status report of the 2018 12% local revenue sharing gaming grant requests from the Town of Guadalupe. The Town of Guadalupe submitted 14 gaming grant applications totaling \$752,500 to five entities. To date, the Town has been awarded four grants totaling \$237,500. This is approximately 30% of grants requested. **(Page 88)**

**G13. Council Regular Meeting Schedule:** At the November 8, 2018, Regular Council Meeting, Councilmembers reviewed the Town Council Regular Meeting Schedule for 2019. In response to direction provided by Council, staff has prepared a 2019 Regular Council Meeting schedule for Council consideration. Meetings for November 28, 2019 and December 26, 2019 have been cancelled; and, the December 12 meeting has been rescheduled to Monday, December 9, 2019. **(Page 89)**



**Town of Guadalupe**  
**PRESENTATION**  
2018

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*Today's*

# Agenda

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- I. **Performance Project Model**
- II. **Energy Conservation Savings**
- III. **Facilities Audited**
- IV. **Energy Savings Measures Identified**
- V. **Benefits To The Town of Guadalupe**
- VI. **Next Steps**
- VII. **Midstate Energy History**



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*Energy*

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# Performance Project Model

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- Goal:** Upgrade facilities without raising taxes or fees.
- How:** Midstate Energy's performance project.
- Simplicity:** Money saved on energy, water conservation and operating costs can pay for building improvements.
- State Statute:** If the project fails to reduce costs as guaranteed, Midstate pays the difference (per A.R.S 34-105).



Comprehensive Opportunities for

# Energy Conservation

## Water Reduction

- Restrooms
- Metering
- Domestic Hot Water
- Irrigation

**10-25%**

## Natural Gas Reduction

- Boilers
- Heating Systems
- Kitchen Equipment

**20-50%**

## REDUCTION



- Water
- Natural Gas
- Electricity
- Sustainability

## Electricity Reduction

- Interior and Exterior Lighting
- Street Lighting
- Energy Management
- Heating, Ventilating and Air Condition Systems

**20-40%**

## Sustainability

- Solar and Battery Storage
- Energy Behavior Management Program

**10-30%**



Town of Guadalupe  
**Facilities Audited**



**Facilities Audited**

- 1.) Mercado
- 2.) Town Hall
- 3.) Library
- 4.) Fire Station
- 5.) Senior Center



*Town of Guadalupe*

# Energy Saving Measures Identified

## Energy Conservation Measures

- 1.) Interior and Exterior Lighting
- 2.) Street Lighting
- 3.) Solar and Battery Storage
- 4.) Restroom Fixture Upgrades



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*ECM*

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# Interior Light Savings

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## Summary:

**Existing:** The lighting levels were acceptable and the majority of lamps were first generation 32 watt T-8 fluorescent.

**Proposed:** Re-lamping existing fixtures with an 8.5 watt-10 watt LED kit.

**Benefits:** Reduced energy cost, Increase useful life to 20 years, Reduce maintenance cost and 10 year warranty.



ECM

# Parking Lot and Exterior Light Savings

## Summary:

**Existing:** The existing lights are 250 watts-400 watts High Pressure Sodium (HPS)

**Proposed:** Re-Lamping existing fixtures with a 105 watt 150 watt LED's.

**Benefits:** Reduced energy cost, Increase useful life to 20 years, Reduce maintenance cost and 10 year warranty.



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*ECM*

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# Street Light Savings

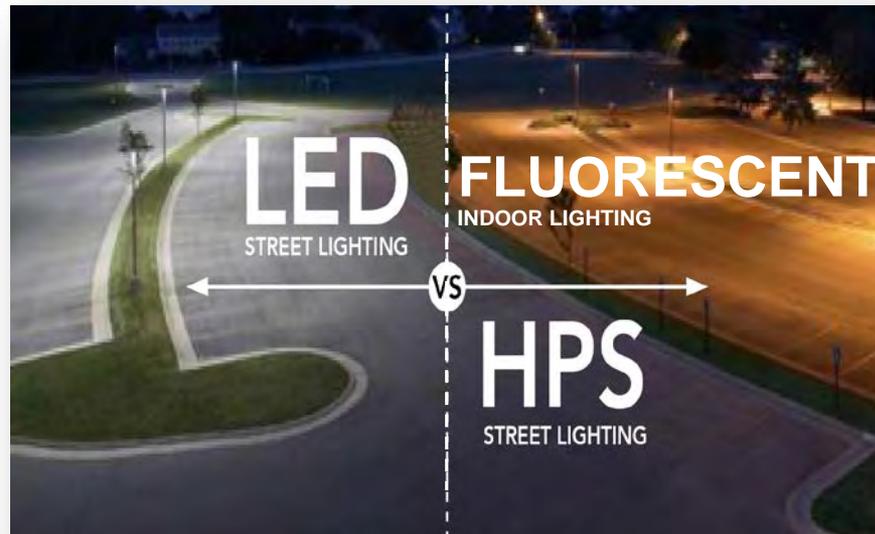
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## Summary

**Existing:** The vast majority of the existing streetlights are High Pressure Sodium, cobra head style, 250w-400w.

**Proposed:** Installing new LED light fixtures 80w-150w to replace existing HPS fixtures

**Benefits:** Reduced energy cost, Increase color quality, Increased light distribution, Decreased Light Pollution



ECM

# Water Savings

## Summary

The buildings surveyed produced a wide range of flow for each fixture type. A sample amount of fixtures were tested for flow rates.

**Proposed:** Retrofit existing plumbing system with upgraded fixtures, valves and drains to reduce the water required for proper flushing.

**Benefits:** Reduce water cost, Reduce maintenance cost.



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*ECM*

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# Solar and Battery

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## Summary

- Opportunities for new solar and energy storage
- Parking shade structure and roof mounted
- Reduce utility cost and demand savings



+



**= Solar Battery Storage**



*We Deliver*

# Meaningful Benefits



### No Taxes

Allow entities to take immediate action



### Paid from Savings

Self-funded from existing budgets



### Guarantee

Guaranteed Costs and Savings



### Environmental

Fiscal and Environmental Stewardship



*Benefits*

## How The Town Would Benefit

### *Sample Cash Flow and Financing from our Preliminary Energy Audit*

Estimated savings and cost:

Financial Interest Rate:	4.0%
Term:	15 Years
Project Investment:	\$ 225,000 - \$330,000
Yearly Energy Savings	\$25,000 - \$32,000
Total Savings:	\$ 692,00 – \$882,000
Total Positive Cash Flow:	\$ 321,000 - \$511,000

### Facilities Audited

- 1.) Mercado
- 2.) Town Hall
- 3.) Library
- 4.) Fire Station
- 5.) Senior Center



Benefits

# How The Town Would Benefit

Financial 20 Year Life Cycle Projections	
<b>15 Year Cash Flow</b>	
Estimated Project Cost	\$250,000
Estimated Energy Savings	\$25,000
Operational Savings	\$1,000
Potential Rebates & Incentives	\$1,000
Finance Term	15.0 Yr.s
Interest Rate	3.86%
Inflation Factor	3.00%
<b>TOTAL GROSS SAVINGS</b>	<b>\$692,510</b>
<b>TOTAL NET SAVINGS</b>	<b>\$321,327</b>

Estimated Project Cost and Savings:  
 Mercado, Town Hall,  
 Library, Fire Station,  
 Senior Cneter

Year	Annual Investment			Annual Savings			Financial Projection		
	Principal and Interest Payment	Measurement & Verification Cost	Total Annual Cost	Annual Energy Savings	Additional Savings	Potential Rebate & Incentives	Total Annual Savings	Net Annual Savings	Cumulative Cash Flow
Implementation (Year)				\$25,000	\$1,000		\$26,000	\$26,000	\$26,000
1	\$22,266	\$2,000	\$24,266	\$25,000	\$1,000	\$1,000	\$27,000	\$2,734	\$28,734
2	\$22,266	\$2,060	\$24,326	\$25,750	\$1,030		\$26,780	\$2,454	\$31,189
3	\$22,266	\$2,122	\$24,388	\$26,523	\$1,061		\$27,583	\$3,196	\$34,384
4	\$22,266	\$2,185	\$24,451	\$27,318	\$1,093		\$28,411	\$3,960	\$38,344
5	\$22,266	\$2,251	\$24,517	\$28,138	\$1,126		\$29,263	\$4,746	\$43,091
6	\$22,266	\$2,319	\$24,584	\$28,982	\$1,159		\$30,141	\$5,557	\$48,648
7	\$22,266	\$2,388	\$24,654	\$29,851	\$1,194		\$31,045	\$6,392	\$55,039
8	\$22,266	\$2,460	\$24,725	\$30,747	\$1,230		\$31,977	\$7,251	\$62,290
9	\$22,266	\$2,534	\$24,799	\$31,669	\$1,267		\$32,936	\$8,137	\$70,427
10	\$22,266	\$2,610	\$24,875	\$32,619	\$1,305		\$33,924	\$9,049	\$79,476
11	\$22,266	\$2,688	\$24,954	\$33,598	\$0		\$33,598	\$8,644	\$88,120
12	\$22,266	\$2,768	\$25,034	\$34,606	\$0		\$34,606	\$9,572	\$97,692
13	\$22,266	\$2,852	\$25,117	\$35,644	\$0		\$35,644	\$10,527	\$108,219
14	\$22,266	\$2,937	\$25,203	\$36,713	\$0		\$36,713	\$11,511	\$119,729
15	\$22,266	\$3,025	\$25,291	\$37,815	\$0		\$37,815	\$12,524	\$132,253
16	\$0	\$0	\$0	\$37,815	\$0		\$37,815	\$37,815	\$170,068
17	\$0	\$0	\$0	\$37,815	\$0		\$37,815	\$37,815	\$207,883
18	\$0	\$0	\$0	\$37,815	\$0		\$37,815	\$37,815	\$245,697
19	\$0	\$0	\$0	\$37,815	\$0		\$37,815	\$37,815	\$283,512
20	\$0	\$0	\$0	\$37,815	\$0		\$37,815	\$37,815	\$321,327
<b>Totals</b>	<b>\$333,986</b>	<b>\$37,198</b>	<b>\$371,184</b>	<b>\$679,047</b>	<b>\$12,464</b>	<b>\$1,000</b>	<b>\$692,510</b>	<b>\$321,327</b>	<b>\$321,327</b>

Next

## Next Step

- Presentation to Council
- Final Energy Audit Approval
- Town of Guadalupe Approval
- Implementation



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*The Strength in Our*  
**History**

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**#1** *Energy Services Provider in Arizona*

**32** *Year History in Arizona*

**\$240** *Million in Energy Savings Achieved*

**485** *Individual Public Facilities Projects*

**3** *Arizona Offices – Phoenix, Tucson, and Flagstaff*





**M E M O R A N D U M**

Date: December 13, 2018  
To: Mayor and Town Council, Town of Guadalupe  
From: Fidelis V. Garcia, Presiding Judge, Guadalupe Municipal Court  
Re: Guadalupe Municipal Court Quarterly Report

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Madame Mayor and Members of the Guadalupe Town Council:

Thank you for the opportunity to present the Court's Quarterly Report. We continue to move forward on critical security issues as well as several efforts for continually improving access to justice through expanding customer service abilities.

As you are all aware, the Court has recently made a change to our staffing structure including updates to job classifications and pay ranges. These changes reflect the great success the Court has experienced through the hard work and dedication of the current Team. The Team has worked purposefully to create the operational efficiencies that have made this restructuring possible.

- ✓ We are currently recruiting for the vacant part-time Court Specialist I position.

Below are some highlights from court operations from the last quarter:

***Customer Service Enhancements***

- The court is working to purchase a customer service kiosk that will be available in the main Town Hall lobby that will allow customers to access the court's website for making online payments, corresponding with the court via email, and accessing various resources. The kiosk will be a primary resource for customers when the court is closed; i.e. Fridays and court holidays.
- An informational bulletin will provide instructions for customers on how to utilize the kiosk to access the court's website. The bulletin will also provide pertinent information for access regarding petitions for orders of protection.
- A secure payment drop-box will be made available by the customer service kiosk in the main lobby for customers to submit cash payments when court staff are unavailable to assist.

- The court's website is currently undergoing a complete upgrade that will result in several customer service enhancements including, but not limited to:
  - ✓ Updated formatting that is in line with the style of the Town of Guadalupe's website.
  - ✓ The ability to include attachments in email correspondence. This will allow customers to submit proof of progress or completion of court mandates to the court electronically.
  - ✓ An effective user-friendly format for accessing the website from mobile devices.
  - ✓ The home page will have current information for court calendars and holiday closures.
  - ✓ Website content will have the updated ability to toggle between English and Spanish.

### ***Court Enhancement Fund***

- Approximately \$1,769.00 from the Court Enhancement Fund was utilized to supplement Court Security Improvement (CSI) grant funds for costs associated with recent security upgrades.

## **NOTICE OF PUBLIC HEARING REZONING**

The Town Council of Guadalupe shall hold a meeting open to the public on the 13th day of December, 2018 at 6:00 p.m. at the Guadalupe Town Hall located at 9241 S. Avenida del Yaqui, Guadalupe, Arizona, for the following purpose – public hearing to consider:

RZ 2018.1 Request for rezoning from R 1-9 to R 1-6 for lot split.

1. Application by Salah Smoudi for a change of zone from R 1-9 to R 1-6 to allow proper zoning for a lot split. This request is for the property located at 5706 E Calle Mexico and further described as parcel 301-06-164B, which is in Block 11 of East Guadalupe, a subdivision recorded in Book 211, Page 18, Maricopa County, Arizona records.

Written comments or objections may be filed at the Guadalupe Town Hall prior to, or at the hearing. Copies of the application and zoning requirements are available for review at the Town Hall.

November 14, 2018

To : City of Guadalupe, AZ

Dear Sirs/Madams:

Maricopa county assessor's office has approved splitting the lot at 5706 E. Calle Mexico into two lots.

The north side lot is slightly over 6000 square feet.

We are almost done building a new house on the south lot and intend to build another on the north side once you approve changing the zoning from R-9 to R-6.

It is most likely that I will build a two-story house sitting on 51' X 28', attached two possible plans.

Attached are all the required documents you have asked for.

Thank you,

A handwritten signature in black ink, appearing to read 'Salah Smoudi', written in a cursive style.

Salah Smoudi

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480-650-9024

CASE NO. \_\_\_\_\_

TOWN OF GUADALUPE  
9241 SOUTH AVENIDA DEL YAQUI  
GUADALUPE, ARIZONA 85283  
480-730-3080

APPLICATION FOR:

- Variance
- Conditional Use
- Zoning Change

Zoning District: \_\_\_\_\_

Fee: \_\_\_\_\_

Receipt #: \_\_\_\_\_

THE REASON FOR THE REQUEST IS : CHANGE ZONING TO R-6

THE SUBJECT PROPERTY IS LEGALLY DESCRIBED AS : VACANT LOT

Parcel 301-06-164 B

AND ITS GENERAL LOCATION IS: N S (E) W (SIDE) OF CALLE BATOUA  
 BY \_\_\_\_\_ FEET N S E W OF CALLE \_\_\_\_\_ AND \_\_\_\_\_ FEET  
 \_\_\_\_\_ FEET TOTALING \_\_\_\_\_ SQ. FEET.

IF REQUESTING REZONING, INDICATE CHANGE : FROM R9 TO R6

APPLICANT : SALAH SMOUDI PHONE NO : 480-650-9024

ADDRESS : 5706 E. CALLE Mexico, GUADALUPE 85283

PROPERTY OWNER : SALAH & JANE SMOUDI PHONE NO 480-650-9024

ADDRESS : 1161 W. KELLY LN. TEMPE, AZ 85284

Salah Smoudi 11-14-18  
APPLICANT'S SIGNATURE Date

Jane Smoudi  
OWNER'S SIGNATURE Date

\*The property owner must sign above or submit a letter by owner authorizing the applicant to make the request.

Office Use Only:

PROCESSED BY : \_\_\_\_\_ DATE PROCESSED: \_\_\_\_\_

DATE OF COUNCIL MEETING: \_\_\_\_\_  APPROVED  DISSAPPROVED

COMMENTS : \_\_\_\_\_

PARCEL 2 LEGAL DESCRIPTION

Lot 16, Block 11, EAST GUADALUPE, according to Book 211 of Maps,  
Page 18, records of Maricopa County, Arizona;

EXCEPT the North 73.00 feet thereof.



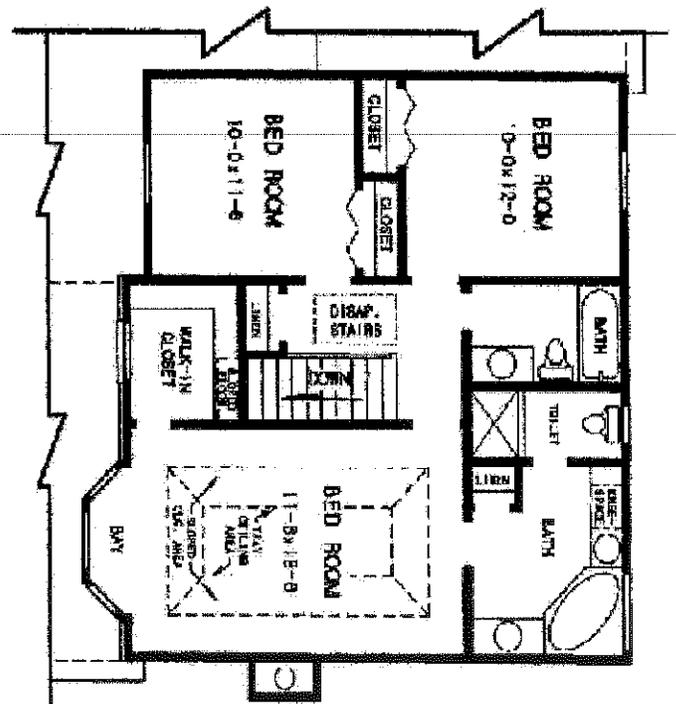
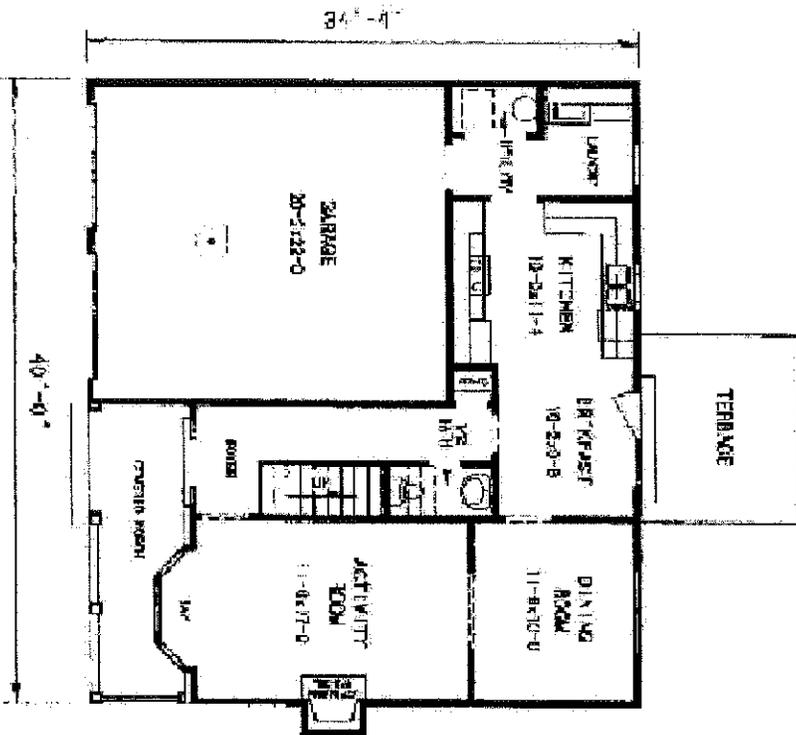
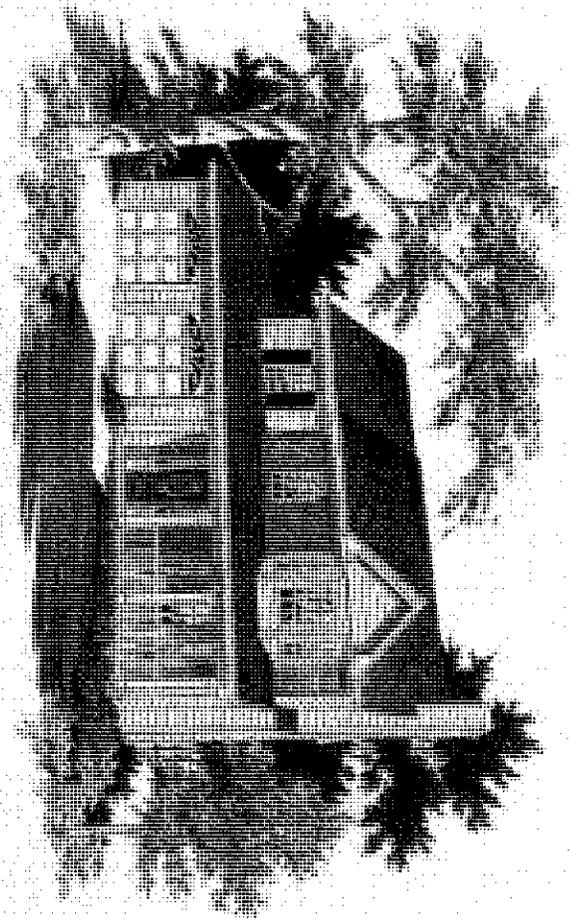
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RZ 2018.1 Request for rezoning from R 1-9 to R 1-6 for lot split.

1. Application by Salah Smoudi for a change of zone from R 1-9 to R 1-6 to allow proper zoning for a lot split. This request is for the property located at 5706 E Calle Mexico and further described as parcel 301-06-164B, which is in Block 11 of East Guadalupe, a subdivision recorded in Book 211, Page 18, Maricopa County, Arizona records.

Written comments or objections may be filed at the Guadalupe Town Hall prior to, or at the hearing. Copies of the application and zoning requirements are available for review at the Town Hall.



# Map



5706 E Calle Mexico

### NOTICE OF A PUBLIC HEARING FOR TAX CODE AMENDMENTS

The Town Council of the Town of Guadalupe, Arizona, will hold a public hearing on a proposed change to the Town of Guadalupe Tax Code pursuant to A.R.S. § 42-6053. The proposed changes relating to the privilege license tax will adopt the 2018 amendments to the Tax Code of the Town of Guadalupe, by reference; providing for severability and establishing effective dates; amending the Town Tax Code by deselecting local option #B removing the exemption for transactions with governmental agencies; deselecting model option #15 establishing a Town Use Tax at a rate of four percent (4%); and, adopting local option #JJ exempting the Town from the Use Tax. The public hearing will be held on December 13, 2018, 6:00 p.m., at the Town of Guadalupe, Town Hall, Council Chambers, 9241 South Avenida del Yaqui, Guadalupe, Arizona. Additional information can be obtained at Guadalupe Town Hall, 9241 South Avenida del Yaqui, or on the Town of Guadalupe website: [guadalupeaz.org](http://guadalupeaz.org).

**ORDINANCE NO. O2018.03**

AN ORDINANCE OF THE TOWN OF GUADALUPE, ARIZONA, RELATING TO THE PRIVILEGE LICENSE TAX; AMENDING THE TOWN TAX CODE BY DESELECTING LOCAL OPTION #B, DESELECTING MODEL OPTION #15 AND ADOPTING LOCAL OPTION #JJ; PROVIDING FOR SEVERABILITY AND DESIGNATING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF GUADALUPE, ARIZONA:

Section 1: Local Option #B of the Model City Tax Code is hereby withdrawn, removing the exemption for transactions with governmental agencies.

Section 2: Model Option #15 of the Model City Tax Code is hereby withdrawn and the Town Use Tax is established at a tax rate of four percent (4.0%).

Section 3: Local Option #JJ of the Model City Tax Code is hereby selected, exempting the Town from the Town Use Tax.

Section 4: That certain document known as "The 2018 Tax Amendment to the Tax Code of the Town of Guadalupe", three copies of which are on file in the office of the town clerk of the Town of Guadalupe, Arizona, which document was made a public record by Resolution No. R2018.25 of the Town of Guadalupe, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 5: If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these amendments to the tax code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 6: The Town Clerk is hereby directed to publish this Ordinance upon adoption as required by A.R.S. 9-812 and A.R.S. 9-813.

Section 7: The provisions of this ordinance shall become effective on February 1, 2019.

PASSED AND ADOPTED by the Mayor and Council of the Town of Guadalupe, Arizona, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Valerie Molina, Mayor

ATTEST:

\_\_\_\_\_  
Jeff Kulaga, Town Manager / Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
David Ledyard, Town Attorney

**RESOLUTION NO. R2018.25**

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF GUADALUPE, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE TOWN CLERK AND ENTITLED "THE 2018 AMENDMENT TO THE TAX CODE OF THE TOWN OF GUADALUPE".

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF GUADALUPE, ARIZONA:

THAT certain document entitled "THE 2018 AMENDMENT TO THE TAX CODE OF THE TOWN OF GUADALUPE", three copies of which are on file in the office of the town clerk, is hereby declared to be a public record, and said copies are ordered to remain on file with the town clerk.

PASSED AND ADOPTED BY THE Mayor and Council of the Town of Guadalupe, Arizona, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Valerie Molina, Mayor

ATTEST:

\_\_\_\_\_  
Jeff Kulaga, Town Manager / Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
David Ledyard, Town Attorney

**Section I. Model City Tax Code Section 9-270 is amended as follows, with an effective date of February 1, 2019**

**Sec. 9-270. Exclusion of gross income of persons deemed not engaged in business.**

- (a) For the purposes of this Section, the following definitions shall apply:
- (1) "Federally Exempt Organization" means an organization which has received a determination of exemption, or qualifies for such exemption, under 26 U.S.C. Section 501(c) and rules and regulations of the Commissioner of Internal Revenue pertaining to same, but not including a "governmental entity", "non-licensed business", or "public educational entity".
  - (2) "Governmental Entity" means the Federal Government, the State of Arizona, any other state, or any political subdivision, department, or agency of any of the foregoing; provided further that persons contracting with such a governmental entity to operate any part of a governmentally adopted and controlled program to provide urban mass transportation shall be deemed a governmental entity in all activities such person performs when engaged in said contract.
  - (3) "Non-Licensed Business" means any person conducting any business activity for gain or profit, whether or not actually realized, which person is not required to be licensed for the conduct or transaction of activities subject to the tax imposed under this Chapter.
  - (4) "Proprietary Club" means any club which has qualified or would otherwise qualify as an exempt club under the provisions of 26 U.S.C. Section 501(c)(7), (8), and (9), notwithstanding the fact that some or all of the members may own a proprietary interest in the property and assets of the club.
  - (5) "Public Educational Entity" means any educational entity operated pursuant to any provisions of Title 15, Arizona Revised Statutes.
- (b) Transactions which, if conducted by any other person, would produce gross income subject to tax under this Chapter shall not be subject to the imposition of such tax if conducted entirely by a public educational entity; governmental entity, except "proprietary activities" of municipalities as provided by Regulation; or non-licensed business.
- (c) Transactions which, if conducted by any other person, would produce gross income subject to the tax under this Chapter shall not be subject to the imposition of such tax if conducted entirely by a federally exempt organization or proprietary club with the following exceptions:
- (1) Transactions involving proprietary clubs and organizations exempt under 26 U.S.C. Section 501(c)(7), (8), and (9), where the gross revenue of the activity received from persons other than members and bona fide guests of members is in an amount in excess of fifteen percent (15%) of total gross revenue, as prescribed by Regulation. In the event this fifteen percent (15%) limit is exceeded, the entire gross income of such entity shall be subject to the applicable tax.
  - (2) Gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512, including all statutory definitions and determinations, the rules and regulations of the Commissioner of Internal Revenue, and his administrative interpretations and guidelines.

**The 2018 Amendment to the Tax Code of the Town of Guadalupe**

- (3) (Reserved).
- (d) Except as may be provided elsewhere in this Chapter, transactions where customers are exempt organizations, proprietary clubs, public educational entities, governmental entities, or non-licensed businesses shall be deemed taxable transactions for the purpose of the imposition of taxes under this Chapter, notwithstanding that property so acquired may in fact be resold or leased by the acquiring person to others. In the case of sales, rentals, leases, or licenses to proprietary clubs or exempt organizations, the vendor may be relieved from the responsibility for reporting and paying tax on such income only by obtaining from its vendee a verified statement that includes:
- (1) a statement that when the property so acquired is resold, rented, leased, or licensed, that the otherwise exempt vendee chooses, or is required, to pay Town Privilege Tax or an equivalent excise tax on its gross income from such transactions and does in fact file returns on same; and
  - (2) the Privilege License number of the otherwise exempt vendee; and
  - (3) such other information as the Tax Collector may require.
- (e) Franchisees or concessionaires operating businesses for or on behalf of any exempt organization, governmental entity, public educational entity, proprietary club, or non-licensed business shall not be considered to be such an exempt organization, club, entity, or non-licensed business, but shall be deemed to be a taxpayer subject to the provisions of this Chapter, except as provided in the definition of governmental entity, regarding urban mass transit.
- (f) IN ANY CASE, IF A FEDERALLY EXEMPT ORGANIZATION, PROPRIETARY CLUB, OR NON-LICENSED BUSINESS RENTS, LEASES, LICENSES, OR PURCHASES ANY TANGIBLE PERSONAL PROPERTY FOR ITS OWN STORAGE OR USE, AND NO TOWN PRIVILEGE OR USE TAX OR EQUIVALENT EXCISE TAX HAS BEEN PAID ON SUCH TRANSACTION, SAID ORGANIZATION, CLUB, OR BUSINESS SHALL BE LIABLE FOR THE USE TAX UPON SUCH ACQUISITIONS OR USE OF SUCH PROPERTY.

**Section II. Model City Tax Code Section 9-280 is amended as follows, with an effective date of February 1, 2019**

**Sec. 9-280. (RESERVED)**

**Section III. Model City Tax Code Section 9-300 is amended as follows, with an effective date of February 1, 2019**

**Sec. 9-300. Licensing requirements.**

- (a) The following persons shall make application to the Tax Collector for a Transaction Privilege and Use Tax License and no person shall engage or continue in business or engage in such activities until he shall have such a license:
- (1) Every person engaging or continuing in business activities within the city or town upon which a Transaction Privilege Tax is imposed by this Chapter.

## The 2018 Amendment to the Tax Code of the Town of Guadalupe

- (2) EVERY PERSON ENGAGING OR CONTINUING IN BUSINESS WITHIN THE CITY OR TOWN AND STORING OR USING TANGIBLE PERSONAL PROPERTY IN THIS MUNICIPALITY UPON WHICH A USE TAX IS IMPOSED BY THIS CHAPTER.
- (3) (Reserved)
- (b) For the purpose of determining whether a Transaction Privilege and Use Tax License is required, a person shall be deemed to be "engaging or continuing in business" within the city or town if:
  - (1) engaging in any activity as a principal or broker, the gross receipts of which may be subject to Transaction Privilege Tax under Article IV of this Chapter, or
  - (2) maintaining within the city or town directly, or if a corporation by a subsidiary, an office, distribution house, sales house, warehouse or other place of business; maintaining within the city or town directly, or if a corporation by a subsidiary, any real or tangible personal property; or having any agent or other representative operating within the city or town under the authority of such person, or if a corporation by a subsidiary, irrespective of whether such place of business, property, or agent or other representative is located here permanently or temporarily, or
  - (3) soliciting sales, orders, contracts, leases, and other similar forms of business relationships, within the city or town from customers, consumers, or users located within the city or town, by means of salesmen, solicitors, agents, representatives, brokers, and other similar agents or by means of catalogs or other advertising, whether such orders are received or accepted within or without this city or town.
  - (4) A PERSON SHALL ALSO BE DEEMED TO BE "ENGAGING OR CONTINUING IN BUSINESS" IF ENGAGING IN ANY ACTIVITY SUBJECT TO USE TAX UNDER ARTICLE VI OF THIS CHAPTER FOR BUSINESS PURPOSES. INDIVIDUALS WHO ACQUIRE ITEMS SUBJECT TO USE TAX FOR THEIR OWN PERSONAL USE OR THEIR FAMILY'S PERSONAL USE ARE NOT REQUIRED TO OBTAIN A LICENSE.
  - (5) (Reserved)
- (c) A person engaging in more than one activity subject to Transaction Privilege Tax at any one business location is not required to obtain a separate license for each activity, provided that, at the time such person makes application for a license, he shall list on such application each category of activity in which he is engaged.
- (d) The licensee shall inform the Tax Collector of any changes in his business activities, location, or mailing address within thirty (30) days.
- (e) Limitation. The issuance of a Transaction Privilege and Use Tax License by the Tax Collector shall in no way be construed as permission to operate a business activity in violation of any other law or regulation to which such activity may be subject.
- (f) Casual activity. For the purposes of this Chapter, individuals engaging in a "casual activity or sale" are not subject to the license requirements imposed under this Article provided that they are only engaged in private sales activities, such as the sale of a personal automobile or garage sale, on no more than three separate occasions during any calendar year.

**The 2018 Amendment to the Tax Code of the Town of Guadalupe**

**Section IV. Model City Tax Code Section 9-415 is amended as follows, with an effective date of February 1, 2019**

**Sec. 9-415. Construction contracting: construction contractors.**

- (a) The tax rate shall be at an amount equal to four percent (4%) of the gross income from the business upon every construction contractor engaging or continuing in the business activity of construction contracting within the Town.
- (1) However, gross income from construction contracting shall not include charges related to groundwater measuring devices required by A.R.S. Section 45-604.
  - (2) (Reserved)
  - (3) Gross income from construction contracting shall not include gross income from the sale of manufactured buildings taxable under Section 9-427.
  - (4) For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this Section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.
- (b) Deductions and exemptions.
- (1) Gross income derived from acting as a "subcontractor" shall be exempt from the tax imposed by this Section.
  - (2) All construction contracting gross income subject to the tax and not deductible herein shall be allowed a deduction of thirty-five percent (35%).
  - (3) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:
    - (A) Section 9-465, subsections (g) and (p)
    - (B) SECTION 9-660, SUBSECTIONS (G) AND (P)
 shall be exempt or deductible, respectively, from the tax imposed by this Section.
  - (4) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 9-110, that is deducted from the retail classification pursuant to Section 9-465(g) that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this Section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the

**The 2018 Amendment to the Tax Code of the Town of Guadalupe**

development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:

- (A) to be incorporated into real property.
  - (B) to become so affixed to real property that it becomes part of the real property.
  - (C) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.
- (5) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.
- (6) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of cleanrooms that are deducted from the tax base of the retail classification pursuant to Section 9-465, subsection (g) shall be exempt from the tax imposed under this Section.
- (7) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this State for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.
- (8) The gross proceeds of sales or gross income received from a post construction contract to perform post-construction treatment of real property for termite and general pest control, including wood destroying organisms, shall be exempt from tax imposed under this Section.
- (9) Through December 31, 2009, the gross proceeds of sales or gross income received from a contract for constructing any lake facility development in a commercial enhancement reuse district that is designated pursuant to A.R.S. § 9-499.08 if the contractor maintains the following records in a form satisfactory to the Arizona Department of Revenue and to the Town:
- (A) The certificate of qualification of the lake facility development issued by the Town pursuant to A.R.S. § 9-499.08, subsection D.
  - (B) All state and local transaction privilege tax returns for the period of time during which the contractor received gross proceeds of sales or gross income from a contract to construct a lake facility development in a designated commercial enhancement reuse district, showing the amount exempted from state and local taxation.
  - (C) Any other information considered to be necessary.

## The 2018 Amendment to the Tax Code of the Town of Guadalupe

- (10) Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer. For the purposes of this paragraph:
- (A) the attributable amount shall not exceed the value of the development fees actually imposed.
  - (B) the attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.
  - (C) "development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. Section 9-463.05, A.R.S. Section 11-1102 or A.R.S. Title 48 regardless of the jurisdiction to which the fees are paid.
- (11) For taxable periods beginning from and after July 1, 2008 and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the Town, as applicable, for examination.
- (c) Subcontractor means a construction contractor performing work for either:
- (1) a construction contractor who has provided the subcontractor with a written declaration that he is liable for the tax for the project and has provided the subcontractor his Town Privilege License number.
  - (2) an owner-builder who has provided the subcontractor with a written declaration that:
    - (A) the owner-builder is improving the property for sale; and
    - (B) the owner-builder is liable for the tax for such construction contracting activity; and
    - (C) the owner-builder has provided the contractor his Town Privilege License number.
  - (3) a person selling new manufactured buildings who has provided the subcontractor with a written declaration that he is liable for the tax for the site preparation and set-up; and provided the subcontractor his Town Privilege License number.

Subcontractor also includes a construction contractor performing work for another subcontractor as defined above.

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**Section V. Model City Tax Code Section 9-416 is amended as follows, with an effective date of February 1, 2019**

**Sec. 9-416. Construction contracting: speculative builders.**

- (a) The tax shall be equal to four percent (4%) of the gross income from the business activity upon every person engaging or continuing in business as a speculative builder within the Town.
- (1) The gross income of a speculative builder considered taxable shall include the total selling price from the sale of improved real property at the time of closing of escrow or transfer of title.
- (2) "Improved Real Property" means any real property:
- (A) upon which a structure has been constructed; or
- (B) where improvements have been made to land containing no structure (such as paving or landscaping); or
- (C) which has been reconstructed as provided by Regulation; or
- (D) where water, power, and streets have been constructed to the property line.
- (b) "Sale of Improved Real Property" includes any form of transaction, whether characterized as a lease or otherwise, which in substance is a transfer of title of, or equitable ownership in, improved real property and includes any lease of the property for a term of thirty (30) years or more (with all options for renewal being included as a part of the term). In the case of multiple unit projects, "sale" refers to the sale of the entire project or to the sale of any individual parcel or unit.
- (c) "Partially Improved Residential Real Property," as used in this Section, means any improved real property, as defined in subsection (a)(2) above, being developed for sale to individual homeowners, where the construction of the residence upon such property is not substantially complete at the time of the sale.
- (d) Exclusions.
- (1) In cases involving reconstruction contracting, the speculative builder may exclude from gross income the prior value allowed for reconstruction contracting in determining his taxable gross income, as provided by Regulation.
- (2) Neither the cost nor the fair market value of the land which constitutes part of the improved real property sold may be excluded or deducted from gross income subject to the tax imposed by this Section.
- (3) (Reserved)
- (4) A speculative builder may exclude gross income from the sale of partially improved residential real property as defined in (a)(4) above to another speculative builder only if all of the following conditions are satisfied:

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- (A) The speculative builder purchasing the partially improved residential real property has a valid Town privilege license for construction contracting as a speculative builder; and
- (B) At the time of the transaction, the purchaser provides the seller with a properly completed written declaration that the purchaser assumes liability for and will pay all privilege taxes which would otherwise be due the Town at the time of sale of the partially improved residential real property; and
- (C) The seller also:
  - (i) maintains proper records of such transactions in a manner similar to the requirements provided in this chapter relating to sales for resale; and
  - (ii) retains a copy of the written declaration provided by the buyer for the transaction; and
  - (iii) is properly licensed with the Town as a speculative builder and provides the Town with the written declaration attached to the Town privilege tax return where he claims the exclusion.
- (5) For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, “direct costs” means the portion of the actual costs that are directly expended in providing architectural or engineering services.
- (e) Tax liability for speculative builders occurs at close of escrow or transfer of title, whichever occurs earlier, and is subject to the following provisions, relating to exemptions, deductions and tax credits:
  - (1) Exemptions.
    - (A) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:
      - (i) Section 9-465, subsections (g) and (p)
      - (ii) SECTION 9-465, SUBSECTIONS (G) AND (P)
      - (iii) shall be exempt or deductible, respectively, from the tax imposed by this Section.
    - (B) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.
- (f) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of cleanrooms that are deducted from the tax base of the retail classification pursuant to Section 9-465, subsection (g) shall be exempt from the tax imposed under this section.

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- (g) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.
- (h) Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer shall be exempt from the tax imposed under this section. For the purposes of this paragraph:
- (1) the attributable amount shall not exceed the value of the development fees actually imposed.
  - (2) the attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.
  - (3) "development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. Section 9-463.05, A.R.S. Section 11-1102 or A.R.S. Title 48 regardless of the jurisdiction to which the fees are paid.
- (i) Deductions.
- (1) All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five percent (35%).
  - (2) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 9-110, that is deducted from the retail classification pursuant to Section 9-465(g), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this Section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:
    - (A) to be incorporated into real property.
    - (B) to become so affixed to real property that it becomes part of the real property.

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- (C) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.
- (3) For taxable periods beginning from and after July 1, 2008 and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the Town, as applicable, for examination.
- (j) Tax credits.
  - (A) The following tax credits are available to owner-builders or speculative builders, not to exceed the tax liability against which such credits apply, provided such credits are documented to the satisfaction of the tax collector:
    - (k) A tax credit equal to the amount of town privilege or use tax, or the equivalent excise tax, paid directly to a taxing jurisdiction or as a separately itemized charge paid directly to the vendor with respect to the tangible personal property incorporated into the said structure or improvement to real property undertaken by the owner-builder or speculative builder.
    - (l) A tax credit equal to the amount of privilege taxes paid to this Town, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.
    - (m) No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported.

### **Section VI. Model City Tax Code Section 9-417 is amended as follows, with an effective date of February 1, 2019**

#### **Sec. 9-417. Construction contracting: owner-builders who are not speculative builders.**

- (a) At the expiration of twenty-four (24) months after improvement to the property is substantially complete, the tax liability for an owner-builder who is not a speculative builder shall be at an amount equal to four percent (4%) of:
  - (1) the gross income from the activity of construction contracting upon the real property in question which was realized by those construction contractors to whom the owner-builder provided written declaration that they were not responsible for the taxes as prescribed in Subsection 9-415(c)(2); and
  - (2) the purchase of tangible personal property for incorporation into any improvement to real property, computed on the sales price.
- (b) For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this

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subsection, “direct costs” means the portion of the actual costs that are directly expended in providing architectural or engineering services.

- (c) The tax liability of this Section is subject to the following provisions, relating to exemptions, deductions and tax credits:

(1) Exemptions.

- (A) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:
- (i) Section 9-465, subsections (g) and (p)
  - (ii) SECTION 9-465, SUBSECTIONS (G) AND (P)
- shall be exempt or deductible, respectively, from the tax imposed by this Section.
- (B) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.
- (C) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of cleanrooms that are deducted from the tax base of the retail classification pursuant to Section 9-465, subsection (g) shall be exempt from the tax imposed under this Section.
- (D) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.
- (E) Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer shall be exempt from the tax imposed under this section. For the purposes of this paragraph:
- (i) the attributable amount shall not exceed the value of the development fees actually imposed.
  - (ii) the attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public

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infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

- (iii) "development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. Section 9-463.05, A.R.S. Section 11-1102 or A.R.S. Title 48 regardless of the jurisdiction to which the fees are paid.

### (2) Deductions.

- (A) All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five percent (35%).
- (B) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 9-110, that is deducted from the retail classification pursuant to Section 9-465(g), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this Section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:
  - (i) to be incorporated into real property.
  - (ii) to become so affixed to real property that it becomes part of the real property.
  - (iii) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.
- (C) For taxable periods beginning from and after July 1, 2008 and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the Town, as applicable, for examination.

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(3) Tax credits.

The following tax credits are available to owner-builders and speculative builders, not to exceed the tax liability against which such credits apply, provided such credits are documented to the satisfaction of the tax collector:

- (A) A tax credit equal to the amount of town privilege or use tax, or the equivalent excise tax, paid directly to a taxing jurisdiction or as a separately itemized charge paid directly to the vendor with respect to the tangible personal property incorporated into the said structure or improvement to real property undertaken by the owner-builder or speculative builder.
  - (B) A tax credit equal to the amount of privilege taxes paid to this Town, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.
  - (C) No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported.
- (d) The limitation period for the assessment of taxes imposed by this Section is measured based upon when such liability is reportable, that is, in the reporting period that encompasses the twenty-fifth (25th) month after said unit or project was substantially complete. Interest and penalties, as provided in Section 9-540, will be based on reportable date.
- (e) (Reserved)

**Section VII. Model City Tax Code Section 9-600 is amended as follows, with an effective date of February 1, 2019**

**Sec. 9-600. USE TAX: DEFINITIONS.**

FOR THE PURPOSES OF THIS ARTICLE ONLY, THE FOLLOWING DEFINITIONS SHALL APPLY, IN ADDITION TO THE DEFINITIONS PROVIDED IN ARTICLE I:

**"ACQUIRE (FOR STORAGE OR USE)"** MEANS PURCHASE, RENT, LEASE, OR LICENSE FOR STORAGE OR USE.

**"RETAILER"** ALSO MEANS ANY PERSON SELLING, RENTING, LICENSING FOR USE, OR LEASING TANGIBLE PERSONAL PROPERTY UNDER CIRCUMSTANCES WHICH WOULD RENDER SUCH TRANSACTIONS SUBJECT TO THE TAXES IMPOSED IN ARTICLE IV, IF SUCH TRANSACTIONS HAD OCCURRED WITHIN THIS TOWN.

**"STORAGE (WITHIN THE TOWN)"** MEANS THE KEEPING OR RETAINING OF TANGIBLE PERSONAL PROPERTY AT A PLACE WITHIN THE TOWN FOR ANY PURPOSE, EXCEPT FOR THOSE ITEMS ACQUIRED SPECIFICALLY AND SOLELY FOR THE PURPOSE OF SALE, RENTAL, LEASE, OR LICENSE FOR USE IN THE REGULAR COURSE OF BUSINESS OR FOR THE PURPOSE OF SUBSEQUENT USE SOLELY OUTSIDE THE TOWN.

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"USE (OF TANGIBLE PERSONAL PROPERTY)" MEANS CONSUMPTION OR EXERCISE OF ANY OTHER RIGHT OR POWER OVER TANGIBLE PERSONAL PROPERTY INCIDENT TO THE OWNERSHIP THEREOF EXCEPT THE HOLDING FOR THE SALE, RENTAL, LEASE, OR LICENSE FOR USE OF SUCH PROPERTY IN THE REGULAR COURSE OF BUSINESS.

**Section VIII. Model City Tax Code Section 9-610 is amended as follows, with an effective date of February 1, 2019**

**Sec. 9-610. USE TAX: IMPOSITION OF TAX; PRESUMPTION.**

- (a) THERE IS HEREBY LEVIED AND IMPOSED, SUBJECT TO ALL OTHER PROVISIONS OF THIS CHAPTER, AN EXCISE TAX ON THE STORAGE OR USE IN THE TOWN OF TANGIBLE PERSONAL PROPERTY, FOR THE PURPOSE OF RAISING REVENUE TO BE USED IN DEFRAYING THE NECESSARY EXPENSES OF THE TOWN, SUCH TAXES TO BE COLLECTED BY THE TAX COLLECTOR.
- (b) THE TAX RATE SHALL BE AT AN AMOUNT EQUAL TO FOUR PERCENT (4%) OF THE:
  - (1) COST OF TANGIBLE PERSONAL PROPERTY ACQUIRED FROM A RETAILER, UPON EVERY PERSON STORING OR USING SUCH PROPERTY IN THIS TOWN.
  - (2) GROSS INCOME FROM THE BUSINESS ACTIVITY UPON EVERY PERSON MEETING THE REQUIREMENTS OF SUBSECTION 9-620(B) OR (C) WHO IS ENGAGED OR CONTINUING IN THE BUSINESS ACTIVITY OF SALES, RENTALS, LEASES, OR LICENSES OF TANGIBLE PERSONAL PROPERTY TO PERSONS WITHIN THE TOWN FOR STORAGE OR USE WITHIN THE TOWN, TO THE EXTENT THAT TAX HAS BEEN COLLECTED UPON SUCH TRANSACTION.
  - (3) COST OF THE TANGIBLE PERSONAL PROPERTY PROVIDED UNDER THE CONDITIONS OF A WARRANTY, MAINTENANCE, OR SERVICE CONTRACT.
  - (4) COST OF COMPLIMENTARY ITEMS PROVIDED TO PATRONS WITHOUT ITEMIZED CHARGE BY A RESTAURANT, HOTEL, OR OTHER BUSINESS.
  - (5) COST OF FOOD CONSUMED BY THE OWNER OR BY EMPLOYEES OR AGENTS OF THE OWNER OF A RESTAURANT OR BAR SUBJECT TO THE PROVISIONS OF SECTION 9-455 OF THIS CHAPTER.
- (c) IT SHALL BE PRESUMED THAT ALL TANGIBLE PERSONAL PROPERTY ACQUIRED BY ANY PERSON WHO AT THE TIME OF SUCH ACQUISITION RESIDES IN THE TOWN IS ACQUIRED FOR STORAGE OR USE IN THIS TOWN, UNTIL THE CONTRARY IS ESTABLISHED BY THE TAXPAYER.
- (d) EXCLUSIONS. FOR THE PURPOSES OF THIS ARTICLE, THE ACQUISITION OF THE FOLLOWING SHALL NOT BE DEEMED TO BE THE PURCHASE, RENTAL, LEASE, OR LICENSE OF TANGIBLE PERSONAL PROPERTY FOR STORAGE OR USE WITHIN THE TOWN:

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- (1) STOCKS, BONDS, OPTIONS, OR OTHER SIMILAR MATERIALS.
- (2) LOTTERY TICKETS OR SHARES SOLD PURSUANT TO ARTICLE I, CHAPTER 5, TITLE 5, ARIZONA REVISED STATUTES.
- (3) PLATINUM, BULLION, OR MONETIZED BULLION, EXCEPT MINTED OR MANUFACTURED COINS TRANSFERRED OR ACQUIRED PRIMARILY FOR THEIR NUMISMATIC VALUE AS PRESCRIBED BY REGULATION.
- (e) (RESERVED)
- (f) (RESERVED)

**Section IX. Model City Tax Code Section 9-620 is amended as follows, with an effective date of February 1, 2019**

**Sec. 9-620. USE TAX: LIABILITY FOR TAX.**

THE FOLLOWING PERSONS SHALL BE DEEMED LIABLE FOR THE TAX IMPOSED BY THIS ARTICLE; AND SUCH LIABILITY SHALL NOT BE EXTINGUISHED UNTIL THE TAX HAS BEEN PAID TO THIS TOWN, EXCEPT THAT A RECEIPT FROM A RETAILER SEPARATELY CHARGING THE TAX IMPOSED BY THIS CHAPTER IS SUFFICIENT TO RELIEVE THE PERSON ACQUIRING SUCH PROPERTY FROM FURTHER LIABILITY FOR THE TAX TO WHICH THE RECEIPT REFERS:

- (a) ANY PERSON WHO ACQUIRES TANGIBLE PERSONAL PROPERTY FROM A RETAILER, WHETHER OR NOT SUCH RETAILER IS LOCATED IN THIS TOWN, WHEN SUCH PERSON STORES OR USES SAID PROPERTY WITHIN THE TOWN.
- (b) ANY RETAILER NOT LOCATED WITHIN THE TOWN, SELLING, RENTING, LEASING, OR LICENSING TANGIBLE PERSONAL PROPERTY FOR STORAGE OR USE OF SUCH PROPERTY WITHIN THE TOWN, MAY OBTAIN A LICENSE FROM THE TAX COLLECTOR AND COLLECT THE USE TAX ON SUCH TRANSACTIONS. SUCH RETAILER SHALL BE LIABLE FOR THE USE TAX TO THE EXTENT SUCH USE TAX IS COLLECTED FROM HIS CUSTOMERS.
- (c) EVERY AGENT WITHIN THE TOWN OF ANY RETAILER NOT MAINTAINING AN OFFICE OR PLACE OF BUSINESS IN THIS TOWN, WHEN SUCH PERSON SELLS, RENTS, LEASES, OR LICENSES TANGIBLE PERSONAL PROPERTY FOR STORAGE OR USE IN THIS TOWN SHALL, AT THE TIME OF SUCH TRANSACTION, COLLECT AND BE LIABLE FOR THE TAX IMPOSED BY THIS ARTICLE UPON THE STORAGE OR USE OF THE PROPERTY SO TRANSFERRED, UNLESS SUCH RETAILER OR AGENT IS LIABLE FOR AN EQUIVALENT EXCISE TAX UPON THE TRANSACTION.
- (d) ANY PERSON WHO ACQUIRES TANGIBLE PERSONAL PROPERTY FROM A RETAILER LOCATED IN THE TOWN AND SUCH PERSON CLAIMS TO BE EXEMPT FROM THE TOWN PRIVILEGE OR USE TAX AT THE TIME OF THE TRANSACTION, AND UPON

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WHICH NO TOWN PRIVILEGE TAX WAS CHARGED OR PAID, WHEN SUCH CLAIM IS NOT SUSTAINABLE.

- (e) EVERY PERSON STORING OR USING TANGIBLE PERSONAL PROPERTY UNDER THE CONDITIONS OF A WARRANTY, MAINTENANCE, OR SERVICE CONTRACT.

**Section X. Model City Tax Code Section 9-630 is amended as follows, with an effective date of February 1, 2019**

**Sec. 9-630. USE TAX: RECORDKEEPING REQUIREMENTS.**

ALL DEDUCTIONS, EXCLUSIONS, EXEMPTIONS, AND CREDITS PROVIDED IN THIS ARTICLE ARE CONDITIONAL UPON ADEQUATE PROOF OF DOCUMENTATION AS REQUIRED BY ARTICLE III OR ELSEWHERE IN THIS CHAPTER.

**Section XI. Model City Tax Code Section 9-640 is amended as follows, with an effective date of February 1, 2019**

**Sec. 9-640. USE TAX: CREDIT FOR EQUIVALENT EXCISE TAXES PAID ANOTHER JURISDICTION.**

IN THE EVENT THAT AN EQUIVALENT EXCISE TAX HAS BEEN LEVIED AND PAID UPON TANGIBLE PERSONAL PROPERTY WHICH IS ACQUIRED TO BE STORED OR USED WITHIN THIS TOWN, FULL CREDIT FOR ANY AND ALL SUCH TAXES SO PAID SHALL BE ALLOWED BY THE TAX COLLECTOR BUT ONLY TO THE EXTENT USE TAX IS IMPOSED UPON THAT TRANSACTION BY THIS ARTICLE.

**Section XII. Model City Tax Code Section 9-650 is amended as follows, with an effective date of February 1, 2019**

**Sec. 9-650. USE TAX: EXCLUSION WHEN ACQUISITION SUBJECT TO USE TAX IS TAXED OR TAXABLE ELSEWHERE IN THIS CHAPTER; LIMITATION.**

THE TAX LEVIED BY THIS ARTICLE DOES NOT APPLY TO THE STORAGE OR USE IN THIS TOWN OF TANGIBLE PERSONAL PROPERTY ACQUIRED IN THIS TOWN, THE GROSS INCOME FROM THE SALE, RENTAL, LEASE, OR LICENSE OF WHICH WERE INCLUDED IN THE MEASURE OF THE TAX IMPOSED BY ARTICLE IV OF THIS CHAPTER; PROVIDED, HOWEVER, THAT ANY PERSON WHO HAS ACQUIRED TANGIBLE PERSONAL PROPERTY FROM A VENDOR IN THIS TOWN WITHOUT PAYING THE TOWN PRIVILEGE TAX BECAUSE OF A REPRESENTATION TO THE VENDOR THAT THE PROPERTY WAS NOT SUBJECT TO SUCH TAX, WHEN SUCH CLAIM IS NOT SUSTAINABLE, MAY NOT CLAIM THE EXCLUSION FROM SUCH USE TAX PROVIDED BY THIS SECTION.

**The 2018 Amendment to the Tax Code of the Town of Guadalupe****Section XIII. Model City Tax Code Section 9-660 is amended as follows, with an effective date of February 1, 2019****Sec. 9-660. USE TAX: EXEMPTIONS.**

THE STORAGE OR USE IN THIS TOWN OF THE FOLLOWING TANGIBLE PERSONAL PROPERTY IS EXEMPT FROM THE USE TAX IMPOSED BY THIS ARTICLE:

- (a) TANGIBLE PERSONAL PROPERTY BROUGHT INTO THE TOWN BY AN INDIVIDUAL WHO WAS NOT A RESIDENT OF THE TOWN AT THE TIME THE PROPERTY WAS ACQUIRED FOR HIS OWN USE, IF THE FIRST ACTUAL USE OF SUCH PROPERTY WAS OUTSIDE THE TOWN, UNLESS SUCH PROPERTY IS USED IN CONDUCTING A BUSINESS IN THIS TOWN.
- (b) TANGIBLE PERSONAL PROPERTY, THE VALUE OF WHICH DOES NOT EXCEED THE AMOUNT OF ONE THOUSAND DOLLARS (\$1,000) PER ITEM, ACQUIRED BY AN INDIVIDUAL OUTSIDE THE LIMITS OF THE TOWN FOR HIS PERSONAL USE AND ENJOYMENT.
- (c) CHARGES FOR DELIVERY, INSTALLATION, OR OTHER CUSTOMER SERVICES, AS PRESCRIBED BY REGULATION.
- (d) CHARGES FOR REPAIR SERVICES, AS PRESCRIBED BY REGULATION.
- (e) SEPARATELY ITEMIZED CHARGES FOR WARRANTY, MAINTENANCE, AND SERVICE CONTRACTS.
- (f) PROSTHETICS.
- (g) INCOME-PRODUCING CAPITAL EQUIPMENT.
- (h) RENTAL EQUIPMENT AND RENTAL SUPPLIES.
- (i) MINING AND METALLURGICAL SUPPLIES.
- (j) MOTOR VEHICLE FUEL AND USE FUEL WHICH ARE USED UPON THE HIGHWAYS OF THIS STATE AND UPON WHICH A TAX HAS BEEN IMPOSED UNDER THE PROVISIONS OF ARTICLE I OR II, CHAPTER 16, TITLE 28, ARIZONA REVISED STATUTES.
- (k) TANGIBLE PERSONAL PROPERTY PURCHASED BY A CONSTRUCTION CONTRACTOR, BUT NOT AN OWNER-BUILDER, WHEN SUCH PERSON HOLDS A VALID PRIVILEGE LICENSE FOR ENGAGING OR CONTINUING IN THE BUSINESS OF CONSTRUCTION CONTRACTING, AND WHERE THE PROPERTY ACQUIRED IS INCORPORATED INTO ANY STRUCTURE OR IMPROVEMENT TO REAL PROPERTY IN FULFILLMENT OF A CONSTRUCTION CONTRACT.
- (l) SALES OF MOTOR VEHICLES TO NONRESIDENTS OF THIS STATE FOR USE OUTSIDE THIS STATE IF THE VENDOR SHIPS OR DELIVERS THE MOTOR VEHICLE TO A DESTINATION OUTSIDE THIS STATE.
- (m) TANGIBLE PERSONAL PROPERTY WHICH DIRECTLY ENTERS INTO AND BECOMES AN INGREDIENT OR COMPONENT PART OF A PRODUCT SOLD IN THE REGULAR

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COURSE OF THE BUSINESS OF JOB PRINTING, MANUFACTURING, OR PUBLICATION OF NEWSPAPERS, MAGAZINES OR OTHER PERIODICALS. TANGIBLE PERSONAL PROPERTY WHICH IS CONSUMED OR USED UP IN A MANUFACTURING, JOB PRINTING, PUBLISHING, OR PRODUCTION PROCESS IS NOT AN INGREDIENT NOR COMPONENT PART OF A PRODUCT.

- (n) RENTAL, LEASING, OR LICENSING FOR USE OF FILM, TAPE, OR SLIDES BY A THEATER OR OTHER PERSON TAXED UNDER SECTION 9-410, OR BY A RADIO STATION, TELEVISION STATION, OR SUBSCRIPTION TELEVISION SYSTEM.
- (o) FOOD SERVED TO PATRONS FOR A CONSIDERATION BY ANY PERSON ENGAGED IN A BUSINESS PROPERLY LICENSED AND TAXED UNDER SECTION 9-455, BUT NOT FOOD CONSUMED BY OWNERS, AGENTS, OR EMPLOYEES OF SUCH BUSINESS.
- (p) TANGIBLE PERSONAL PROPERTY ACQUIRED BY A QUALIFYING HOSPITAL, QUALIFYING COMMUNITY HEALTH CENTER OR A QUALIFYING HEALTH CARE ORGANIZATION, EXCEPT WHEN THE PROPERTY IS IN FACT USED IN ACTIVITIES RESULTING IN GROSS INCOME FROM UNRELATED BUSINESS INCOME AS THAT TERM IS DEFINED IN 26 U.S.C. SECTION 512.
- (q) (RESERVED)
- (r) THE FOLLOWING TANGIBLE PERSONAL PROPERTY PURCHASED BY PERSONS ENGAGING OR CONTINUING IN THE BUSINESS OF FARMING, RANCHING, OR FEEDING LIVESTOCK, POULTRY OR RATITES:
  - (1) SEED, FERTILIZER, FUNGICIDES, SEED TREATING CHEMICALS, AND OTHER SIMILAR CHEMICALS.
  - (2) FEED FOR LIVESTOCK, POULTRY OR RATITES, INCLUDING SALT, VITAMINS, AND OTHER ADDITIVES TO SUCH FEED.
  - (3) LIVESTOCK, POULTRY OR RATITES PURCHASED OR RAISED FOR SLAUGHTER, BUT NOT INCLUDING LIVESTOCK PURCHASED OR RAISED FOR PRODUCTION OR USE, SUCH AS MILCH COWS, BREEDING BULLS, LAYING HENS, RIDING OR WORK HORSES.
  - (4) NEAT ANIMALS, HORSES, ASSES, SHEEP, SWINE, OR GOATS ACQUIRED FOR THE PURPOSE OF BECOMING BREEDING OR PRODUCTION STOCK, INCLUDING THE ACQUISITION OF BREEDINGS OR OWNERSHIP SHARES IN SUCH ANIMALS.

THIS EXEMPTION SHALL NOT BE CONSTRUED TO INCLUDE MACHINERY, EQUIPMENT, FUELS, LUBRICANTS, PHARMACEUTICALS, REPAIR AND REPLACEMENT PARTS, OR OTHER ITEMS USED OR CONSUMED IN THE RUNNING, MAINTENANCE, OR REPAIR OF MACHINERY, EQUIPMENT, BUILDINGS, OR STRUCTURES USED OR CONSUMED IN THE BUSINESS OF FARMING, RANCHING, OR FEEDING OF LIVESTOCK, POULTRY OR RATITES.

- (s) GROUNDWATER MEASURING DEVICES REQUIRED BY A.R.S. SECTION 45-604.

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- (t) (RESERVED)
- (u) AIRCRAFT ACQUIRED FOR USE OUTSIDE THE STATE, AS PRESCRIBED BY REGULATION.
- (v) SALES OF FOOD PRODUCTS BY PRODUCERS AS PROVIDED FOR BY A.R.S. SECTION 3-561, 3-562 AND 3-563.
- (w) (RESERVED)
- (x) FOOD AND DRINK PROVIDED BY A PERSON WHO IS ENGAGED IN BUSINESS THAT IS CLASSIFIED UNDER THE RESTAURANT CLASSIFICATION WITHOUT MONETARY CHARGE TO ITS EMPLOYEES FOR THEIR OWN CONSUMPTION ON THE PREMISES DURING SUCH EMPLOYEES' HOURS OF EMPLOYMENT.
- (y) (RESERVED)
- (z) TANGIBLE PERSONAL PROPERTY USED OR STORED BY THIS TOWN.
- (aa) TANGIBLE PERSONAL PROPERTY USED IN REMEDIATION CONTRACTING AS DEFINED IN SECTION 9-100 AND REGULATION 9-100.5.
- (bb) MATERIALS THAT ARE PURCHASED BY OR FOR PUBLICLY FUNDED LIBRARIES INCLUDING SCHOOL DISTRICT LIBRARIES, CHARTER SCHOOL LIBRARIES, COMMUNITY COLLEGE LIBRARIES, STATE UNIVERSITY LIBRARIES OR FEDERAL, STATE, COUNTY OR MUNICIPAL LIBRARIES FOR USE BY THE PUBLIC AS FOLLOWS:
  - (1) PRINTED OR PHOTOGRAPHIC MATERIALS.
  - (2) ELECTRONIC OR DIGITAL MEDIA MATERIALS.
- (cc) FOOD, BEVERAGES, CONDIMENTS AND ACCESSORIES USED FOR SERVING FOOD AND BEVERAGES BY A COMMERCIAL AIRLINE, AS DEFINED IN A.R.S. SECTION 42-5061(A)(49), THAT SERVES THE FOOD AND BEVERAGES TO ITS PASSENGERS, WITHOUT ADDITIONAL CHARGE, FOR CONSUMPTION IN FLIGHT. FOR THE PURPOSES OF THIS SUBSECTION, "ACCESSORIES" MEANS PAPER PLATES, PLASTIC EATING UTENSILS, NAPKINS, PAPER CUPS, DRINKING STRAWS, PAPER SACKS OR OTHER DISPOSABLE CONTAINERS, OR OTHER ITEMS WHICH FACILITATE THE CONSUMPTION OF THE FOOD.
- (dd) WIRELESS TELECOMMUNICATION EQUIPMENT THAT IS HELD FOR SALE OR TRANSFER TO A CUSTOMER AS AN INDUCEMENT TO ENTER INTO OR CONTINUE A CONTRACT FOR TELECOMMUNICATION SERVICES THAT ARE TAXABLE UNDER SECTION 9-470.
- (ee) (RESERVED)
- (ff) ALTERNATIVE FUEL AS DEFINED IN A.R.S. SECTION 1-215, BY A USED OIL FUEL BURNER WHO HAS RECEIVED A DEPARTMENT OF ENVIRONMENTAL QUALITY PERMIT TO BURN USED OIL OR USED OIL FUEL UNDER A.R.S. SECTION 49-426 OR SECTION 49-480.

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- (gg) FOOD, BEVERAGES, CONDIMENTS AND ACCESSORIES PURCHASED BY OR FOR A PUBLIC EDUCATIONAL ENTITY, PURSUANT TO ANY OF THE PROVISIONS OF TITLE 15, ARIZONA REVISED STATUTES, INCLUDING A REGULARLY ORGANIZED PRIVATE OR PAROCHIAL SCHOOL THAT OFFERS AN EDUCATIONAL PROGRAM FOR GRADE TWELVE OR UNDER WHICH MAY BE ATTENDED IN SUBSTITUTION FOR A PUBLIC SCHOOL PURSUANT TO A.R.S. 15-802; TO THE EXTENT SUCH ITEMS ARE TO BE PREPARED OR SERVED TO INDIVIDUALS FOR CONSUMPTION ON THE PREMISES OF A PUBLIC EDUCATIONAL ENTITY DURING SCHOOL HOURS. FOR THE PURPOSES OF THIS SUBSECTION, "ACCESSORIES" MEANS PAPER PLATES, PLASTIC EATING UTENSILS, NAPKINS, PAPER CUPS, DRINKING STRAWS, PAPER SACKS OR OTHER DISPOSABLE CONTAINERS, OR OTHER ITEMS WHICH FACILITATE THE CONSUMPTION OF THE FOOD.
- (hh) PERSONAL HYGIENE ITEMS PURCHASED BY A PERSON ENGAGED IN THE BUSINESS OF AND SUBJECT TO TAX UNDER SECTION 9-444 OF THIS CODE IF THE TANGIBLE PERSONAL PROPERTY IS FURNISHED WITHOUT ADDITIONAL CHARGE TO AND INTENDED TO BE CONSUMED BY THE PERSON DURING HIS OCCUPANCY.
- (ii) (II) THE DIVERSION OF GAS FROM A PIPELINE BY A PERSON ENGAGED IN THE BUSINESS OF OPERATING A NATURAL OR ARTIFICIAL GAS PIPELINE, FOR THE SOLE PURPOSE OF FUELING COMPRESSOR EQUIPMENT TO PRESSURIZE THE PIPELINE, IS NOT A SALE OF THE GAS TO THE OPERATOR OF THE PIPELINE.
- (jj) FOOD, BEVERAGES, CONDIMENTS AND ACCESSORIES PURCHASED BY OR FOR A NONPROFIT CHARITABLE ORGANIZATION THAT HAS QUALIFIED AS AN EXEMPT ORGANIZATION UNDER 26 U.S.C SECTION 501(C)(3) AND REGULARLY SERVES MEALS TO THE NEEDY AND INDIGENT ON A CONTINUING BASIS AT NO COST. FOR THE PURPOSES OF THIS SUBSECTION, "ACCESSORIES" MEANS PAPER PLATES, PLASTIC EATING UTENSILS, NAPKINS, PAPER CUPS, DRINKING STRAWS, PAPER SACKS OR OTHER DISPOSABLE CONTAINERS, OR OTHER ITEMS WHICH FACILITATE THE CONSUMPTION OF THE FOOD.
- (kk) SALES OF MOTOR VEHICLES THAT USE ALTERNATIVE FUEL IF SUCH VEHICLE WAS MANUFACTURED AS A DIESEL FUEL VEHICLE AND CONVERTED TO OPERATE ON ALTERNATIVE FUEL AND SALES OF EQUIPMENT THAT IS INSTALLED IN A CONVENTIONAL DIESEL FUEL MOTOR VEHICLE TO CONVERT THE VEHICLE TO OPERATE ON AN ALTERNATIVE FUEL, AS DEFINED IN A.R.S. SECTION 1-215.
- (ll) THE STORAGE, USE OR CONSUMPTION OF TANGIBLE PERSONAL PROPERTY IN THE CITY OR TOWN BY A SCHOOL DISTRICT OR CHARTER SCHOOL.
- (mm) RENEWABLE ENERGY CREDITS OR ANY OTHER UNIT CREATED TO TRACK ENERGY DERIVED FROM RENEWABLE ENERGY RESOURCES. FOR THE PURPOSES OF THIS PARAGRAPH, "RENEWABLE ENERGY CREDIT" MEANS A UNIT CREATED ADMINISTRATIVELY BY THE CORPORATION COMMISSION OR GOVERNING BODY OF A PUBLIC POWER UTILITY TO TRACK KILOWATT HOURS OF ELECTRICITY DERIVED FROM A RENEWABLE ENERGY RESOURCE OR THE KILOWATT HOUR

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EQUIVALENT OF CONVENTIONAL ENERGY RESOURCES DISPLACED BY DISTRIBUTED RENEWABLE ENERGY RESOURCES.

- (nn) MAGAZINES OR OTHER PERIODICALS OR OTHER PUBLICATIONS BY THIS STATE TO ENCOURAGE TOURIST TRAVEL.
- (oo) PAPER MACHINE CLOTHING, SUCH AS FORMING FABRICS AND DRYER FELTS, SOLD TO A PAPER MANUFACTURER AND DIRECTLY USED OR CONSUMED IN PAPER MANUFACTURING.
- (pp) OVERHEAD MATERIALS OR OTHER TANGIBLE PERSONAL PROPERTY THAT IS USED IN PERFORMING A CONTRACT BETWEEN THE UNITED STATES GOVERNMENT AND A MANUFACTURER, MODIFIER, ASSEMBLER OR REPAIRER, INCLUDING PROPERTY USED IN PERFORMING A SUBCONTRACT WITH A GOVERNMENT CONTRACTOR WHO IS A MANUFACTURER, MODIFIER, ASSEMBLER OR REPAIRER, TO WHICH TITLE PASSES TO THE GOVERNMENT UNDER THE TERMS OF THE CONTRACT OR SUBCONTRACT.
- (qq) COAL, PETROLEUM, COKE, NATURAL GAS, VIRGIN FUEL OIL AND ELECTRICITY SOLD TO A QUALIFIED ENVIRONMENTAL TECHNOLOGY MANUFACTURER, PRODUCER OR PROCESSOR AS DEFINED IN A.R.S. SECTION 41-1514.02 AND DIRECTLY USED OR CONSUMED IN THE GENERATION OR PROVISION OF ON-SITE POWER OR ENERGY SOLELY FOR ENVIRONMENTAL TECHNOLOGY MANUFACTURING, PRODUCING OR PROCESSING OR ENVIRONMENTAL PROTECTION. THIS PARAGRAPH SHALL APPLY FOR TWENTY FULL CONSECUTIVE CALENDAR OR FISCAL YEARS FROM THE DATE THE FIRST PAPER MANUFACTURING MACHINE IS PLACED IN SERVICE. IN THE CASE OF AN ENVIRONMENTAL TECHNOLOGY MANUFACTURER, PRODUCER OR PROCESSOR WHO DOES NOT MANUFACTURE PAPER, THE TIME PERIOD SHALL BEGIN WITH THE DATE THE FIRST MANUFACTURING, PROCESSING OR PRODUCTION EQUIPMENT IS PLACED IN SERVICE.
- (rr) MACHINERY, EQUIPMENT, MATERIALS AND OTHER TANGIBLE PERSONAL PROPERTY USED DIRECTLY AND PREDOMINANTLY TO CONSTRUCT A QUALIFIED ENVIRONMENTAL TECHNOLOGY MANUFACTURING, PRODUCING OR PROCESSING FACILITY AS DESCRIBED IN A.R.S. SECTION 41-1514.02. THIS SUBSECTION APPLIES FOR TEN FULL CONSECUTIVE CALENDAR OR FISCAL YEARS AFTER THE START OF INITIAL CONSTRUCTION.
- (ss) (RESERVED)

**Section XIV. Model City Tax Code Regulation 9-115.1 is amended as follows, with an effective date of February 1, 2019**

**Reg.9-115.1. Computer hardware, software, and data services.**

- (a) Definitions.

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- (1) "Computer Hardware" (also called "computer equipment" or "peripherals") is the components and accessories which constitute the physical computer assembly, including but not limited to: central processing unit, keyboard, console, monitor, memory unit, disk drive, tape drive or reader, terminal, printer, plotter, modem, document sorter, optical reader and/or digitizer, network.
  - (2) "Computer Software" (also called "computer program") is tangible personal property, and includes:
    - (A) "Operating Program (Software)" (also called "executive program (software)"), which is the programming system or technical language upon which or by means of which the basic operating procedures of the computer are recorded. The operating program serves as an interface with user applied programs and allows the user to access the computer's processing capabilities.
    - (B) "Applied Program (Software)", which is the programming system or technical language (including the tape, disk, cards, or other medium upon which such language or program is recorded) designed either for application in a specialized use, or upon which or by means of which a plan for the solution of a particular problem is based. Typically, applied programs can be transferred from one computer to another via storage media. Examples of applied programs include: payroll processing, general ledger, sales data, spreadsheet, word processing, and data management programs.
  - (3) "Storage Medium" is any hard disk, compact disk, floppy disk, diskette, diskpack, magnetic tape, cards, or other medium used for storage of information in a form readable by a computer, but not including the memory of the computer itself.
  - (4) A "Terminal Arrangement" (also called "'on-line' arrangement") is any agreement allowing access to a remote central processing unit through telecommunications via hardware.
  - (5) A "Computer Services Agreement" (also called "data services agreement") is an agreement allowing access to a computer through a third-party operator.
- (b) For the purposes of this Chapter, transfer of title and possession of the following are deemed sales of tangible personal property and any other transfer of title, possession, or right to use for a consideration of the following is deemed rental, leasing, or licensing of tangible personal property:
- (1) Computer hardware or storage media. Rental, leasing, or licensing for use of computer hardware or storage media includes the lessee's use of such hardware or storage media on the lessor's premises.
  - (2) Computer software which is not custom computer programming. Such prewritten ("canned") programs may be transferred to a customer in the form of punched cards, magnetic tape, or other storage medium, or by listing the program instructions on coding sheets. Transfer is deemed to have occurred whether title to the storage medium upon which the program is recorded, coded, or punched passes to the customer or the program is recorded, coded, or punched on storage medium furnished by the customer. Gross income from the transfer of such prewritten programs includes:

## The 2018 Amendment to the Tax Code of the Town of Guadalupe

- (A) the entire amount charged to the customer for the sale, rental, lease, or license for use of the storage medium or coding sheets on which or into which the prewritten program has been recorded, coded, or punched.
  - (B) the entire amount charged for the temporary transfer or possession of a prewritten program to be directly used or to be recorded, coded, or punched by the customer on the customer's premises.
  - (C) license fees, royalty fees, or program design fees; any fee present or future, whether for a period of minimum use or of use for extended periods, relating to the use of a prewritten program.
  - (D) the entire amount charged for transfer of a prewritten ("canned") program by remote telecommunications from the transferor's place of business to or through the customer's computer.
  - (E) any charge for the purchase of a maintenance contract which entitles the customer to receive storage media on which prewritten program improvements or error corrections have been recorded or to receive telephone or on-site consultation services, provided that:
    - (i) if such maintenance contract is not optional with the customer, then the charges for the maintenance contract, including the consultation services, are deemed gross income from the transfer of the prewritten program.
    - (ii) if such maintenance contract is optional with the customer but the customer does not have the option to purchase the consultation services separately from the storage media containing the improvements or error corrections, then the charges for the maintenance contract, including the consultation services, are deemed gross income from the transfer of the prewritten program.
    - (iii) if such maintenance contract is optional with the customer and the customer may purchase the consultation services separately from the storage media containing the improvements or error corrections, then only the charges for such improvements or error corrections are deemed gross income from the transfer of a prewritten program and charges for consultation are deemed to be charges for professional services.
- (c) Producing the following by means of computer hardware is deemed to be the activity of job printing for the purposes of this Chapter:
- (1) statistical reports, graphs, diagrams, microfilm, microfiche, photorecordings, or any other information produced or compiled by a computer; except as provided in subsection (e) below.
  - (2) additional copies of records, reports, manuals, tabulations, etc. "Additional Copies" are any copies in excess to those produced simultaneously with the production of the original and on the same printer, whether such copies are prepared by running the same program, by

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using multiple printers, by looping the program, by using different programs to produce the same output, or by other means.

- (d) Charges for the use of communications channel in conjunction with a terminal arrangement or data services agreement are deemed gross income from the activity of providing telecommunication services.
- (e) The following transactions are deemed direct customer services, provided that charges for such services are separately stated and maintained as provided by Regulation 9-100.2(e):
  - (1) "Custom (Computer) Programming", which is any computer software which is written or prepared for a single customer, including those services represented by separately stated charges for the modification of existing prewritten programs.
    - (A) Custom computer programming is deemed a professional service regardless of the form in which the programming is transferred.
    - (B) Custom programming includes such programming performed in connection with the sale, rental, lease, or license for use of computer hardware, provided that the charges for such are separately stated from the charges for the hardware.
    - (C) Custom computer programming includes a program prepared to the special order of a customer who will use the program to produce copies of the program for sale, rental, lease, or license. The subsequent sale, rental, lease, or license of such a program is deemed the sale, rental, lease, or license of a prewritten program.
  - (2) Training services related to computer hardware or software, provided further that:
    - (A) the provider of such training services is deemed the ultimate consumer of all tangible personal property used in training others or provided to such trainees without separately itemized charge for the materials provided.
    - (B) training deemed a direct customer service does not include:
      - (i) training materials, books, manuals, etc. furnished to customers for a charge separate from the charge for training services.
      - (ii) training provided to customers without separate charge as part of the sale, rental, lease, or license of computer hardware or software, or as part of a terminal arrangement or data services agreement.
  - (3) The use of computer time through the use of a terminal arrangement or a data service agreement, but not charges for computer hardware located at the customer's place of business (for example, the terminal, a printer attached to the terminal, a modem used to communicate with the remote central processing unit over a telephone line).
  - (4) Compiling and producing, as part of a terminal arrangement or computer services agreement, original copies of statistical reports, graphs, diagrams, microfilm, microfiche, photorecordings, or other information for the same person who supplied the raw data used to create such reports.

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- (f) THE PURCHASE, RENTAL, LEASE, OR LICENSE FOR USE OF COMPUTER HARDWARE, STORAGE MEDIA, OR COMPUTER SOFTWARE WHICH IS NOT DEEMED CUSTOM PROGRAMMING IS DEEMED THE USE OR STORAGE OF TANGIBLE PERSONAL PROPERTY FOR THE PURPOSE OF THIS CHAPTER, AND THE AMOUNT WHICH MAY BE SUBJECT TO USE TAX SHALL BE DETERMINED IN THE SAME MANNER AS THE DETERMINATION OF THE GROSS INCOME FROM THE SALE, RENTAL, LEASE, OR LICENSE FOR USE OF SUCH.

RESOLUTION No. R2018.26

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GUADALUPE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT (IGA 2018-01) BETWEEN THE AK-CHIN INDIAN COMMUNITY AND THE TOWN OF GUADALUPE FOR THE RECEIPT OF A PORTION OF ITS ANNUAL 12% MONIES FROM GAMING PROCEEDS

WHEREAS, the Congress of the United States has enacted into law the Indian Gaming Regulatory act, Public Law 100-497, 25 U.S.C. §2701-2721 and 18 U.S.C. §1166-1168 (the "Act") which requires a tribal state compact in order to conduct Class 111gaming activities on the Indian lands of a tribe; and

WHEREAS, Arizona Revised Statues (A.R.S.) § 11-951 through § 11-954, provide that public agencies may enter into intergovernmental agreements for the provision of services or for joint or cooperative action; and

WHEREAS, the Ak-Chin Indian Community has entered into a gaming contract with the State of Arizona and said compact requires that the Ak-Chin Indian Community contributions to Arizona communities for governmental services that benefit the general public such as public safety, mitigation of the impacts of gaming, etc., or promotion of commerce and economic development; and

WHEREAS, the Town of Guadalupe, Arizona, has a substantial population of Native Americans and other minorities and is in need of assistance to replace the Guadalupe Headstart / Ed Pastor Senior Center roof, air conditioning units, and kitchen equipment; and

WHEREAS, the Ak-Chin Indian Community desires to convey a portion of its annual 12% monies to the Town of Guadalupe for the exclusive purpose of funding a roof, air conditioning units, and kitchen equipment as proposed in the March 22, 2018 Application, which the Town of Guadalupe wishes to accept; and

WHEREAS, the Ak-Chin Indian Community has entered into an agreement with the Town of Guadalupe and is authorized to execute this agreement; and

WHEREAS, the Town of Guadalupe has agreed to accept a portion of the annual 12% monies for the exclusive purpose of funding a roof, air conditioning units, and kitchen equipment; and, is authorized to execute this agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF GUADALUPE, ARIZONA, as follows:

The Mayor is authorized and directed to execute intergovernmental agreement (IGA 2018-01), Grant No: 18-07, between the Ak-Chin Indian Community and the Town of Guadalupe to accept the awarded 12% Contribution Grant in the amount of \$80,000 towards the replacement and purchase of a roof, air conditioning units, and kitchen equipment; and, sign all necessary documents in furtherance of this agreement.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF GUADALUPE, ARIZONA, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Valerie Molina, Mayor

ATTEST:

APPROVEDASTOFORM:

\_\_\_\_\_  
Jeff Kulaga, Town Manager / Clerk

\_\_\_\_\_  
David Ledyard, Town Attorney

Grant No: 18-07

**Intergovernmental Agreement  
(IGA 2018-01)  
Between  
Ak-Chin Indian Community  
and  
Town of Guadalupe**

This Intergovernmental Agreement ("Agreement") is entered into as of the date of execution by all parties, by and between the Ak-Chin Indian Community ("Community"), a federally recognized Indian tribe having its principal place of business at 42507 W. Peters and Nall Road, Maricopa, Arizona 85138, and the Town of Guadalupe ("Grantee"), a town having its principal place of business at 9241 S. Avenida Del Yaqui, Guadalupe, Arizona 85283.

**RECITALS**

**WHEREAS**, the Community Council is authorized pursuant to Article IV, Section (b) of the Constitution of the Ak-Chin Indian Community to "negotiate and enter into contracts with Federal, state, local and tribal governments, and with individuals, associations, corporations, enterprises or organizations"; and

**WHEREAS**, pursuant to the authorities granted to cities incorporated pursuant to Title 9 of the Arizona Revised Statutes, the Grantee is authorized to enter into agreements, such as this Agreement, and accept grant funding thereunder; and

**WHEREAS**, pursuant to Section 12 of the Tribal/State Gaming Compact between the Community and the State of Arizona ("Compact"), in exchange for substantial exclusivity covenants by the State, the Community did agree to contribute a portion of its annual gaming revenues for regulatory costs and other public benefits; and

**WHEREAS**, pursuant to Compact Section 12(d), instead of making a deposit to the State, the Community may award up to 12% of its annual contribution ("12% Contribution") directly to cities, towns, or counties of the Community's choosing, for services that benefit the general public; and

**WHEREAS**, the Grantee submitted an application ("Application") to the Community for a grant ("Grant") from the 12% Contribution; and

**WHEREAS**, the Community desires to award a 12% Contribution Grant to the Grantee for the exclusive purpose of the project proposed in the Application ("Project"), which the Grantee wishes to accept.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein, the Community hereby agrees to make, and the Grantee agrees to accept, a Grant subject to the following terms and conditions:

## **ARTICLE I - GENERAL PROVISIONS**

1.1 Contents of Agreement. The agreement between the parties will consist of this Agreement and the Grantee's Application ("Application," as defined further in Section 1.2), which (a) was signed by the Grantee on July 10, 2018, and (b) seeks funding for the Project ("Project" is defined below in Section 1.2), that the Grantee submitted to the Community and which is attached hereto and incorporated herein as Exhibit "A."

1.2 General Definitions. Unless otherwise provided herein, when used in this Agreement:

- (a) "Application" means (1) the Ak-Chin Indian Community Grant Cover Sheet, (2) the narrative submitted by the Grantee, (3) any and all attachments to the Application (including, but not limited to, proof of tax-exempt status), and (4) any and all other documents submitted to the Community by the Grantee or the Municipality related to the Grantee's Application and submitted in consideration for receiving a Grant.
- (b) "Grant" means funding awarded by the Community as a part of the Community's 12% Contribution.
- (c) "Project" means the Guadalupe Headstart / Senior Center renovation and equipment replacement project described by the Grantee in its Application.

## **ARTICLE II - TERM**

The term of this Agreement ("Term") will commence upon the date this Agreement is fully executed by all parties ("Execution Date") and, unless otherwise terminated in accordance with the Article VIII below, will expire on occurrence of the first of either: (a) one (1) calendar year from the date upon which the Agreement is fully executed; or (b) if the term of the Project's proposed timeline is less than one calendar year, the date upon which (i) the Project proposed in the Application, which is more fully described in Article III of this Agreement, is completed and (ii) the Community receives the Grantee's final report, as described more fully in Article X below.

## **ARTICLE III - SCOPE**

The Grantee has overall responsibility for the timely completion of the Project proposed in the Application in accordance with the terms and conditions set forth in this Agreement. The Grantee agrees and shall use the Grant exclusively for the Project as detailed in the Application.

#### **ARTICLE IV - AMOUNT AND AUTHORIZED USES OF GRANT FUNDS**

4.1 In consideration of the various obligations undertaken by the Grantee pursuant to this Agreement, as represented by the Grantee in the Application proposing the Project, the Community agrees, subject to the terms and conditions set forth herein, to provide the Grantee with a Grant in the amount of EIGHTY THOUSAND DOLLARS (\$80,000.00).

4.2 The Grantee will use the Grant exclusively to support the Project for those services and activities represented in the Application, including costs attributable to and arising from providing these services and activities that are part of the Project, as agreed to in Exhibit A.

4.3 The Grant made under this Agreement has been awarded in reliance upon the Grantee's proposal in the Application. Any material change in the term or scope of the Project must have the prior written approval of the Community, which may be given in the form of a Community Resolution, without requiring further written amendment of this Agreement.

4.4 The Community reserves the right to terminate this Agreement, pursuant to Article VIII, if the Grantee fails to fulfill its obligations under this Agreement or if the Project changes in a material way.

4.5 Title to any property, both real and personal, purchased with this Grant shall be taken in the name of the Grantee; provided that, if the Grantee fails to fulfill its obligations under this Agreement during the Term of the Agreement, the property shall be returned to the Community for contribution to another eligible recipient. At the conclusion of the Term, the Community will not retain any rights or interests in any property purchased with this Grant.

4.6 Unless otherwise stipulated in writing, this Grant is made with the understanding that Community has no obligation to provide the Grantee with any other funding or support in addition to the amount granted in Article IV, Section 4.1 herein.

#### **ARTICLE V - DISBURSEMENT OF GRANT**

Upon the Community's receipt of a fully executed copy of this Agreement, and a copy of the Grantee's W-9, the Community will arrange to issue to the Grantee Grant funding in the amount set forth in Article IV, Section 4.1. Unless otherwise requested by the Grantee, the Grant funding will be sent via FedEx or other express mail service to the Grantee at the address provided in Article XI, Section 11.2, below.

## **ARTICLE VI - REPRESENTATIONS, WARRANTIES, AND SPECIFIC OBLIGATIONS**

6.1 By executing this Agreement, the Grantee represents and warrants that:

(a) All resolutions or other formalities necessary to authorize the execution and delivery of this Agreement by the person executing this Agreement on behalf of the Grantee have been fully adopted, passed, or enacted by the Grantee's governing body;

(b) This Agreement is valid and legally binding upon the Grantee and has been executed and delivered by the Grantee in such manner and form as to comply with all laws applicable to the Grantee.

(c) The representations, statements, and other matters contained in the Application are true and complete and not misleading in any respect. The Grantee is aware of no change that would require any modification to the approved Application as of the date of execution of this Agreement.

6.2 The Grantee acknowledges that nothing contained in this Agreement, nor any act of the Community or the Grantee, will be deemed or construed to create any principal and agency, partnership, joint venture, or other similar association or relationship between the Community and the Grantee.

## **ARTICLE VII - DEFAULTS AND REMEDIES**

7.1 The Grantee will be considered in default if the Grantee: (a) uses Grant funds for any purpose other than activities related to the Project, or (b) fails to perform its obligations agreed to in this Agreement.

7.2 If the Community has reason to believe that the Grantee has defaulted on any obligations under this Agreement, the Community will issue a Notice of Default ("Default Notice"). No later than thirty (30) days after receipt of the Default Notice, the Grantee shall deliver all reports, records, and accountings sufficiently necessary to provide the Community with the current status of the Project, including but not limited to information documenting the Grantee's use of the grant funding.

7.3 Upon the occurrence of any default, the Community may take appropriate action to recapture the Grant funding. For purposes of this Section, "appropriate action" means any remedial action legally available, including, without limitation, (a) terminating the Agreement, (b) suits for declaratory judgment, specific performance, temporary or permanent injunctions, and (c) and any other available remedy.

7.4 The Community may terminate this Agreement if the Community determines that the Grantee has defaulted on its obligations under this Agreement. Prior to terminating the Agreement, the Community will provide written Notice of Default to the Grantee and the Grantee has thirty (30) calendar days to either: (a) commence performing under the

Agreement, which must be proven through documentation showing progress; or (b) provide the Community with reports and other evidence refuting the allegation of default. If the Grantee does not provide evidence of progress to the Community's satisfaction, the Community may move forward with terminating this Agreement. If this Agreement is terminated by the Community, the Grantee shall return to the Community all Grant funding and/or any property purchased with the Grant funding.

7.5 The Ak-Chin Indian Community Courts shall have jurisdiction over disputes arising under this Agreement.

### **ARTICLE VIII - TERMINATION OF AGREEMENT**

8.1 The Grantee may terminate this Agreement at any time during the Term by providing thirty (30) calendar days' written notice to the Community and returning **ALL** Grant funding to the Community.

8.2 The Community may terminate this Agreement if the Community determines that the Grantee has defaulted on its obligations under this Agreement.

8.3 The Community's rights and remedies will survive termination of the Agreement.

### **ARTICLE IX - CERTIFICATIONS BY GRANTEE**

9.1 In signing this Agreement, the Grantee certifies that:

- (a) All of the representations and warranties of the Grantee as set forth in this Agreement and the Application are valid and true; and
- (b) The Grant funds awarded will be used for costs actually incurred or to be incurred in fulfillment of the obligations agreed to in this Agreement; and
- (c) The payment requested does not duplicate a payment or reimbursement of costs and services received from any other source.

### **ARTICLE X - REPORTS**

10.1 During the term of this Agreement, the Grantee must submit progress reports that summarize both expenditures made and provide updates on the general status of the Project no later than thirty (30) days after:

- (a) The first six (6) months of the Term; and
- (b) Completion of the Project or end of the Agreement Term, whichever occurs first. If a Grant was awarded to make a purchase, the date of delivery of all items shall be deemed completion of the Project.

10.2 Upon request by the Community, the Grantee shall provide promptly such additional information, reports, and documents as the Community may request.

### **ARTICLE XI - MISCELLANEOUS**

11.1 All amendments, notices, requests, and disclosures of any kind made pursuant to this Agreement shall be in writing.

11.2 Any communication will be deemed effective as of the date such communication is received by the addressee, return receipt requested, delivered to the following primary address listed for each party:

<p>If to the Community:</p> <p>PRIMARY ADDRESS</p> <p>CC:</p>	<p>Ak-Chin Indian Community c/o Council Executive Secretary 42507 W. Peters and Nall Rd. Maricopa, AZ 85138</p> <p>Strickland &amp; Strickland, P.C. Ak-Chin Indian Community General Counsel 4400 E. Broadway, Suite 700 Tucson, Arizona 85711</p>
<p>If to the Grantee:</p> <p>PRIMARY ADDRESS</p> <p>CC:</p>	<p>Town of Guadalupe c/o Mayor Valeria Molina 9241 S. Avenida Del Yaqui Guadalupe, AZ 85283</p> <p>Guadalupe Fire Chief 9241 S. Avenida Del Yaqui Guadalupe, AZ 85283</p>

11.3 This Agreement, including any right, benefit, or obligation arising hereunder, may not be transferred or assigned without the prior written approval of the Community.

11.4 No delay or omission of the Community in exercising any right or remedy available under this Agreement will impair any such right or remedy, or constitute a waiver of any default, or an acquiescence thereto.

11.5 The invalidity of any provision of this Agreement will not affect the validity of the remaining provisions hereof.

11.6 This Agreement, and any attachments or incorporated documents, constitutes the entire agreement between the Community and the Grantee, and supersedes all prior oral

and written agreements between the parties hereto with respect to this Grant. Notwithstanding the provisions of Article I, Section 1.1 of this Agreement, in the event of any inconsistency between the provisions of this Agreement and anything contained in the Exhibit A, the provisions of this Agreement will prevail.

11.7 This Agreement may be executed in any number of counterparts. All such counterparts will be deemed to be originals and together will constitute but one and the same instrument.

11.8 Upon the Community's prior written approval, the Grantee is permitted to issue press releases and host other publicity events highlighting the Grant from the Community.

11.8 The Community reserves and has the exclusive right to waive any requirement or provision under this Agreement; provided that, no act, by or on behalf of the Community, will be deemed or construed to be a waiver of any such requirement or provision, unless the same be in writing expressly stated to constitute such waiver.

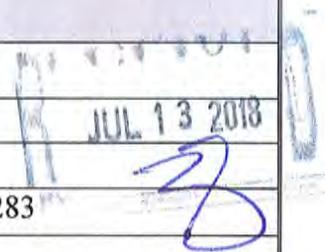
11.9 Notwithstanding any other provision herein to the contrary, nothing in this Agreement shall be deemed a waiver of the Community's sovereign immunity. The Grantee agrees to indemnify the Community with respect to any claims arising from the Project funded by the Grant.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by their respective, duly authorized representatives, as of the day and year written below.

<p><b>COMMUNITY</b> AK-CHIN INDIAN COMMUNITY</p>  <p>_____/_____/_____ Robert Miguel Chairman</p> <p>ATTEST:</p> <p>_____ Victoria A. Smith Council Executive Secretary</p>	<p><b>GRANTEE:</b> TOWN OF GUADALUPE</p>  <p>_____/_____/_____ Valeria Molina Mayor</p> <p>ATTEST:</p> <p>_____ Jeff Kulaga Town Manager / Clerk</p>
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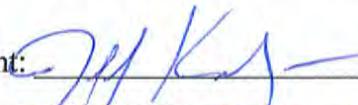
# Ak-Chin Indian Community Grant Application Cover Sheet

Name of City/Town/County/Non-Profit: Town of Guadalupe, Arizona	
Mayor/Supervisor/Chairman/President: Mayor Valerie Molina	
Contact Person and Title: Jeff Kulaga, Town Manager / Clerk	
Applicant Address: 9241 S. Avenida del Yaqui	
City: Guadalupe	Zip Code: 85283
Applicant Mailing Address (if different): same	
City:	Zip Code:
Phone Number: 480-505-5376	Fax Number: 480-505-5368
E-mail Address: jkulaga@guadalupeaz.org	
If Non-Profit, Name of City/Town/County With Which You Will Associate:	
Contact Person:	
City/Town/County Mailing Address:	
City:	Zip Code:
Phone Number:	Fax Number:
E-mail Address:	


  
 JUL 13 2018

<b>Program or Project Name:</b> Guadalupe Headstart / Senior Center renovation and equipment replacement	
<b>Purpose of Grant (brief statement):</b> Our Town building that is home to Headstart and our Senior Center is 37 years old and its equipment serving these two programs are aging and in need of repair and replacement. The grant would fund roof repair, air conditioning unit replacement and Senior Center kitchen equipment replacement.	
Beginning and Ending Date of Program or Project: January, 2019 – May, 2019	
Amount Requested: \$80,000	Total Cost: \$80,000
Geographic Area Served: Town of Guadalupe, Arizona	

By the execution of this Grant Application the undersigned agrees that the information contained in this Application is true, to the best of the Applicant's knowledge. The Applicant shall notify the Community if any information in this Application changes

Signature: \_\_\_\_\_  
 For the Applicant:  Date: 7/10/2018

Typed/Printed Name and Title: JEFF KULAGA Town Manager/Clerk

For the City/Town County: \_\_\_\_\_ Date: \_\_\_\_\_  
 (If different than applicant)  
 Typed/Printed Name and Title: \_\_\_\_\_

**AK-CHIN INDIAN COMMUNITY**  
**2018 12% GRANT PROGRAM**  
**REQUEST FOR PROPOSALS**

**Narrative for:**

**Town of Guadalupe, Arizona –Guadalupe Head Start / Senior Center renovation and equipment replacement**

**1. Description of proposed program or project.**

Thank you to the Ak-Chin Indian Community for considering this proposal from the Town of Guadalupe. This proposed project, Guadalupe Head Start / Senior Center renovation and equipment replacement, would fund needed roof repair, enclose a patio for interior use, and two air conditioning unit replacement and Senior Center kitchen equipment replacement. Our Town building that is home to Head Start and our Senior Center is 37 years old and its equipment serving these two programs is aging and in need of repair and replacement. The grant request is \$80,000 for this new project.

The Town of Guadalupe Town Council unanimously supported this grant request through Resolution R2018.02 on March 22, 2018 and by doing so directed town staff to submit an application. The Resolution is attached.

**2. Identify the target population that will be served by the Project.**

The target populations are twofold: First our Guadalupe Elders who utilize the Senior Center and its services Monday through Friday. Approximately 70 Elders participate in various programs at the Senior Center and also enjoy breakfast and lunch Monday through Friday. Programs range from dances, bingo, crafts and health and wellness classes.

The Elders served at the Guadalupe Senior Center range in age from 60 to 93 years of age with 95% of them being Hispanic /Native American. We serve 55 meals daily, 14,500 meals per year using equipment that is more than 20 years old. The kitchen is in need of a new stove to better provide our seniors a hot, nutritious, well-balanced meal, a new and larger swamp cooler is needed to be able to cool the kitchen during the hot summer months and an Air Curtain is needed right above the exit door to the kitchen to keep bugs, flies and insects from entering the building. The dining area and sitting area at the entrance of the building need two new AC units to be able to keep the building cool in the summertime for our seniors to be comfortable.

Second our Guadalupe youth who attend Head Start. Approximately, 25 toddlers are enrolled in the Head Start program on a monthly basis. Our Head Start services are designed to support the mental, social, and emotional development of children from birth to age 5. In addition to education services, Head Start provides children and their families with health, nutrition, social, and other services.

This Center serves both Guadalupe Elders and youth providing needed multigenerational social services from the target geographic location of the Town of Guadalupe. The demographics of the Town of Guadalupe are as follows: population of 6,226; 8% under five years old; 10.8% older than 65; 40.6% Native American; 62.8% Hispanic Latino; with a medium income of \$30,326 and a poverty rate of 21.3%.

**3. Describe the Project goals and objectives, and your plan to meet them.**

The goals of the project are to repair the roof, enclose a patio and replace the aging air conditioning unit that has reached the end of its useful life and replace the Senior Center kitchen equipment that has also reached the end of its useful life. The air conditioning units are approximately 15 years old and are in continued need of repair and maintenance. It is no longer cost effective to keep repairing the existing units. A complete roof repair has not occurred since the mid 1990's and during heavier monsoons the roof leaks in two locations. Finally, the kitchen equipment including the ovens, stove, prep table and dishwasher are all more than 20 years old.

The goal is to replace and repair so that our youth and Elders can enjoy a more comfortable building with a properly working air conditioner, water tight roof and the Elders can prepare meals of better equipment. An additional goal is to reduce costs to the Town by reducing or eliminating the cost of repair, the investment of labor to make the repairs and reduce energy costs by installing more energy efficient and up to date kitchen equipment.

The goal is to enclose a 24 foot by 13 foot patio to provide additional interior dining room and multipurpose room space for the Elders' use of the Senior Center. Plans are presently drawn.

Overall, the goal is to better serve our youth and Elders by improving our facility.

**4. Provide a timetable for implementation of the Project.**

Bids for roof repairs and the air conditioner unit would occur within a month of award of the grant. The purchase of kitchen equipment would occur within four months of award of the grant. Work, replacement and installations would be scheduled within six months of the grant. All work, repair, replacement and installation would be complete within one year of award of the grant. This is a "shovel ready" project that would be of tremendous benefit to the Town of Guadalupe youth and Elders.

**B. Resources:**

**1. Identify current funding sources for the Project and characterize each funding:**

This is a one -time-only funding request and no other funding sources are identified for this project.

**2. Identify other organizations or partners that are participating in or contributing to the Project, but which are not funding sources, and describe their roles or contributions.**

None

**3. Define the Project as a new or continuing project. If the Project is awarded a grant, how would the Project continue after its grant funding is expended? If the Grant from the Community will replace other funding lost due to the economy, how will the Project be continued after the grant from the Community is exhausted?**

This is a new project and would be a one-time request for capital project replacement.

**4. If you have requested any other funding from another Arizona tribe, please list:**

**a. Unsuccessful requests made within the last eighteen (18) months, including tribe to which the request was made and the project for which a grant was requested.**

None.

**b. Funded requests made in the last five (5) years, including the name of the tribe that awarded the funding, the project for which the funding was awarded, and the amount of the funding received..**

Received \$112,000 from Ak-Chin Indian Community, thank you, towards the purchase of a Type 1 Fire Engine.

**C. Reports. How will you account for and manage the funding if you are selected? Describe your plan to document Project progress and results. Interim and final reports will be required for each grant awarded.**

Should the grant be awarded, the following will be tracked, accounted for and documented for reporting purposes:

- All bids for work and repair;
- Selected contractor scope of work, fee and invoices;
- Payment receipts;
- Pricing of equipment;
- Purchase price of equipment, invoices, receipts and payments.
- All expenditures related to this project

Quarterly reports and final reports shall be prepared and all information will be readily available upon request.

**D. Budget. Provide a detailed budget of how the funding will be used. Provide an estimated timeline for when funds will be expended.**

Month after grant award	Task / Expenditures	Cost Estimate
Month 1	Solicit bids for roof repair	
	Solicit bids for air conditioner replacement and installation	
Month 2	Select roof repair contractor and complete roof repair	\$30,000
Month 3	Select air conditioning contractor and complete installation	\$18,000
	Price kitchen equipment	
Month 4	Purchase kitchen equipment	
	Commercial Dishwasher	\$4,000
	Air Curtain	\$800
	Commercial Range / Ovens	\$3,400
	Commercial Prep table	\$300
	Swamp Cooler	\$3,500
Month 5	Solicit bids for enclosing patio remodel and construction	
	Select patio enclosure contractor and complete remodel	\$20,000
Month 6	Closeout all work / complete grant funded project	
	<b>Estimated total:</b>	<b>\$80,000</b>

**E. Additional information. Please provide any additional information about the Project or your organization you would like to share.**

As mentioned, the Guadalupe Town Council Resolution is attached.

RESOLUTION NO. R2018.02

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GUADALUPE, ARIZONA, AUTHORIZING AN APPLICATION FOR A GRANT FROM THE AK-CHIN INDIAN COMMUNITY FOR PUBLIC SAFETY AND SENIOR CENTER PURPOSES.

WHEREAS, the Congress of the United States has enacted into law the Indian Gaming Regulatory act, Public Law 100-497, 25 U.S.C. §2701-2721 and 18 U.S.C. §1166-1168 (the "Act") which requires a tribal state compact in order to conduct Class 111 gaming activities on the Indian lands of a tribe; and

WHEREAS, the Ak-Chin Indian Community has entered into a gaming contract with the State of Arizona and said compact requires that the Ak-Chin Indian Community contributes to Arizona communities for governmental services that benefit the general public such as public safety, mitigation of the impacts of gaming, etc., or promotion of commerce and economic development; and

WHEREAS, the Town of Guadalupe, Arizona, has a substantial population of Native Americans and other minorities and is in need of assistance of funding to replace the Guadalupe Headstart / Senior Center roof, air conditioning units, and kitchen equipment; and, provide funding for a Type 1 Fire Truck payment; and

WHEREAS, the following needs have been identified:

Type 1 Fire Truck payment:	\$65,000
Senior Center renovation and equipment replacement:	\$80,000

WHEREAS, these needs have been identified as most pressing; and, that any grant monies received from the Ak-Chin Indian Community would be restricted to these needs; and

WHEREAS, it would be appropriate for Town staff to submit a grant funding request to the Ak-Chin Indian Community in the sum of \$ 145,000 for the aforementioned needs.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF GUADALUPE, ARIZONA AS FOLLOWS:

Town staff is directed to submit an application for grant funds in the sum of \$145,000 to the Ak-Chin Indian Community; and, that said funds shall be restricted to the needs set forth in this resolution.

DATED, this 22<sup>nd</sup> day of March, 2018.

*Valerie Molina*  
\_\_\_\_\_  
Valerie Molina, Mayor

ATTEST:

*Jeff Kulaga*  
\_\_\_\_\_  
Jeff Kulaga, Town Manager / Clerk

APPROVED AS TO FORM:

*D. Ledyard*  
\_\_\_\_\_  
David Ledyard, Town Attorney

**Table A:****Town of Guadalupe Head Start / Senior Center renovation and equipment replacement**

<b>Month after grant award</b>	<b>Task / Expenditures</b>	<b>Cost Estimate</b>
Month 1	Solicit bids for roof repair	
	Solicit bids for air conditioner replacement and installation	
Month 2	Select roof repair contractor and complete roof repair	\$30,000
Month 3	Select air conditioning contractor and complete installation	\$18,000
	Price kitchen equipment	
Month 4	Purchase kitchen equipment	
	Commercial Dishwasher	\$4,000
	Air Curtain	\$800
	Commercial Range / Ovens	\$3,400
	Commercial Prep table	\$300
	Swamp Cooler	\$3,500
Month 5	Solicit bids for enclosing patio remodel and construction	
	Select patio enclosure contractor and complete remodel	\$20,000
Month 6	Closeout all work / complete grant funded project	
	<b>Estimated total:</b>	<b>\$80,000</b>

RESOLUTION No. R2018.27

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GUADALUPE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE MAYOR TO EXECUTE A GRANT-IN-AID AGREEMENT (IGA 2018-02) BETWEEN THE TOHONO O'ODHAM NATION AND THE TOWN OF GUADALUPE FOR THE RECEIPT OF A PORTION OF ITS ANNUAL 12% MONIES FROM GAMING PROCEEDS

WHEREAS, the Congress of the United States has enacted into law the Indian Gaming Regulatory act, Public Law 100-497, 25 U.S.C. §2701-2721 and 18 U.S.C. §1166-1168 (the "Act") which requires a tribal state compact in order to conduct Class 111 gaming activities on the Indian lands of a tribe; and

WHEREAS, Arizona Revised Statues (A.R.S.) § 11-951 through § 11-954, provide that public agencies may enter into intergovernmental Grant-in-Aid agreements for the provision of services or for joint or cooperative action; and

WHEREAS, the Tohono O'odham Nation has entered into a gaming contract with the State of Arizona and said compact requires that the Tohono O'odham Nation contributions to Arizona communities for governmental services that benefit the general public such as public safety, mitigation of the impacts of gaming, etc., or promotion of commerce and economic development; and

WHEREAS, the Town of Guadalupe, Arizona, has a substantial population of Native Americans and other minorities and is in need of assistance to fund a Type 1 Fire Engine replacement partial payment; and

WHEREAS, the Tohono O'odham Nation desires to convey a portion of its annual 12% monies to the Town of Guadalupe for the exclusive purpose of funding a Type 1 Fire Engine replacement partial payment as awarded in the October 15, 2018 Grant-In-Aid letter from Tohono O'odham Nation, which the Town of Guadalupe wishes to accept; and

WHEREAS, the Tohono O'odham Nation has entered into an agreement with the Town of Guadalupe and is authorized to execute this agreement; and

WHEREAS, the Town of Guadalupe has agreed to accept a portion of the annual 12% monies for the exclusive purpose of funding a Type 1 Fire Engine replacement partial payment.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF GUADALUPE, ARIZONA, as follows:

The Mayor is authorized and directed to execute intergovernmental agreement (IGA 2018-02), Grant No: 18-07, between the Tohono O'odham Nation and the Town of Guadalupe to accept the awarded 12% Contribution Grant in the amount of \$62,500 towards the Type 1 Fire Engine replacement partial payment; and, sign all necessary documents in furtherance of this agreement.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF GUADALUPE, ARIZONA, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Valerie Molina, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Jeff Kulaga, Town Manager / Clerk

\_\_\_\_\_  
David Ledyard, Town Attorney

**GRANT-IN-AID AGREEMENT  
BETWEEN  
THE TOHONO O’ODHAM NATION  
AND  
TOWN OF GUADALUPE  
IGA 2018-02**

THIS GRANT-IN-AID AGREEMENT (“Agreement”) is between the Tohono O’odham Nation, a federally recognized Indian tribe (the “Nation”), and the TOWN OF GUADALUPE, a political subdivision of the State of Arizona (“Recipient”).

**RECITALS**

The Nation desires to convey to Recipient a portion of its annual 12% local revenue-sharing contribution (“Contribution”) to be paid to local governments for governmental services that benefit the general public.

The Constitution of the Tohono O’odham Nation, Article VI, Section 1(f) provides that the Tohono O’odham Legislative Council is authorized to negotiate and conclude agreements on behalf of the Nation with Federal, State, and local governments.

The Constitution of the Tohono O’odham Nation Article VII, Section 2(f) provides that the Chairman of the Nation is the official representative of the Nation; and as such, upon passage of a Resolution by the Legislative Council approving of any agreement with Federal, State, and local governments, the Chairman is authorized to sign such agreements on behalf of the Nation.

Under A.R.S. § 5-601.02(H)(4), Recipient may receive monies from the Nation for services identified by the Nation that benefit the general public, including public safety, mitigation of gaming impacts, and promotion of commerce and economic development.

The Recipient is authorized by A.R.S. § 11-951 through § 11-954 to enter into agreements for joint or cooperative actions with public agencies.

Now, therefore, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

**AGREEMENT**

- 1. Purpose.** The purpose of this Agreement is to set forth the rights and responsibilities of the parties with respect to the payment and distribution of the Contribution, as hereinafter defined. The Recipient may enter into a separate agreement with any subrecipient identified herein.
- 2. Contribution.** On execution of this Agreement, the Nation will issue payment to the Recipient in the amount described in Schedule A (the “Contribution”) for the purpose(s) detailed in Schedule A.

### 3. Disbursement of Contribution.

- a. **Disbursing Contribution and Recordkeeping.** The Recipient is responsible for disbursing the Contribution consistent with this Agreement. Within a reasonable time following receipt of the Contribution from the Nation, the Recipient shall distribute the Contribution per Recipient policies and procedures governing the disbursement of these funds. The Recipient shall keep and maintain records relating to the disbursements and this Agreement.
- b. **Post-Disbursement Responsibilities.** When applicable, the parties agree that the Recipient may be acting as a conduit for distribution of the Contribution to a non-Recipient entity. Upon distribution of the Contribution to a non-Recipient entity as identified in Section 2 of this Agreement, the Recipient shall have no further responsibility to the Nation with respect to such funds or the use thereof by the non-Recipient entity. Therefore, upon the Recipient's disbursement of the Contribution to a non-Recipient entity as provided in Section 2, the Nation shall release the Recipient from any and all claims, demands, debts, liabilities, or obligations that may arise in the event that a non-Recipient entity fails to expend the Contribution in accord with Section 2. The Nation further agrees that the Recipient shall have no obligation to reimburse the Nation the amount of the Contribution after the Recipient disburses the Contribution to a non-Recipient entity and that the Nation shall look solely to the non-Recipient entity for repayment of the Contribution if the Contribution is not used for the intended purposes.

### 4. Term and Termination.

- a. **Effective Date.** This Agreement shall become effective when all parties have signed. The date this Agreement is signed by the last party, as indicated by the date associated with the party's signature, shall be deemed the Effective Date.
- b. **Term.** This Agreement shall commence upon the Effective Date and will continue for twelve (12) months unless terminated earlier ("End Date"). The Nation, in its discretion, may approve in writing any request by Recipient for a no-cost extension, including amending the End Date and adjusting any affected reporting requirements.
- c. **Termination by Nation.** The Nation may terminate this Agreement with or without cause at any time by providing the Recipient fifteen (15) days advance notice in writing. If the Nation terminates this Agreement after the Recipient receives the Contribution but before the Recipient disbursed the Contribution in accord with Section 2, the Nation shall include in the notice of termination specific instructions regarding disposition of the Contribution.
- d. **Termination by Recipient.** All parties acknowledge that this Agreement may be subject to cancellation by the Recipient per A.R.S. § 38-511.

5. **Money Unclaimed.** If the Recipient fails to accept the Contribution on or before December 15, 2018, this Agreement will be deemed to have been terminated by the Recipient and the Nation will award the Agreement Contribution to another applicant.

- 6. Monitoring, Review, and Audit.** The Nation may monitor and review Recipient's use of the Contribution, performance of the project funded thereunder, and compliance with this Agreement, which may include onsite visits to assess Recipient's governance, management and operations, to discuss Recipient's program and finances, and review relevant financial and other records and materials. In addition, the Nation may conduct audits, including onsite audits, at any time during the term of this Agreement, and within three years after the Contribution has been fully spent. Any onsite visit or audit shall be conducted at the Nation's expense, following prior written notice, during normal business hours, and no more than once during any twelve (12) month period.
- 7. Dispute Resolution.** The parties mutually agree that any disputes arising pursuant to this Agreement shall be resolved through informal dispute resolution. For all disputes arising under this Agreement the Nation and the Recipient shall first attempt to negotiate a resolution. All disputes that cannot be resolved through informal dispute resolution shall be resolved in the Courts of the Nation, subject to the laws of the Nation.
- 8. Reports:** If applicable, the Recipient will submit a final report to the Nation within 30 days of the End Date of this Agreement explaining how and when the funds provided under this Agreement were used. This report may be in the form of an affidavit signed by an officer of the Recipient and may be accompanied by supporting documentation. The report must address: (i) changes in the scope of the project or purchase funded under this Agreement, (ii) the total expenses under the project or purchase funded by the Agreement, (iii) a brief description of who has benefited from this Agreement, and (iv) the Recipient's next steps with regard to the project or purchase made under this Agreement.
- 9. Notices.** Any notice, consent or other communication required or permitted under this Agreement shall be in writing and shall be deemed received at the time it is personally delivered, on the day it is sent by facsimile transmission, on the second day after its deposit with any commercial air courier or express service or if mailed, three (3) days after the notice is deposited in the United States mail addressed as follows:

If to the Nation:

Edward D. Manuel, Chairman  
 Tohono O'odham Nation  
 P.O. Box 837  
 Sells, Arizona 85634  
 Fax: 520-383-3379

and

Executive Counsel  
 Tohono O'odham Nation  
 P.O. Box 837  
 Sells, Arizona 85634

Fax: 520-383-3379

If to the Recipient:

Valerie Molina, Mayor  
Town of Guadalupe  
9241 S. Avenida del Yaqui  
Guadalupe, AZ 85283  
[Vmolina@guadalupeaz.org](mailto:Vmolina@guadalupeaz.org)  
480-505- 5368

and

Jeff Kulaga, Town Manager  
Town of Guadalupe  
9241 S. Avenida del Yaqui  
Guadalupe, AZ 85283  
[Jkulaga@guadalupeaz.org](mailto:Jkulaga@guadalupeaz.org)  
480-505-5376

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

- 10. Entire Agreement, and Amendments.** This Agreement constitutes the entire understanding and agreement of the parties. This Agreement integrates all of the terms and conditions mentioned herein or incident hereto and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.
- 11. Relationship.** The relationship of the parties to this Agreement is determined solely by the provisions of this Agreement. The parties do not intend to create any agency, partnership, joint venture, trust, fiduciary or other relationship which would impose liability upon one party for the act or failure to act of the other party.
- 12. No Waiver.** Except as otherwise expressly provided in this Agreement, any failure or delay by any party in asserting any of its rights or remedies as to any default, shall not operate as a waiver of any default, or of any such rights or remedies, or deprive any such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.
- 13. Severability.** If any provision of this Agreement shall be found invalid or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

**14. Counterparts and Electronic Signatures.** This Agreement is executed in three (3) duplicate originals. Except as may be prohibited by applicable law or regulation, this Agreement and any amendment may be signed in counterparts, by facsimile, PDF, or other electronic means, each of which will be deemed an original and all of which when taken together will constitute one agreement. Facsimile and electronic signatures will be binding for all purposes.

**15. Sovereign Immunity.** Nothing in this Agreement shall be deemed a waiver of either party's sovereign immunity in any forum or jurisdiction.

This Agreement is signed on behalf of the parties:

**TOHONO O'ODHAM NATION**

---

Edward D. Manuel, Chairman

---

Date

**TOWN OF GUADALUPE**

---

Valerie Molina, Mayor

---

Date

**Schedule A**

<b>Program</b>	<b>Project</b>	<b>Contribution</b>
Town of Guadalupe	Type 1 Fire Engine Replacement Partial Payment	<u>\$62,500</u>
	<b>Total</b>	<b>\$62,500</b>

Town of Guadalupe  
9241 South Avenida del Yaqui  
Guadalupe, Arizona 85283-2538

**SECOND AMENDMENT TO THE PUBLIC DEFENDER CONTRACT**

This Contract Agreement is made and entered into this 13<sup>th</sup> day of December, 2018, by the parties hereto Matthew A. Marner, the Contractor and the Town of Guadalupe, the Town, a municipal corporation organized pursuant to the laws of the State of Arizona.

The Parties herein do hereby agree, covenant and contract as follows:

1. The Contractor is currently providing public defender services to the Town of Guadalupe as an independent contractor pursuant to a Public Defender Contract which was entered into on August 30, 2016 and first amended on October 3, 2017. The term for the second amendment to the contract began on November 14, 2017 and expired on November 13, 2018.
2. The Parties wish to amend and extend this contract for an additional 6-month period as set forth hereafter:

Paragraph 10, Contract Term of the existing contract is hereby replaced and will now read:

The term of this contract will begin on December 13, 2018, and continue for a period of approximately six (6) months therefrom and expire on June 30, 2019, unless extended by the mutual agreement of the parties.

3. In all other respects except as amended herein, the existing contract including Exhibits A and B attached thereto, will remain in full force and are incorporated hereby by reference as if set forth in full as is the attached Exhibit C.

CONTRACTOR

TOWN OF GUADALUPE

By \_\_\_\_\_  
Matthew Marner, Esq. Defense Attorney

By \_\_\_\_\_  
Valerie Molina, Mayor

ATTEST:

By \_\_\_\_\_  
Jeff Kulaga, Town Manager/Clerk

By \_\_\_\_\_  
FAITH, LEDYARD &  
FAITH, PLC  
David E. Ledyard, Esq.  
Contracted Town Attorney

EXHIBITC

CONTRACT FOR PERSONAL SERVICES  
SOLE PROPRIETOR'S WAIVER OF WORKERS' COMPENSATION BENEFITS  
Pursuant to A.R.S. § 23-961(L)

I am a sole proprietor and I am doing business as The Law Office of Matthew Marner, PLLC.

I am performing Services for the Town of Guadalupe, a municipal subdivision of the State of Arizona. I am not the employee of the Town of Guadalupe for Workers' Compensation benefits from the Town of Guadalupe. I understand that if I have any employees working for me, I must maintain Workers' Compensation insurance on them.

Date

-

---

Valerie Molina, Mayor  
Authorized Agent of the  
Town of Guadalupe

---

Date

TOWN OF GUADALUPE  
9241 South Avenida Del Yaqui  
Guadalupe, Arizona 85283

PUBLIC DEFENDER CONTRACT

This Contract made and entered into this 30th day of August 2016 by and between Matthew A. Mamer, hereinafter designated as "Contractor," and the Town of Guadalupe, a municipal corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter designated as "Town."

CONTRACTOR AND TOWN, FOR THE CONSIDERATION HEREINAFTER SET FORTH, PROMISE, COVENANT AND AGREE AS FOLLOWS:

1. Scope of Services

a. Contractor shall provide the services as described in Exhibit A ("Services"), which shall be incorporated herein as though set forth in full. Contractor represents that he is licensed to practice law in the State of Arizona and that he is qualified by reason of competence, training, and experience to provide the Services.

b. Contractor shall supervise and direct the Services, using its best skill and attention and Town shall not have authority to supervise or control the Services of Contractor or Contractor's employees. Contractor shall be solely responsible for all means, methods, techniques, sequences, procedures and for coordinating all portions of the Services. Contractor shall be responsible to the Town for the acts and omissions of its employees, subcontractors and their agents and employees, and other persons performing any of the Services.

c. Contractor is not entitled to worker's compensation benefits from Town.

d. Contractor is free to establish and control its times of performance of the Services and Town shall not dictate times of performance.

e. Contractor is not required to perform Services exclusively for the Town during the term of this Contract.

f. Town and Contractor will retain separate business operations.

2. Independent Contractor

a. This Contract does not create an employee/employer relationship between the parties. It is the parties' intention that Contractor will be an independent contractor and not the Town's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Arizona revenue and taxation laws, Arizona workers' compensation law, and Arizona

unemployment insurance law. Contractor will retain sole and absolute discretion and judgment in the manner and means of carrying out Contractor's activities and responsibilities hereunder. Contractor agrees that it is a separate and independent enterprise from Town, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the Services. This Contract shall not be construed as creating any joint employment relationship between Contractor and Town, and Town will not be liable for any obligation incurred by Contractor, including but not limited to unpaid minimum wages and/or overtime premiums.

b. Contractor shall execute the Sole Proprietor's Waiver of Workers' Compensation Benefits attached hereto and incorporated by reference.

### 3. Office

Contractor shall have an office or make arrangements to use an office that is located within a fifteen (15) mile radius of the Guadalupe Municipal Court for consultation with clients when appropriate. Contractor shall establish and maintain communications that will allow prompt receipt of and responses to electronic communications including, but not limited to, telephone, facsimile and electronic mail.

### 4. Labor and Materials

Contractor shall provide and pay and shall insure under the requisite laws and regulations for all labor, materials, equipment, and transportation, and other facilities and services necessary for the proper execution and completion of the Services, whether temporary or permanent and whether or not incorporated or to be incorporated in the Services. Contractor shall provide and pay and insure for all tools necessary for the Services.

### 5. Permits and Fees and Taxes

Contractor shall secure and pay for all business registrations, licenses, permits, governmental inspections and governmental fees necessary and customarily required for the proper execution and completion of Services. Contractor shall pay all applicable taxes. Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Services.

### 6. Indemnification

Contractor and its Surety, their successors and assigns, shall appear, defend, indemnify and hold harmless Town, members of Town's governing body, its officers, agents, representatives, successors and assigns from and against all claims of any character or nature, demands, suits, actions, costs, including, but not limited to, wages or overtime compensation due employees in rendering services under this Contract, costs of defense, attorneys' fees, witness fees of any type, losses, damages, expenses and liabilities, whether direct or indirect, and whether to any person or property, including natural resources and any claim made under the Fair Labor Standards Act or any other federal or state laws, arising out of the Services performed under the terms of this Contract, or on account of any act or omission by Contractor or its agents, employees or representatives, or from any claims or amounts arising or recovered under Workers'

Compensation laws or any other law, bylaw, or ordinance, order or decree or any failure on the part of Contractor, its agents, employees or representatives to fulfill Contractor's obligations under this Contract. It is the intent of the parties to this Contract that Town shall, in all instances, be indemnified against all liability losses, and damages of any nature whatsoever for or on account of any injuries to or death of persons or damages to or destruction of property belonging to any person arising out of or in any way connected with the performance of this Contract. The provisions of this paragraph shall survive termination of this Contract.

7. Governing Law

This Contract shall be governed by the laws of the State of Arizona.

8. Insurance

Contractor shall purchase and maintain professional liability insurance in minimum amounts of \$250,000.00 per specific claim and \$500,000.00 per aggregate claim per occurrence.

If required by Town, Certificates of Insurance acceptable to Town and designating Town as an additional insured shall be filed with Town prior to commencement of the Services. The Certificates shall contain a provision that coverage is supported and that the policies will not expire, be canceled or changed until all Services has been completed and the Project has been accepted by the Town.

9. Contract Fee

Contractor shall be as set forth in Exhibit A attached hereto and made a part hereof. Contractor shall present his/her bill for services provided as set forth in Exhibit A, including reimbursable expenses. Town shall promptly pay said bill to Contractor. Town's payment shall be made only in the name of Contractor appearing on this written Contract.

10. Contract Term

The term of this Contract will commence on November 14, 2016, and continue for a period of 12 months therefrom or otherwise as may be set forth in Exhibit A.

11. Termination

Either party may terminate this Contract by providing thirty (30) days written notice. Guadalupe will continue to assign cases to Contractor for thirty (30) days in accordance with existing standard case assignment procedures and Guadalupe will compensate Contractor with a final payment according to the current payment schedule. At the end of thirty (30) days following notice, Guadalupe will cease assigning cases to Contractor, no further compensation will be paid, and Contractor will continue to represent remaining clients as required in this agreement until final disposition of the client's case(s). Contractor may request reassignment of a case(s). Contractor may request reassignment of a case (s) to another Public Defender. In such situations, Contractor will rebate to Guadalupe compensation calculated by multiplying the number of such reassigned cases by the current per-case rate in effect under the terms of the

current agreement. Town shall not terminate this Contract before the expiration of this contract term unless Contractor breaches the Contract or violates the laws of this state.

12. Successors and Assigns

Town and Contractor each binds itself, its partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in this Contract. Neither party to the Contract shall assign the Contract or sublet it as a whole without the written consent of the other, nor shall Contractor assign any monies due or to become due to it hereunder without the previous written consent of the Town.

13. Rights and Remedies

The duties and obligations imposed by this Contract and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by Town or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any action or failure to act constitute an approval of or acquiescence of any briefs thereunder, except as may be specifically agreed in writing.

14. Litigation

Should litigation be necessary to enforce any term or provision of this Contract, or to collect any damages claimed or portion of the amount payable under this Contract, then all litigation and collection expenses, witness fees, court costs and attorney's fees shall be paid to the prevailing party. Nothing herein shall preclude non-binding arbitration if they so elect in the event of a dispute hereunder.

15. Conflict of Interest

Under Section 38-511, Arizona Revised Statutes, as amended, Town may cancel any Contract it is a party to within three years after its execution and without penalty or further obligation, 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 thereof 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. In the event Town elects to exercise its rights under Section 38-511, Arizona Revised Statutes, as amended, Town agrees to immediately give notice thereof to Contractor.

16. Immigration Law Compliance Warranty

a. As required by A.R.S. § 41-4401, Contractor hereby warrants its compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). Contractor further warrants that after hiring an employee, Contractor verifies the employment eligibility of the employee through the E-Verify program.

b. If Contractor uses any subcontractors in performance of the Services, subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A), and subcontractors shall further warrant that after hiring an employee, such subcontractor verifies the employment eligibility of the employee through the E-Verify program.

c. A breach of this warranty shall be deemed a material breach of the Contract that is subject to penalties up to and including termination of the Contract. Contractor is subject to a penalty of \$100 per day for the first violation, \$500 per day for the second violation, and \$1,000 per day for the third violation. Town at its option may terminate the Contract after the third violation. Contractor shall not be deemed in material breach of this Contract if the Contractor and/or subcontractors establish compliance with the employment verification provisions of Sections 274A and 274B of the federal Immigration and Nationality Act and the E-Verify requirements contained in A.R.S. § 23-214(A).

d. Town retains the legal right to inspect the papers of any Contractor or subcontractor employee who works on the Contract to ensure that the Contractor or subcontractor is complying with the warranty. Any inspection will be conducted after reasonable notice and at reasonable times.

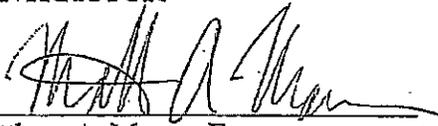
e. If state law is amended, the parties may modify this paragraph consistent with state law.

IN WITNESS WHEREOF the parties hereto have caused this Contract to be executed, the day and year first herein written.

TOWN OF GUADALUPE

By   
Rosemary Arellano *Nov 7-2016*  
Interim Town Manager

CONTRACTOR

By   
Matthew A. Marnier Esq.  
Defense Attorney

## EXHIBIT A

SCOPE OF SERVICES & CONTRACT RATE

1. Contractor shall serve as a Town of Guadalupe Public Defender. Contractor shall provide the legal defense of persons assigned by the Town Magistrate who have been deemed to be indigent. Such services shall be on an "as needed" basis and Town does not guarantee any minimum compensation or salary.
2. Contractor shall render to the best of its abilities, in accordance with applicable professional standards, the services and legal representation and advice described herein during the continuance of this Contract.
3. Contractor agrees to faithfully represent the interests of the assigned defendants as public defender.
4. Contractor shall represent indigent defendants assigned to Contractor by a Magistrate of the Guadalupe Municipal Court unless Contractor is not ethically permitted to accept the representation under the Arizona Rules of Professional Conduct. Contractor shall represent defendants from the date of assignment through final disposition of their cases, whether the cases are completed during the agreement period or afterwards. On any day that the Guadalupe Municipal Court is open, Contractor may be required to appear as determined by the Court schedule. Court schedule will not be changed arbitrarily and without prior consideration of Contractor's schedule.
5. Contractor shall prepare for, and appear at, all court proceedings pertaining to assigned defendants, including, but not limited to, pretrial conferences, motions, jury and non-jury trials, evidentiary hearings, sentence reviews, revocation of probation hearings, special hearings, oral arguments, sentencing, orders to show cause, appeal proceedings and special actions, as well as appeals to higher courts. Contractor will not be required to be present at arraignments except where the defendant requests appointment of counsel and qualifies for a Public Defender. In these instances, the arraignment will be continued until the time of a pretrial hearing, when Contractor shall be present. Once appointed, Contractor shall represent each defendant throughout all stages of the proceedings, including appeals and other appropriate post-conviction actions, until the time of a pretrial hearing, when Contractor shall be present. Once appointed, Contractor shall represent each defendant throughout all stages of the proceedings, including appeals and other appropriate post-conviction actions, until Contractor is relieved from the case by the Court.
6. Contractor shall provide personal consultation with clients when requested and otherwise appropriate. Contractor shall maintain personal contact with each defendant until defendant's case is terminated and shall, with reasonable diligence, notify defendant of official Court action resulting from defendant's nonappearance at scheduled Court sessions.

7. Contractor shall conduct the defense of all indigent defendants in conformance with the minimum standards and requirements set forth in State of Arizona vs. Michael Steven Watson, Arizona Supreme Court, 134 Ariz. 1, 653 P.2d 351 (1982) and in State of Arizona vs. Billy Don Lee, 142 Ariz. 210.
8. Contractor shall provide substitute counsel when unable, for any reason, to appear in Court. Substitute counsel shall not be used routinely. In general, substitute counsel shall be used only when Contractor cannot serve as Public Defender because of illness, vacation or prior legal commitment in another Court. Contractor shall provide the the Town Attorney with the name(s), address(es) and telephone number(s) and professional resumes of substitute counsel who will be responsible for providing Public Defender services. Contractor will not be appointed cases if Contractor is not available to perform the duties described herein.
9. Guadalupe Municipal Court will provide interpreters for non-English speaking defendants for all in-court and pretrial proceedings. Contractor shall provide, at the Contractor's own expense, interpreters for all out-of-court matters.
10. Guadalupe will provide required forms for defendants to prepare and submit to the Guadalupe Municipal Court to determine a defendant's indigence. Contractor shall not be asked to advise clients until the Guadalupe Municipal Court has determined that they are indigent and are entitled to Public Defender representation. Contractor may request a review of the indigence of any defendant assigned to Contractor. If a Magistrate makes a determination of non-indigence of such a defendant, the Contractor shall not provide services pursuant to this Contract for that defendant. Contractor shall not solicit Contractor's Public Defender clients for future representation for a fee.
11. Contractor shall be responsible for completing all cases that are active at the end of the agreement period.
12. Guadalupe Municipal Court shall determine the assignment of all indigent cases to Contractor.
13. At no time shall Contractor's private practice caseload reach such a level, during Contractor's service as Public Defender, so as to jeopardize Contractor's ability to complete a case in Guadalupe Municipal Court.
14. Contractor shall not collect or receive any payment or remuneration from defendants assigned to Contractor under this agreement for services provided on the assigned cases.
15. Contractor shall provide, furnish, and pay for all of Contractor's overhead expense, including, but not limited to, office space, telephones, transportation, photocopies, photographs, office supplies, reports, secretarial services, publication of briefs, and out of court interpreters, and to make available equipment necessary to perform the services required by this Contract. Contractor will not be charged for photocopies of discoverable materials obtained from the Guadalupe's prosecutor's office.

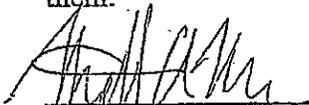
16. Contractor shall report any bar complaints, malpractice claims or lawsuits in which a determination, finding or decision adverse to the Contractor has been made to the Contract Administrator within five (5) working days of becoming aware of or receiving notice of the existence or occurrence of such determination, finding or decision
17. Contractor shall be paid two-hundred DOLLARS (\$200.00) per case. Cases that end in trial to the Court Contractor shall be paid a sum not to exceed five-hundred DOLLARS (\$500.00) and for cases that end in a trial by jury, the sum of fifty DOLLARS (\$50.00) an hour, not to exceed \$1000.00 (or the per case compensation set by the Presiding Judge for all Contractors performing public defender services). Contractor shall provide the Town monthly billing statements showing the cases assigned to Contractor during the month, providing the name of the Defendant, the case number, the date services were provided, and a general description of the services provided. Town shall pay Contractor, on a monthly basis, the monthly invoice amount based on the number of cases assigned in the previous month (\$200.00 per case or the per case compensation set by the Presiding Judge). Probation Violations, Probation Modifications, Probation Revocations, Appeals, Special Actions and Rule 32 petitions shall be considered a new case for purposes of compensation, and, in the case of multiple violations, the initial citation and one of the foregoing violations may be billed. A case shall be considered complete after sentencing, dismissal of the charges or acquittal. Contractor shall provide public defender services on a new case only after being appointed by order of the Court. Contractor shall not be required to accept more than twenty cases under this Contract.
18. Contractor acknowledges that the compensation is designed to pay approximately two-hundred Dollars (\$200.00) per case, on average over the term of the Contract, but recognizes that the average rate of compensation could be higher or lower depending on the nature of the cases assigned and the Contractor's proficiency. Contractor acknowledges that the level of compensation provided under this Contract is sufficient to permit the Contractor to perform the Scope of Services and meet the Contractor's ethical duties to the Client. Nothing herein, however, shall preclude Contractor from informing Town that, due to unforeseen and extraordinary circumstances, the time and expense of providing services under the terms of this Contract would preclude Contractor from meeting Contractor's ethical obligation to a client assigned pursuant to the terms of this Contract. In the event Contractor provides such notification, Town shall offer to meet and confer with Contractor to discuss alternatives, including jointly supporting a Motion to Withdraw as counsel for one or more matters assigned to Contractor under this Contract. Extraordinary cases and expenses will be reviewed on an individual basis by Town's general legal counsel.
19. Contractor is responsible for covering the Guadalupe Municipal Court the first or third Tuesday of the Month, as notified by Court. The Town will remit \$200.00 or the per case compensation set by the Presiding Judge to Contractor for the first case assigned to said Contractor on the covering day.

EXHIBIT B

CONTRACT FOR PERSONAL SERVICES - ATTACHMENT:  
SOLE PROPRIETOR'S WAIVER OF WORKERS' COMPENSATION BENEFITS  
(Pursuant to A.R.S. § 23-961(L))

I am a sole proprietor and I am doing business as

The Law Office of Matthew A. Moore, PLLC I am performing Services as an independent contractor for the Town of Guadalupe, a municipal subdivision of the State of Arizona. I am not the employee of the Town of Guadalupe for Workers' Compensation purposes, and, therefore, I am not entitled to Workers' Compensation benefits from the Town of Guadalupe. I understand that if I have any employees working for me, I must maintain Workers' Compensation insurance on them.

  
Sole Proprietor

8/30/16  
Date

  
Authorized Agent of the  
The Town of Guadalupe

11-7-2016  
Date

Town of Guadalupe  
9241 South Avenida del Yaqui  
Guadalupe, Arizona 85283-2538

FIRST AMENDMENT TO THE  
PUBLIC DEFENDER CONTRACT

This Contract Agreement is made and entered into this 3 day of October 2017 by the parties hereto Matthew A. Marner, the Contractor and the Town of Guadalupe, the Town, a municipal corporation organized pursuant to the laws of the State of Arizona.

The Parties herein do hereby agree, covenant and contract as follows:

1. The Contractor is currently providing public defender services to the Town of Guadalupe as an independent contractor pursuant to a Public Defender Contract which was entered into on August 30, 2016. The term for said contract began on November 14, 2016 and will expire on November 13, 2017.
2. The Parties wish to amend and extend this contract for an additional 12-month period as set forth hereafter:

Paragraph 10, Contract Term of the existing contract is hereby replaced and will now read:

The term of this contract will begin on November 14, 2017 and continue for a period of twelve (12) months therefrom and expire on November 13, 2018, unless extended by the mutual agreement of the parties.

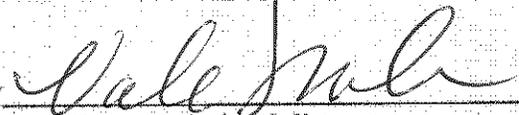
3. In all other respects except as amended herein, the existing contract including Exhibits A and B attached thereto, will remain in full force and are incorporated hereby by reference as if set forth in full as is the attached Exhibit C.

CONTRACTOR

  
\_\_\_\_\_  
Matthew A. Marner, Esq.  
Defense Attorney

10/3/17

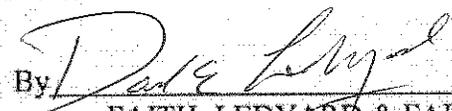
TOWN OF GUADALUPE

By   
\_\_\_\_\_  
Mayor Valerie Molina

Attest:

  
\_\_\_\_\_  
Robert Thaxton, Interim Town  
Manager/Clerk

Approved as to Form:

By   
\_\_\_\_\_  
FAITH, LEDYARD & FAITH, PLC  
David E. Ledyard, Esq.  
Contracted Town Attorney

10/17/2017

## TOWN OF GUADALUPE - 2018 GAMING GRANTS REQUESTS – UPDATE – DECEMBER 6, 2018

Tribe / Community	Amount	Town Dept.	Purpose	New Request?	Dec 6. Status
Ak-Chin	\$80K	Senior Center	Senior Center Head Start Renovation / Equipment	Yes	\$80K Awarded
Ak-Chin	\$65K	Fire	Type 1 Fire Truck Payment	No	Declined
<b>Ak-Chin Total</b>	<b>\$145K</b>				<b>\$80K Total</b>
Fort McDowell	\$110K	Public Works	Streetlight installations	Yes	Declined
Fort McDowell	\$30K	Community Development	Old Town Hall Renovation	Yes	Declined
<b>Fort McDowell Total</b>	<b>\$140K</b>				<b>\$0</b>
Gila River	\$60K	Fire	Heart Monitors (2)	Yes	Declined
Gila River	\$20K	Fire	Active Shooter Equip/Training	Yes	Declined
<b>Gila River Total</b>	<b>\$80K</b>				<b>\$0</b>
Pascua Yaqui	\$80K	CAP	Rental/Utility/Food assistance	No	\$80K Awarded
Pascua Yaqui	\$60K	Public Works	Three utility trucks	Yes	\$15K Awarded
Pascua Yaqui	\$75K	Fire	Command / Community Vehicle	Yes	Declined
Pascua Yaqui	\$50K	Public Safety	Event Staffing	No	Uncertain
<b>Pascua Yaqui Total</b>	<b>\$265K</b>				<b>\$95K Total</b>
Tohono O'odham	\$35K	Fire	Firefighter Turnout Gear	Yes	Declined
Tohono O'odham	\$25K	Public Works	Guadalupe Rd Pedestrian Safety Project	Yes	Declined
Tohono O'odham	\$62.5K	Fire	Fire Truck Payment	Yes	\$62.5K Awarded
<b>Tohono O'odham Total</b>	<b>\$122.5K</b>				<b>\$62.5K Total</b>
<b>Overall Total</b>	<b>\$752.5K</b>				<b>\$237.5 Total</b>



GUADALUPE TOWN COUNCIL MEETING SCHEDULE AND NOTICE

JANUARY 2019 THROUGH DECEMBER 2019

December 7, 2018

Mayor and Council,

Per the Council discussion at the November 8, 2018, Regular Council Meeting, staff has prepared a calendar of meetings for 2019. Please note the following: meetings for November 28, and December 26, 2019, have been cancelled; and, the December 12, 2019, Council meeting has been rescheduled to Monday, December 9, 2019. All meetings begin at 6:00 p.m. unless otherwise publicly noticed.

Month	2 <sup>nd</sup> Thursday Date:	4 <sup>th</sup> Thursday Date:	Proposed Agenda Items
January	10	24	
February	14	28	February 14: FY 2018/19 Mid-Year Budget Update
March	14	28	March 28: Tribal Gaming Grants Resolutions
April	11	25	April 11: Dia De Los Ninos Proclamation April 25: Proposed FY 2019/20 Budget Presented
May	9	23	May 23: Review FY 2019/20 Budget
June	13	27	June 27: Approve FY 2019/20 Budget
July	11	25	
August	8	22	
September	12	26	
October	10	24	
November	14	28	November 14: County CDBG Grants Resolution
December	12 MEETING CANCELLED Monday, December 9 MEETING ADDED	26 MEETING CANCELLED	