# AGENDA
# ORO VALLEY TOWN COUNCIL
# REGULAR SESSION
# October 20, 2010
# ORO VALLEY COUNCIL CHAMBERS
# 11000 N. LA CAÑADA DRIVE

**REGULAR SESSION AT OR AFTER 6:00 PM**
**CALL TO ORDER**
**ROLL CALL**
**PLEDGE OF ALLEGIANCE**
**UPCOMING MEETING ANNOUNCEMENTS**
**COUNCIL REPORTS**
**DEPARTMENT REPORTS**

***The Mayor and Council may consider and/or take action on the items listed below:***

***ORDER OF BUSINESS:*** **MAYOR WILL REVIEW THE ORDER OF THE MEETING**

**INFORMATIONAL ITEMS**

**CALL TO AUDIENCE** – At this time, any member of the public is allowed to address the Mayor and Town Council on any issue ***not listed on today's agenda*** . Pursuant to the Arizona Open Meeting Law, individual Council Members may ask Town Staff to review the matter, ask that the matter be placed on a future agenda, or respond to criticism made by speakers. However, the Mayor and Council may not discuss or take legal action on matters raised during "Call to Audience." In order to speak during "Call to Audience" please specify what you wish to discuss when completing the blue speaker card.

**PRESENTATIONS**

a. TONY PENN, PRESIDENT AND CEO OF UNITED WAY OF TUCSON AND SOUTHERN ARIZONA SINCE JULY 2010, WILL DELIVER A BRIEF PRESENTATION TO THE TOWN COUNCIL

b. PRESENTATION OF PROCLAMATION DECLARING THE WEEK OF OCTOBER 25 - 29, 2010 AS 2010 ARIZONA CITIES AND TOWNS WEEK

c. PRESENTATION OF PROCLAMATION DECLARING OCTOBER 20, 2010 AS ROTARY DAY IN ORO VALLEY TO ORO VALLEY ROTARY CLUB PRESIDENT TEREE BERGMAN

d. PRESENTATION REGARDING QUARTERLY GOLD STAR AWARD RECIPIENTS

1. **CONSENT AGENDA**
**(Consideration and/or possible action)**

A. Minutes - September 8, 15, and 21, 2010

B. Fiscal Year 2010/11 Financial Update through August 2010

C. Police Department - August 2010 Statistics

D. **Resolution No. (R)10-70** Authorizing and Approving a High Intensity Drug Trafficking Area (HIDTA) Grant Agreement between the City of Tucson and the Town of Oro Valley, allowing for one (1) Officer to be assigned to the Pima County HIDTA Investigative Task Force

E. **Resolution No. (R)10-71** Authorizing and Approving an Intergovernmental Agreement between the Town of Oro Valley and the Regional Transportation Authority of Pima County for Calle Concordia Bike Lanes From Calle Buena Vista to Calle Loma Linda

F. **Resolution No. (R)10-72** Authorizing and Approving a Subgrantee Agreement Between the Town of Oro Valley and the Arizona Department of Homeland Security to Purchase Air Cards to Enhance Communication for the Oro Valley Police Department's Terror Liaison Officer

G. **Resolution No. (R)10-73** Authorizing and Approving a Subgrantee Agreement Between the Town of Oro Valley and the Arizona Department of Homeland Security for Purchasing Equipment for Enhanced Telecommunication for the Oro Valley Police Department's Terror Liaison Officer

H. **Resolution No. (R)10 -74** Authorizing and Approving a Subgrantee Agreement Between the Town of Oro Valley and the Arizona Department of Homeland Security to Fund the Tucson Urban Area Security Initiative (TUASI) Regional Emergency Operations Center Equipment Initiative

I. **Resolution No. (R)10-75** Authorizing and Approving a Subgrantee Agreement Between the Town of Oro Valley and the Arizona Department of Homeland Security to Continue Funding a Full Time Oro Valley Police Department Planner for the Tucson Urban Area Security Initiative (TUASI) Regional Planning Cooperative

J. **Resolution No. (R)10-76** Declaring As A Public Record That Certain Document Entitled Chapter 10, Offenses, Article 10-6, Anti-Graffiti, Attached hereto as Exhibit "A" and filed with the Town Clerk; and declaring an emergency, immediately making the amendments a public record

K. Ratification of letter confirming that Craig Civalier, Town Engineer for the Town of Oro Valley, is hereby authorized to sign on behalf of the Town of Oro Valley the ADOT 5310 contract and take possession of the awarded grant funded vehicles.

L. Cancellation of November 3, 2010 and December 15, 2010 Regular Town Council meetings

2. **PUBLIC HEARING - ORDINANCE NO. (O)10-12** ADOPTING A NEW ORO VALLEY TOWN CODE CHAPTER 10, OFFENSES, ARTICLE 10-6, ANTI-GRAFFITI, AND REPEALING THE CURRENT ARTICLE 10-6.

3. DISCUSSION AND POSSIBLE ACTION REGARDING ORO VALLEY MUNICIPAL POOL HOURS OF OPERATION

4. CONSIDERATION AND POSSIBLE ACTION REGARDING NARANJA PARK (TOWN SITE) OPTIONS

5. **FUTURE AGENDA ITEMS** (The Council may bring forth general topics for future meeting agendas. Council may not discuss, deliberate or take any action on the topics presented pursuant to ARS 38-431.02H)

**CALL TO AUDIENCE** – At this time, any member of the public is allowed to address the Mayor and Town Council on any issue ***not listed on today's agenda***. Pursuant to the Arizona Open Meeting Law, individual Council Members may ask Town Staff to review the matter, ask that the matter be placed on a future agenda, or respond to criticism made by speakers. However, the Mayor and Council may not discuss or take legal action on matters raised during "Call to Audience." In order to speak during "Call to Audience" please specify what you wish to discuss when completing the blue speaker card.

**ADJOURNMENT**

POSTED: 4:00 p.m. 10/08/10
tg

When possible, a packet of agenda materials as listed above is available for public inspection at least 24 hours prior to the Council meeting in the office of the Town Clerk between the hours of 8:00 a.m. – 5:00p.m.

The Town of Oro Valley complies with the Americans with Disabilities Act (ADA). If any person with a disability needs any type of accommodation, please notify the Town Clerk's Office at least five days prior to the Council meeting at 229-4700.

## *INSTRUCTIONS TO SPEAKERS*

**Members of the public have the right to speak during any posted public hearing. However, those items not listed as a public hearing are for consideration and action by the Town Council during the course of their business meeting. Members of the public may be allowed to speak on these topics at the discretion of the Chair.**

If you wish to address the Town Council on any item(s) on this agenda, please complete a speaker card located on the Agenda table at the back of the room and give it to the Town Clerk. **Please indicate on the speaker card which item number and topic you wish to speak on, or if you wish to speak during "Call to Audience", please specify what you wish to discuss when completing the blue speaker card.**

Please step forward to the podium when the Mayor announces the item(s) on the agenda which you are interested in addressing.

1. For the record, please state your name and whether or not you are a Town resident.
2. Speak only on the issue currently being discussed by Council. Please organize your speech, you will only be allowed to address the Council once regarding the topic being discussed.
3. Please limit your comments to 3 minutes.
4. During "Call to Audience" you may address the Council on any issue you wish.
5. Any member of the public speaking must speak in a courteous and respectful manner to those present.

**Thank you for your cooperation.**

**Item #: a.**

**TC Regular Session**

**Date: 10/20/2010**

**Submitted By:** Kevin Burke, Town Manager's Office

**Department:** Town Manager's Office

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**Information**

**SUBJECT:**

TONY PENN, PRESIDENT AND CEO OF UNITED WAY OF TUCSON AND SOUTHERN ARIZONA SINCE JULY 2010, WILL DELIVER A BRIEF PRESENTATION TO THE TOWN COUNCIL

**SUMMARY:**

N/A

**DISCUSSION:**

N/A

**FISCAL IMPACT:**

N/A

**CONCLUSION/RECOMMENDATION:**

N/A

**SUGGESTED MOTION:**

None. Information only.

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**Item #: b.**

**TC Regular Session**

**Date: 10/20/2010**

**Requested by:** Mary Davis, Communications Administrator

**Submitted By:** Mary Davis, Town Manager's Office

**Department:** Town Manager's Office

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**Information**

**SUBJECT:**

PRESENTATION OF PROCLAMATION DECLARING THE WEEK OF OCTOBER 25 - 29, 2010 AS 2010 ARIZONA CITIES AND TOWNS WEEK

**SUMMARY:**

The Arizona League's ninth annual Cities & Towns Week will be celebrated October 25-29, 2010. This week is set aside each year to recognize the services that cities and towns provide, as well as to honor those who serve at all levels of municipal government. Tonight the Mayor will read a special proclamation to the community and acknowledge the efforts of all Town employees.

**DISCUSSION:**

The Town of Oro Valley celebrates 36 years of providing services to the residents, businesses and community organizations. Encompassing 34 square miles and home to more than 44,000 residents, Oro Valley takes pride in providing public safety, quality infrastructure in the form of road and water systems, and community amenities such as the Library and parks. We celebrate the efforts of the nearly 350 employees at the Town and congratulate each of them on a job well done.

**FISCAL IMPACT:**

N/A

**CONCLUSION/RECOMMENDATION:**

N/A

**SUGGESTED MOTION:**

For information only.

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**Item #: c.**

**TC Regular Session**

**Date: 10/20/2010**

**Submitted By:** Kathryn Cuvelier, Town Clerk's Office

**Department:** Town Clerk's Office

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**Information**

**SUBJECT:**

PRESENTATION OF PROCLAMATION DECLARING OCTOBER 20, 2010 AS ROTARY DAY IN ORO VALLEY TO ORO VALLEY ROTARY CLUB PRESIDENT TEREE BERGMAN

**SUMMARY:**

N/A

**DISCUSSION:**

N/A

**FISCAL IMPACT:**

N/A

**CONCLUSION/RECOMMENDATION:**

N/A

**SUGGESTED MOTION:**

N/A

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**Item #: d.**

**TC Regular Session**
**Date: 10/20/2010**
**Requested by:** Betty Dickens, Human Resources Director
**Submitted By:** Betty Dickens, Human Resources
**Department:** Human Resources

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**Information**

**SUBJECT:**
PRESENTATION REGARDING QUARTERLY GOLD STAR AWARD RECIPIENTS

**SUMMARY:**
Gold Star Award nominations are solicited quarterly and are considered special achievement awards. Individuals or teams can be nominated for not only keeping up with day in/day out duties and responsibilities, but also performing any of the following: achieving a special accomplishment such as completion of a project or program with a significant impact on cost savings or improved efficiency; serving on a project team that is outside the normal scope of the job; performing a meritorious act or service that is considered truly above and beyond the call of duty; serving in a leadership role for a team or process improvement project, or similar accomplishments.

**DISCUSSION:**
**Gold Star Awards for Second Quarter 2010 (April - June):**

**The Emergency Generator Team:**
**Hector Alvarado**
**Craig Civalier**
**Lynn Garcia**
**Brian Garrity**
**Daniel Gonzales**
**Bob Greer**
**Nate Hall**
**Tim Hardin**
**John Hutchinson**
**Mike Juarez**
**Jason Larter**
**Steve Puig**
**Shawn Ricksecker**
**Jason Rivas**
**Ray Rodriguez**
**Suzanne Smith**
**Glen Spiker**
**Mike Stephens**
**John Teachout**
**Charlie Tegeler**
**Mike Todnem**
**Phil Trenary**
**Kevin Verville**
Team Achievement, nominated by Jerene Watson

The Emergency Generator Team, comprised of employees from several departments, including Development and Infrastructure Services, Information Technology, Police, and Finance, worked together to solve a challenging problem in the area of Emergency Management, and saved the Town approximately $53,000. The Town's Emergency Operations Plan calls for on-site electrical power

approximately $53,000. The Town's Emergency Operations Plan calls for on-site electrical power generation capacity to ensure continuity of Town operations in the event of a significant power supply interruption. Until recently, the Town did not have this capability. The Water Utility donated a generator to the Town and members of the Emergency Generator Team determined that a new motherboard and other repairs were required before the generator could be installed for emergency use. Team members also designed and constructed a masonry and earthwork platform at the installation site. An outside contractor was hired to perform electrical work. The combined efforts of the Emergency Generator Team resulted in a total project time of just five weeks. The total cost to repair the generator was $1,994, saving the Town approximately $53,000 by deferring the purchase of a new generator.

**Mary Rallis**
**Linda Ragsdale**
Team Achievement, nominated by Stacey Lemos

Mary Rallis and Linda Ragsdale have collaborated in several ways over the past year to take on the additional duties of processing payroll, managing the annual audit process, maintaining strong internal controls by doing petty cash fund audits and reconciling the Town's asset inventory. They led the Town banking services conversion from National Bank of Arizona to Chase and diligently monitored the banking service fees from Chase for accuracy and compliance with their bid proposal. Their teamwork and willingness to take on additional duties has saved the Town thousands of dollars as we've sought to close significant budget deficits during the past two years.

**Brian Garrity**
**Jason Larter**
**Betty Dickens**
Team Achievement, nominated by Stacey Lemos

Brian Garrity, Commander Jason Larter and Betty Dickens deserve recognition and acknowledgement for serving on the Management Negotiation Committee (MNC) during the FY 2010/11 Meet and Confer process. This was outside the normal scope of their job duties, and their participation and guidance was extremely valuable as we collaborated with the Public Safety Negotiation Committee on the terms of Public Safety Employee Group Memorandum of Understanding (MOU) for this fiscal year. Their presence on the MNC provided for excellent communication between the two negotiating groups and facilitated a two-way dialogue with honest communication of issues and active listening on both sides of the table.

**CREBS Finance Team:**
**Stacey Lemos**
**Wendy Gomez**
**Art Cuaron**
Team Achievement, nominated by Bayer Vella

The Town of Oro Valley was awarded the ability to use a new funding vehicle to finance solar energy production – known as CREBS (Clean Renewable Energy Bonds). Only one jurisdiction in Arizona has ever used CREBS – and all the rules associated with the bonds entirely changed a few months ago. They were among the first in the nation to process and market the new version of CREBS In order to maintain financial incentives offered by TEP, we had to show progress within a tight timeline. This had to be achieved in order to secure $1.6 million in funds offered by TEP. The Finance Team pulled together, learned all the new rules associated with CREBS, and made it happen very quickly. The bond issuance was successful and the Town now has all the funds necessary to start construction on the Town Hall solar covered parking. Stacey Lemos led the team by organizing all steps (including Town Council approval) of the bond issuance process, including consultant selection and management. Wendy Gomez and Art Cuaron conducted the research of new CREBS and reviewed all bond issuance documentation.

**Arinda Asper**
Nominated by Christina Pickering

Nominated by Christina Pickering

Arinda Asper was nominated for being an outstanding team player and her willingness to help out. The day of the Mayor's farewell dinner was an extremely busy day for the short-staffed Clerk's office. Arinda jumped right in and helped pick up the slack so that we could focus our efforts on the Mayor's dinner. This is Arinda every day – ready to help however she can. She imparts valuable knowledge and insight from her years of experience. Even on the toughest days, she manages to end a conversation on a positive note or with a smile. She is a Gold Star employee and truly deserves this recognition.

**Tim McGuire**
Nominated by Chuck King

Tim McGuire has worked very hard physically, providing framing expertise and assistance to help construct a building at the Calle Concordia facility.

**Nate Hall**
Nominated by Phil Trenary

Nate Hall repaired the 125 KW generator that was scheduled to be disposed of by the Water Department because of the difficulty of finding replacement parts for the mother board. Nate worked with local companies to find different brand parts to rebuild the mother boards. The generator is currently working and has been connected to the Administration Building to protect the Town's computer servers during Tucson Electric Power outages. Cost to repair the generator was approximately $2,000. A new generator would cost between $60,000 to $80,000.

**Wendy Gomez**
Nominated by Stacey Lemos

Wendy Gomez deserves recognition for her outstanding customer service provided to departments during the FY 2010/11 budget preparation process. Her calm demeanor, thoughtful and prompt answers to questions, and dedication to detail and accuracy reflect the values of the Finance Department and the organization as a whole. Wendy worked weekends and evenings as necessary to meet the established budget deadlines and to get questions answered from the Council, the Town Manager and departments in a timely manner. Her skill and expertise has allowed her to "hit the ground running" in her position as Management and Budget Analyst.

**Brian Garrity**
Nominated by Bayer Vella

The Town developed a $4 million dollar energy efficiency and solar improvement project using a series of innovative financial tools. The principal finance vehicle is known as performance contracting. We are the first jurisdiction to use a state contract as a template, and Brian improved on that template. Brian researched and reviewed not one, but three performance contracts to cover the specific needs of three different sources of capital (federal grant, town funds and Clean Renewable Energy Bonds). Brian was very effective in negotiating terms and conditions of each contract in favor of the Town.

**Tim McGuire**
Nominated by Chuck King

Tim forfeited his request for time off so that a fellow employee could take the same available time for personal reasons.

**Vicki Posler**
Nominated by Mary Kim Dodson

While completing all of her own assigned tasks in an extremely competent manner, Vicki has taken on

While completing all of her own assigned tasks in an extremely competent manner, Vicki has taken on additional responsibilities in serving as a backup for a co-worker who has an ongoing illness. In recent months Vicki has mastered our new CMS software for our website. She has also taken on additional work in that the Communications Team has lost a 20 hour/week employee without replacement. In doing so Vicki has helped to afford the library a savings of .5 FTE. Despite her added workload she continues to volunteer for new assignments and provides “outrageously great customer service” on a consistent basis, with both internal and external customers. Vicki is one of our most valued staff members.

**Heidy Kinwald**
Nominated by Judy Thompson-Ng

I would like to recognize Heidy for her contribution to the ABOVE group. Heidy joined the ABOVE group shortly after she started working for the Town in 2009 as a court clerk, and she went the extra mile by volunteering to chair the group. Heidy supports the Town’s initiative to foster good employee relations by stepping up to the plate and has provided leadership for over a year for this employee forum group. The ABOVE group has now joined together with the Innovation Team where Heidy continues to be an active member.

**Julie Smiley**
Nominated by Paul Keesler

Julie’s management and organization of the main Permitting Division file and plan area has greatly increased our ability to retain and find plans with no impact to our approved budget as well as freeing up needed storage space.

**Scott Nelson**
Nominated by Bill Adler

The hours that Scott invested toward Steam Pump Ranch are too numerous and cannot be measured in time. The value is his initiative, his willingness to be thorough, to anticipate needs, to take ownership of a project rather than to simply accept it and to maintain standards of excellence while under pressure of time and expectations.

**Amanda Jacobs**
Nominated by Bill Adler

Amanda's adherence to the direction that was given by Council was flawless, fair and pleasant. She listened and considered suggestions from non committee members. Amanda exhibited patience, sincerity of purpose and genuine interest in the right outcome and her flexibility of attitude was critical.

**FISCAL IMPACT:**

Gift cards ranging from $25 to $100 and sponsored team recognition breakfasts.

**CONCLUSION/RECOMMENDATION:**

NA

**SUGGESTED MOTION:**

Information only, no action required.

**Item #: 1. A.**

**TC Regular Session**
**Date: 10/20/2010**

**Submitted By:** Christina Pickering, Town Clerk's Office
**Department:** Town Clerk's Office

## Information

**SUBJECT:**
Minutes - September 8, 15, and 21, 2010

**SUMMARY:**

**DISCUSSION:**

**FISCAL IMPACT:**

**CONCLUSION/RECOMMENDATION:**

**SUGGESTED MOTION:**

## Attachments

Link: 09 08 10
Link: 09 15 10
Link: 9 21 10

# DRAFT MINUTES
## ORO VALLEY TOWN COUNCIL
## STUDY SESSION
## September 8, 2010
## ORO VALLEY COUNCIL CHAMBERS
## 11000 N. LA CANADA DRIVE

**STUDY SESSION**

**CALL TO ORDER** - at 6:02 p.m.

**ROLL CALL**

**PRESENT:** Satish Hiremath, Mayor
Bill Garner, Vice Mayor
Barry Gillaspie, Councilmember
Joe Hornat, Councilmember
Mary Snider, Councilmember
Steve Solomon, Councilmember
Lou Waters, Councilmember

**1. Discussion regarding Economic Development and Special Events Funding Policy Guidelines**

Economic Development Manager Amanda Jacobs presented the item explaining the Community Funding Policy adopted by Council. She noted the five categories:

- Youth Development and Education
- Services for Senior Citizens
- Arts/Cultural Heritage
- Community Enhancement
- Special Events

Ms. Jacobs noted the following:

- Council had removed economic development from community funding
- Certain events that were categorized as Community Funding, impacted the Town economically
- It was determined that Tucson Regional Economic Opportunities (TREO) and Metropolitan Tucson Convention and Visitors Bureau (MTCVB) would stand alone
  - The two organizations would prepare performance measures for Oro Valley for accountability
  - The Town had agreed to quarterly reports from MTCVB
- The Special Events category would be removed from Community Funding

Interim Assistant Town Manager Stacey Lemos stated that the intent was to streamline the process. She reviewed the proposed funding mechanism:

- Special Events Funding and Permitting Policy to include:
  - Arizona Distance Classic
  - El Tour de Tucson
  - Iron Kids
  - Southern Arizona Arts and Cultural Alliance (SAACA)
- Community Funding Policy
  - Four Eligible Categories:
    - Youth Development and Education
    - Services for Senior Citizens
    - Arts/Cultural Heritage
    - Community Enhancement
  - To include:
    - Community Food Bank
    - Catalina Community Services
    - Interfaith Community Services
    - Amphi Foundation
- Economic Development Financial Participation Agreements
  - MTCVB
  - TREO

Ms. Lemos reviewed the staff recommendations:
- Amend Community Funding to remove Special Events category
- Isolate Community Funding for cash contributions
- Enhance Special Events Policy to include:
  - Application window
  - Evaluation criteria
  - Department cost estimates
  - Community Event discount
  - Up front deposit from applicant
- Establish funding mechanism for Special Events from Bed Tax Fund to cover discount

It was noted that special events promoted the Town and brought tax dollars to the Town.

It was explained that the applicant must meet the following criteria to qualify for the Community Event discount:
- 501(c)(3) non-profit designation
- In business for a minimum of three years
- General public must be able to attend or participate in the event
- Event must have a positive economic benefit to Oro Valley

Ms. Lemos stated that the proposal included a revised application to add a section to have the applicant describe how the event would benefit the Town economically. She noted that a 20% cost share was anticipated and that the funds would come from the Bed Tax Fund. She proposed that the applicant place a deposit to hold the event and collect the remaining balance after the event.

Discussion noted the following:
- City of Tucson cut back on funding events
- City of Tucson and the Town of Marana did not offer discounts
- Whether 20% would be enough to keep these events coming to Oro Valley
- Analysis regarding the dollar amounts generated by events had not been conducted
- The Town funded El Tour de Tucson at 100%
- It was common practice in other cities to share costs
- The Town wanted to avoid auditing the events as there were not enough staff to conduct such an audit

Mayor Hiremath opened the floor for public comment.

Oro Valley resident Bill Adler stated that the reduction in pool hours as a result of not generating enough revenue when it was the most popular program did not make sense. He noted that businesses were expected to track the benefits of a sign waiver and that the beneficiaries of special events, such as hotels that support these events, should track the revenue generated by special events.

Discussion ensued noting:
- The ability to track revenue generated by these events could justify the dollars given to these events
  - This would be a way to create a base line
  - Mayor Hiremath asked Ms. Jacobs to prepare a list of businesses to speak with
- Special events had also been hit by the economy

Town Attorney Tobin Rosen stated that revenue, as it related to sales tax, was confidential by law. He noted that as long as the figures given by business owners did not relate to tax returns, it would be alright for the Town to request the figures.

Mayor Hiremath requested that staff return to Council on October 6, 2010 with a metrics to solicit comments from businesses and create recommendations for discussion and an action item.

Councilmember Snider requested recommendations in addition to the 80/20 for cost sharing.

**2. Discussion regarding the Sign Code Task Force's recommendations to Oro Valley Zoning Code Revised, Chapter 28: Signs**

Economic Development Manager Amanda Jacobs provided a history of signage issues. She stated that Council had requested that staff review the entire Zoning Code and return to Council with recommendations on September 15, 2010.

She explained the process of the Sign Code Task Force:
- Signage is used for identification

- Staff educated the task force on certain pieces and then focus members did the same
- Staff gathered recommendations during the meeting
- The recommendations went before a focus group
- Tried to balance the needs of businesses and the community

Ms. Jacobs reviewed the recommendations:

- Permanent Sign Standards:
  - Entryway Signs
    - Current Town Code regulation states 600 feet of frontage
    - Task Force proposed 400 feet of frontage
    - Illumination
      - Proposed to remove the restriction of white and amber halo lights only and allow any color
      - Recommended illumination hours of 5:00 a.m. to 11:00 p.m.
  - Freestanding/Monument Signs:
    - Maximum number of anchor tenants was six; proposed to increase to 8 tenants
    - Reduce from 600 feet to 400 feet
    - Combined freestanding and monument signs in the Town Code
      - Retain 50 square feet for a single tenant
      - Increase to 75 square feet for a multiple tenant sign
    - Height currently does not exceed eight feet
      - Proposed adding an architectural element to signs which may exceed the height of the sign by 25% as long as all texts and logos are below the eight foot requirement from grade
    - Recommended that any tenants unused must be opaque and match the rest the rest of the sign
  - Under Canopy Signs
    - Proposed verbiage: "Shall be consistent in color, shape and design."
  - Wall Signs
    - Currently, no more than two elevations may contain a wall sign
    - Proposed: For single tenants of a freestanding building may have signs on three elevations
      - Two of the three signs may be illuminated
    - Currently illuminated signs must be turned off no later than one hour after the close of business
    - Proposed time - no later than 11:00 p.m.
    - Survey: 29% polled stated that signs should be turned off at close of business; 22% stated that the signs could stay lit all night; 21% stated that the signs should be turned off at 10:00 p.m.
- Temporary Signs
  - Banner:
    - Allowable for business openings or change of ownership
    - Current maximum size -64 square feet

        - Proposed: 64 square feet or no more than one square foot of sign for each linear foot of building frontage; whichever is less
            - Tenants that are further than 300 feet from the street; the banner may contain no more than 1 3/4 square feet of sign area for each linear foot of building frontage
        - Recommended verbiage: "All banners shall be securely anchored to the ground and/or parapet wall in such a manner that the banner shall not fold over and shall be taut."
- Temporary and Permitted Signs
    - Commercial Industrial District
        - Current minimum is 16 square feet; Height - five to ten feet
        - Proposed: 32 square feet; Height - not to exceed eight feet
    - Seasonal or Special Event Banners
        - Recommended verbiage: "Shall be used to advertise a seasonal or special event."
    - Three Day Special Event Banner
        - 64 square feet
        - In addition to a 30 day banner
    - Flag Signs
        - Currently one pole per development
        - Proposed:
            - Maximum of two poles per commercial development
            - Maximum of one pole per individual property subdivision
    - Permitted Signs in a Residential Zoning District
        - Model Home Banners
            - Currently allowed one banner for 16 days
            - Proposed:
                - Allowed on weekends
                - Maximum 120 days
                - One banner per model home complex
    - Model Home Complex Custom Home Lot Sale Signs
        - Currently all signs must be removed upon completion of 95% of the development
        - Proposed: All signs removed within seven days of after the sales office or model home has closed
    - Minor Offset Signs - The same recommendations applied as for Model Home Center Signs
    - On-Site Subdivision Signs
        - Currently any sign that listed an individual developer had to be removed when 95% of the subdivision was sold
        - Proposed: Signage must be removed no later than seven days after of the sales and closing of 100% of the lots within the development have been sold or 180 days after the closure of the sales office; whichever comes first
    - Residential Zoning District: Real Estate Lease, Rent and For Sale Signs

        - Currently, four square feet; Height - five feet; up to ten feet with approval
        - Proposed: Six square feet to include modifiers
            - Planning Division Manager may grant up to ten feet
    - Real Estate Signs - Signs on Public Property
        - Proposed:
            - No more than one sign per change of road direction - up to four signs
            - Signs shall be placed a minimum of ten feet from the paved surface of the roadway
            - Signs may be displayed Friday through Sunday from 9:00 a.m. to 6:00 p.m.

Ms. Jacobs noted that the Task Force determined that there should be a separate section of the Town Code for non-real estate signs. She explained that the same requirements for location and duration would apply.

Councilmember Solomon disclosed that he was inactive licensed realtor.

Discussion continued:
- Concern regarding unintended consequences
- The Town Code currently has a category for realtors
- Concern regarding aesthetics and a loss of uniformity
- Concern regarding how the Town could enforce the Sign Code on weekends
- Businesses under the current Town Code would be grandfathered and could not be made to change their lighting

Councilmember Snider stated that the proposed setback requirement for Open House signs would put the signs on personal property. She requested that an exhibit depicting this issue be brought to the September 15, 2010 Council meeting.

Mayor Hiremath requested that staff take notes regarding Council's concerns and respond in a brief with answers. He noted that real estate should have a better component to it and would like to see if the changes are successful by testing it over time.

Mayor Hiremath opened the floor for public comment.

Oro Valley resident and realtor Bob Semple stated the following:
- With regard to the ten foot setback, if the sign is moved back it would be either on the sidewalk or private property
- Each brokerage firm paid $1,000 per year to put signs in the right of way
- Realty signs were different from Fry's store signs
- The time and day were changed in order to control it

Oro Valley resident Zev Cywan stated that a community was the sum of all its parts and the task force took this into consideration. He explained that a myriad

of points were explored; most of which were not on paper. He noted that the community tried to find a middle ground.

Oro Valley resident Bill Adler stated that the Town should be careful not to deviate from the General Plan policies. He stated that the direction given to the task force was to take this into consideration and that the community should be consulted whether or not to alter the General Plan.

**ADJOURNMENT**

**MOTION:** A motion was made by Councilmember Gillaspie and seconded by Councilmember Waters to adjourn the meeting and submit questions to the Town Manager and continue with study sessions until this item is completed.

**MOTION** carried, 7-0.

The meeting adjourned at 8:17 p.m.

3. **FUTURE AGENDA ITEMS** – None.

Prepared by:

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Christina Pickering
Senior Office Specialist

# DRAFT MINUTES
## ORO VALLEY TOWN COUNCIL
## REGULAR SESSION
## September 15, 2010
## ORO VALLEY COUNCIL CHAMBERS
## 11000 N. LA CANADA DRIVE

**REGULAR SESSION**

**CALL TO ORDER** - at 6:02 p.m.

**ROLL CALL**

| | |
|---|---|
| **PRESENT:** | Satish Hiremath, Mayor<br>Bill Garner, Vice Mayor<br>Barry Gillaspie, Councilmember<br>Joe Hornat, Councilmember<br>Steve Solomon, Councilmember<br>Lou Waters, Councilmember |
| **EXCUSED:** | Mary Snider, Councilmember |

**PLEDGE OF ALLEGIANCE** - Mayor Hiremath led the audience in the Pledge of Allegiance.

**UPCOMING MEETING ANNOUNCEMENTS** - Communications Administrator Mary Davis announced the upcoming Town meetings.

**COUNCIL REPORTS** - No reports.

**DEPARTMENT REPORTS**

Town Engineer Craig Civalier reported that the southern monument sign on Oracle Road was nearly complete.

Communications Administrator Mary Davis stated that Development and Infrastructure Services Director Suzanne Smith and Ms. Davis were invited to speak on a regional panel with the Metropolitan Pima Alliance regarding government efficiency and improving customer service.

**CALL TO AUDIENCE**

Oro Valley resident Joan Gallagher stated that she read an article regarding removing boards and commissions and felt that would be a mistake. She explained that people have responded to situations that arise and that volunteers were what made Oro Valley, a great town.

Oro Valley resident Don Bristow stated that he was disappointed that Item H was

on the Consent Agenda. He explained that an emergency did not exist that would pre-empt the 30 days of publishing a notice. He stated that Council and staff should review the situation.

**PRESENTATIONS** - There were no presentations.

**1. CONSENT AGENDA**

**MOTION:** A motion was made by Vice Mayor Garner and seconded by Councilmember Gillaspie to approve the Consent Agenda with the exceptions of items I, J, K and M.

**MOTION** carried, 6-0.

A. Minutes - July 7, 21, 2010

B. Fiscal Year 2010/11 Financial Update through July 2010

C. Magistrate Court Report - September 1, 2010

D. Mayor and Council Trip Reports - August 2010

E. Police Department - July 2010 Statistics

F. Tucson Regional Economic Opportunities, Inc. (TREO) Quarterly Report: April 1, 2010 - June 30, 2010

G. Resolution No. (R) 10 - 57, A Resolution of the Mayor and Council of the Town of Oro Valley, Arizona, Authorizing The Articles of Incorporation for the Water Conservation Alliance of Southern Arizona (Water CASA)

~~*H. Resolution No. (R) 10 - 58, Declaring As A Public Record That Certain Document Entitled Chapter 28, Signs, Attached Hereto As Exhibit "A" and Filed with the Town Clerk; And Declaring An Emergency to Exist~~

**I. Resolution No. (R) 10 - 59, A Resolution of the Mayor and Council of the Town of Oro Valley, Arizona, Authorizing and Approving a Financial Participation Agreement between the Town of Oro Valley and Tucson Regional Economic Opportunities, Inc. (TREO)**

Councilmember Solomon stated that having a regional partner like Tucson Regional Economic Opportunities (TREO) benefitted Oro Valley.

It was explained that a site selector was hired by an interested party to interview a town as a potential company site. It was noted that a site selector would contact TREO to show them potential sites.
Oro Valley resident and TREO Vice President David Welsh stated that the aerospace and defense industry was the bread and butter of the community.

He addressed the fact that TREO had undergone reorganization in the last six months. He stated that the private sector was now involved as much as the public sector and that it was written in the bylaws to maintain a balance between the two.

**MOTION:** A motion was made by Councilmember Solomon and seconded by Councilmember Waters to approve Item I with the friendly amendment that a representative from TREO would be available to the Council when quarterly reports are due to answer questions.

**MOTION** carried, 6-0.

**J. Resolution No. (R)10 - 60, Amending Rule 5.2 (D), Notice and Agenda, of the Town of Oro Valley, Arizona Town Council Parliamentary Rules & Procedures**

**MOTION:** A motion was made by Councilmember Gillaspie and seconded by Vice Mayor Garner to deny Item J and accept a friendly amendment to Rule 5.2(D) which codifies that the Town Manager's report would occur at the beginning of the Council agenda

**MOTION** carried, 6-0.

**K. Resolution No. (R) 10 - 61, Authorizing the Mayor and Council of the Town of Oro Valley to execute an Intergovernmental Agreement between the Town of Oro Valley and the Regional Transportation Authority (RTA) of Pima County for Count Down Pedestrian Heads and a Wireless Signal Link System**

**MOTION:** A motion was made by Councilmember Gillaspie and seconded by Councilmember Waters to approve Item K.

**MOTION** carried, 6-0.

L. Resolution No. (R)10 - 62, Amending the terms of office for Board and Commission members from a fiscal year to a calendar year

**M. Resolution No. (R)10 - 63, Ratifying the appointment of members to the Town of Oro Valley Police Public Safety Personnel Retirement System Board**

**MOTION:** A motion was made by Councilmember Hornat and seconded by Councilmember Waters to continue the item to the October 20, 2010 Council meeting.

Mayor Hiremath stated that more research was needed for this item.

**MOTION** carried, 6-0.

N. Resolution No. (R)10 - 64, Supporting the implementation of aggregated net metering by the Arizona Corporation Commission to expand

opportunities for solar energy production

2. ~~**PUBLIC HEARING - ORDINANCE NO. (O)10 - 11**, AMENDING ORO VALLEY ZONING CODE REVISED, CHAPTER 28: SIGNS ADOPTING A NEW ORO VALLEY ZONING CODE REVISED (OVZCR) CHAPTER 28, SIGNS AND REPEALING THE CURRENT OVZCR CHAPTER 28; SIGNS; REPEALING ALL RESOLUTIONS, ORDINANCES AND RULES OF THE TOWN OF ORO VALLEY IN CONFLICT THEREWITH; PRESERVING THE RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS THAT HAVE ALREADY BEGUN THEREUNDER; AND DECLARING AN EMERGENCY TO EXIST~~

**3. RESOLUTION NO. (R)10 - 65, DISCUSSION AND POSSIBLE ACTION REGARDING THE TOWN OF ORO VALLEY INVESTMENT POLICY UPDATE**

- Interim Assistant Town Manager and Finance Director Stacey Lemos presented the item. She stated that the current policy was adopted eight years ago and that there had not been any revisions since that time. She stated that the revisions would modernize the policy to best practice standards, comply with statutes and allow for additional diversification opportunities.

She stated that the next steps would be:

- To evaluate the Town's cash flow needs
- To seek diversification of portfolio beyond the Local Government Investment Pool (LGIP)
- To establish quarterly investment reporting

Mayor Hiremath opened the floor for public comment.

Oro Valley resident Ben Baker would like to see Oro Valley money invested in the Town. He explained that he would like to see Council bring something to the Town that the residents would want.

**MOTION:** A motion was made by Councilmember Hornat and seconded by Councilmember Solomon to approve Resolution No. (R)10-65

**MOTION** carried, 6-0.

**4. OV1208-12, REQUEST FOR APPROVAL OF A DEVELOPMENT PLAN FOR ORO VALLEY RETIREMENT RESIDENCE, AN INDEPENDENT LIVING FACILITY LOCATED ON THE NORTHEAST CORNER OF LAMBERT LANE AND HIGHLANDS DRIVE**

Planning Division Manager David Williams presented the item. He stated that the project proposed 111 units
on an 8.5 acre site on north Lambert Lane. He noted that the Highlands Wash drainage channel bisected the site.

He reviewed the Zoning and Development Standards:
- R-4 Townhouse District
- Independent Living Facility
  - Common dining and group activities
  - Occupants that do not require medical care
  - Sleeping units with partial kitchens allowed
  - Parking - an alternative proposal to provide less parking than required was accepted

He reviewed the neighborhood outreach that had been conducted:
- Applicant held a number of meetings with Highlands neighborhood residents
- Per the pending Public Participation Ordinance, staff conducted a neighborhood meeting at the Conditional Use Permit (CUP) stage

He reviewed the CUP conditions:
1. Odor Abatement Plan required
2. A ten foot wide, landscaped buffer at the northern and eastern boundary of the eastern portion of project site must be provided
3. Truck deliveries would be limited to 6:00 a.m. to 10:00 p.m.
4. Noise mitigation study required to assess the need for a sound wall

Discussion noted the following:
- A landscape buffer was necessary due to the residential nature of the area
- A ten foot buffer yard would be created on both sides of the drainage area
- The landscaping would not comply with the Water Harvesting Landscape Code as the plan was submitted prior to enacting the Code
  - Worked with the applicant to use drought tolerant plants
  - There would be a detention pond regardless of compliance with the Water Harvesting Landscape Code
- There would be two entrances off Lambert Lane to add access onto Highlands Drive
- The art plan was denied which delays the project
  - The applicant will appeal the denial before Council on October 6, 2010
- Maximum height of the buildings was 25 feet

Ron Jackson of Lenity Group presented the applicant presentation. He reviewed the resident statistics:
- Average age - mid to upper 80’s
- Good health - do not require medical assistance
- Seek the lifestyle by choice rather than need
- About 80% do not drive
- Mostly single; 20% couples
- Seeking new friends and a community environment

He reviewed the services the residents receive:
- Three meals per day, seven days a week
  - Served restaurant style

- Housekeeping and linen service
- Social and physical activities
  - Volunteer opportunities
- 24/7 on site management
- Van service; all day, every day
- Chapel, beauty salon, movie room, exercise rooms, game rooms, libraries, private rooms for family gatherings and many smaller gathering areas throughout the building
- All services and utilities are included in rent
- No lease or buy-in

He stated that the exterior and interior architecture was designed to have a residential feel. He noted that the building height was limited to 25 feet so that neighboring residents would not lose their views.

He explained that Lenity provided the following for the community:
- Serves the goals of Oro Valley by providing safe and comfortable living for local residents
- Meets a strong need for such a community in Oro Valley
- Financial Impact
  - $1M in development fees
  - $500,000 annually in salaries, benefits and local contracts

Mayor Hiremath opened the floor for public comment.

Oro Valley resident Bill Adler stated that he was concerned with the structure of the main building as it should meet 14 criteria according to the Zoning Code. He noted that the building was not consistent with the surrounding neighborhood. He stated that the Zoning Code should not be ignored and that the plan could be simplified by redesigning.

Oro Valley resident William Baker of Highland Estates stated that he was generally in favor of the development. He noted his concern regarding the hundred year flood aspect of the wash that would run through the development. He stated that he was seeking information about the westbound right turn lane and whether it would be abolished.

Councilmember Hornat requested that staff answer Mr. Baker's questions.

It was explained that:
- The drainage way through the middle of the development would be improved by the Lambert Lane construction
- Lambert Lane was sized for a hundred flood
- Lambert Lane would eventually be four lanes and would not need a right turn lane as there was an eight foot shoulder

Councilmembers concurred that it was time to review and improve the Zoning Code.

Mayor Hiremath stated that this should be flagged as a teaching example for boards and commissions training

Councilmember Waters recommended reviewing areas of the Zoning Code that slow the process down such as the Conceptual Art Process.

**MOTION:** A motion was made by Councilmember Gillaspie and seconded by Councilmember Hornat to approve OV1208-12, development plan for Oro Valley retirement residence and independent living facility located on the northeast corner of Lambert Lane and Highlands Drive

**MOTION** carried, 6-0.

## 5. FUTURE AGENDA ITEMS

Councilmember Solomon requested to direct staff to revise and update the Zoning Code with regard to architectural and development guidelines. The request was seconded by Councilmember Waters.

Councilmember Hornat requested a Pool Study update. Town Manager Jerene Watson stated that the update could be included in the "Council Foreward".

**CALL TO AUDIENCE** - There were no speakers.

## ADJOURNMENT

**MOTION:** A motion was made by Councilmember Waters and seconded by Vice Mayor Garner to adjourn the meeting at 7:47 p.m.

**MOTION** carried, 6-0.

Prepared by:

Christina Pickering
Senior Office Specialist

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular session of the Town of Oro Valley Council of Oro Valley, Arizona held on the 15th day of September 2010. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this _____ day of _____, 2010.

_____
Kathryn E. Cuvelier, CMC
Town Clerk

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# DRAFT MINUTES
## ORO VALLEY TOWN COUNCIL
### WORK SESSION
## September 21, 2010
## ORO VALLEY COUNCIL CHAMBERS
## 11000 N. LA CAÑADA DRIVE

**WORK SESSION**

**CALL TO ORDER -** at 3:33 p.m.

**ROLL CALL**

**PRESENT:** Satish Hiremath, Mayor
Bill Garner, Vice Mayor, attended via telephone
Barry Gillaspie, Councilmember
Joe Hornat, Councilmember
Mary Snider, Councilmember
Steve Solomon, Councilmember
Lou Waters, Councilmember

1. **Economic Summit preparation (Facilitated by Nanci Beizer)**

Ms. Beizer stated that numerous high-level leaders have been invited to the Economic Summit representing Education, large business, small business, community economic development partners, brokers, developers and the media.

Ms. Beizer explained that the main purpose of the Economic Summit is to build on the themes that Mayor Hiremath had outlined in his State of the Town Address which included the idea of working together to build a vibrant, prosperous economic future for everyone.

The goals of the Economic Summit include:

-Solicit ideas from those invited as well as other stakeholders within the community.
-Identify the needs and translate those into action through the development of the 2011 Community Economic Development Plan.
-Strengthen the communication and build a strong working relationship with the key partners.

Ms. Beizer gave an overview of the Economic Summit DRAFT Agenda.

Ms. Beizer stated that the Town Council's role is to be an active, open, engaged listening group and to encourage the participants to state what their needs are

and what they would like to see happen.

Discussion ensued regarding:

-Using other communities to look at successes and failures.
-Time frame and length of roundtable discussions.
-Process of informing the stakeholders about the expectations of the Summit.

Vice Mayor Garner left the telephone conference call at 4:04 p.m.

2. **Boards and Commissions modernization planning discussion**

Assistant to the Manager Kevin Burke gave an overview of the boards/commission modernization plan.

The Working Groups will meet to review the scope, power, and duties of the boards/commissions.

Mayor and Council formed the following Working Groups:

-Parks & Recreation Advisory Board (PRAB)
-Councilmember Gillaspie, Councilmember Snider, Mayor Hiremath

-Art Review Commission (ARC)
-Councilmember Waters, Councilmember Solomon, Councilmember Gillaspie

-Finance & Bond Committee
-Vice Mayor Garner, Mayor Hiremath, Councilmember Hornat

-Development Review Board (DRB)
Councilmember Solomon, Councilmember Gillaspie, Councilmember Waters

Assistant to the Manager Kevin Burke stated that after the Working Groups have met, the item will be brought back before Council for a formal vote at either the November 17, 2010 Regular Session meeting or the December 1, 2010 Regular Session meeting.

Discussion ensued regarding the expectations of the boards/commissions.

Town Manager Jerene Watson noted that various boards/commissions need vacancies to be filled as soon as possible in order to ensure that a quorum will be present.

Council directed staff to research and list the current board/commission members who are completing their second terms, thus making them ineligible for another term (per appendix C of the Council Parliamentary Rules and Procedures).

## ADJOURNMENT

**MOTION:** A motion was made by Councilmember Snider and seconded by Councilmember Solomon to adjourn the meeting at 4:27 p.m.

**MOTION** carried, 6-0.

Prepared by:

_____
Michael Standish
Deputy Town Clerk

I hereby certify that the foregoing minutes are a true and accurate copy of the minutes of the work session of the Town of Oro Valley Council of Oro Valley, Arizona held on the 21st day of September 2010. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this _____ day of _____, 2010.

Kathryn E. Cuvelier, CMC
Town Clerk

**Item #: 1. B.**

**TC Regular Session**
**Date: 10/20/2010**
**Requested by:** Wendy Gomez, Budget and Management Analyst
**Submitted By:** Wendy Gomez, Finance
**Department:** Finance

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**Information**

**SUBJECT:**

Fiscal Year 2010/11 Financial Update through August 2010

**SUMMARY:**

The attachments capture total revenues earned and departmental expenditures through the end of August 2010 for the major funds in the budget that are tax-based (General, Highway, Bed Tax, and Public Transportation). A projected year-end total revenue estimate is provided for each fund and compared to the budgeted revenue for the year. A projected year-end expenditure estimate is also provided for each fund and compared to the budgeted expenditures for the year. Comparing the projected year-end revenue amount to total estimated year-end expenditures in each fund will show the anticipated operating deficit/surplus resulting in respective increases or decreases to the fund balance at year-end.

**Attachment A** provides a summary of the four funds.
**Attachments B through E** include additional detail on each fund.
**Attachment F** contains the financial dashboard charts which display historical revenue and expenditure trend data, along with the actuals through August, 2010.

An explanation of the figures by fund is provided below.

**DISCUSSION:**

**General Fund**

**Attachment B** shows General Fund revenues and expenditures-to-date through August, as well as year-end estimates for each. Through August, revenue collections totaled $4,147,709 and expenditures totaled $3,033,364.

The estimated **year-end** projections in the General Fund are as follows:

| | |
|---|---|
| Revenues | $25,079,051 |
| Expenditures | 26,219,281 |
| **Estimated Operating Deficit** | **($1,140,230)** |

The above year-end projections are very preliminary estimates at this point only two months into the new fiscal year. Staff will update these year-end projections each month as revenue and expenditure trends become more discernable.

**Revenue Trends**

Local sales tax revenue estimates for the General Fund were adjusted down by about 6.9%, or by about $859,000, due to construction sales taxes, which may come in considerably below budget. With the federal tax housing credit coming to an end, staff has observed continued declines in these revenues.

The declines appear to be stabilizing; however, any substantial recovery of these revenues in the near term is doubtful.

License & Permit revenues have been adjusted down by about 19.4%, or by nearly $250,000. This variance is attributable to the delay in the Ventana Medical Systems expansion. Staff will keep the Town Council informed regarding the status of this project.

Single family residential (SFR) permits are trending below budget, with five (5) permits having been issued through the month of August (75 SFR permits were budgeted for FY 2010/11). At this time, residential building permit revenues may still come in on budget, as building valuations (which determine permit amounts) are exceeding budgeted estimates. Staff will continue to monitor residential permit revenues as the fiscal year progresses.

Charges for Services are expected to come in slightly under budget, due to an accounting change for recreation in lieu fees. All other General Fund revenue sources are anticipated to come in on budget at this time.

**Expenditure Trends**

Year-end expenditures are estimated to come in under budget by approximately $341,000, or by about 1.3%. Of this amount, approximately $165,000 is comprised of liability insurance premium savings. Other operations & maintenance savings are estimated at $96,000, while vacancy savings are estimated at nearly $150,000. **Roughly $170,000 in capital expenditures through Council-approved use of contingency reserves has been added to the year-end expenditure estimate. This amount reflects the additional funding needed for Steam Pump Ranch over and above remaining Pima County bond funds.** Additionally, because the Public Transportation Fund had a higher than anticipated ending fund balance for FY 2009/10, staff can transfer a reduced subsidy amount from the General Fund to the Public Transportation Fund in FY 2010/11. General Fund savings are estimated at $100,000 as a result.

The estimated decrease in year-end fund balance in the General Fund is now approximately $1,140,000 which includes the $170,000 for Steam Pump Ranch. The budgeted decrease was $344,350. The General Fund budget was adopted with one-time expenditures totaling approximately $1.1 million that are comprised primarily of energy efficiency upgrades at the Town Hall campus ($1.06M) and the remaining carryforward project costs associated with the Environmentally Sensitive Lands Ordinance (ESLO) ($50K) and the cultural resources inventory ($10K). While at this time the estimated deficit is limited to one-time expenditures, staff intends to closely monitor financial conditions in this fund.

**Highway Fund**

In the Highway Fund (**Attachment C**), revenues collected through August total $562,672, while expenditures through August total $335,452. The estimated year-end projections in the Highway Fund are as follows:

| | |
|---|---|
| Revenues | $3,626,687 |
| Expenditures | 4,105,231 |
| **Estimated Operating Deficit** | **($ 478,544)** |

Local sales tax revenue estimates were adjusted down by about 27%, or by about $170,000 as a result of the declines in construction activity. All other revenue sources are expected to come in on budget at this time. Expenditures are also estimated to come in on budget at this time, although it is anticipated that, as the fiscal year progresses, staff can identify expenditure savings in sufficient amounts to close

the larger than budgeted deficit in this fund. The FY 2010/11 Highway Fund budget was adopted with a planned use of cash reserves in the amount of $307,389 to fund energy efficiency upgrades.

**Bed Tax Fund**

In the Bed Tax Fund (**Attachment D**), revenues collected through August total $125,451. Of the $600,000 budgeted allocation in Bed Tax revenues to the General Fund, $77,400 has been allocated through August. This brings total year-to-date revenues of $48,051 remaining in the Bed Tax Fund. Year-to-date expenditures total $2,088. The year-end projections in the Bed Tax Fund are as follows:

| | |
|---|---|
| Revenues | $270,569 |
| Expenditures | 358,101 |
| **Estimated Operating Deficit** | **($ 87,532)** |

Revenues are anticipated to come in on budget at this time. **Approximately $44,000 in O&M expenditures through use of contingency reserves has been added to the year-end expenditure estimate for funding of TREO.** Personnel expenditures are estimated to come in slightly under budget, due to reduced economic development intern hours during the summer months. The FY 2010/11 Bed Tax Fund budget was adopted with a planned use of cash reserves in the amount of $44,779.

**Public Transportation Fund**

In the Public Transportation Fund (**Attachment E**), revenues collected through August total $7,693, while expenditures total $69,517. The estimated year-end projections in the Public Transportation Fund are as follows:

| | |
|---|---|
| Revenues | $366,025 |
| Expenditures | 482,320 |
| **Estimated Operating Deficit** | **($116,295)** |

Revenues are estimated to come in under budget by about $89,000, or by about 19.5%. Farebox revenues are estimated to come in over budget by roughly $11,000, due to maintained service levels for FY 2010/11. The budget for farebox revenues had assumed reduced service levels for FY 2010/11 due to the elimination of Local Transportation Assistance Funds (LTAF) by the State. Second, as mentioned in the General Fund discussion, the Public Transit Fund has approximately $130,000 in remaining available cash reserves from FY 2009/10 that have been carried forward to fund FY 2010/11 expenditures, so the FY 2010/11 subsidy transfer from the General Fund will likely be approximately $100,000 under budget. Expenditures are anticipated to come in on budget at this time. The FY 2010/11 Public Transportation Fund budget was adopted with a planned use of cash reserves in the amount of $27,475.

**FISCAL IMPACT:**

This report is for information only.

**CONCLUSION/RECOMMENDATION:**

None, informational purposes only.

**SUGGESTED MOTION:**

N/A

**Attachments**

Link: Attachment A - Summary
Link: Attachment B - Gen Fund
Link: Attachment C - HW Fund
Link: Attachment D - Bed Tax Fund
Link: Attachment E - Transit Fund
Link: Attachment F - Dashboard

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ATTACHMENT A

# August 2010 Monthly Financial Report

## Revenues

| Fund | Actuals thru 08/2010 | Budget | % Actuals to Budget | Year End Estimate | % Variance to Budget |
|---|---|---|---|---|---|
| General | $ 4,147,709 | $ 26,215,984 | 15.8% | $ 25,079,051 | -4.3% |
| Highway | $ 562,672 | $ 3,797,842 | 14.8% | $ 3,626,687 | -4.5% |
| Bed Tax | $ 48,051 | $ 270,569 | 17.8% | $ 270,569 | 0.0% |
| Transit | $ 7,693 | $ 454,845 | 1.7% | $ 366,025 | -19.5% |

## Expenditures

| Fund | Actuals thru 08/2010 | Budget | % Actuals to Budget | Year End Estimate | % Variance to Budget |
|---|---|---|---|---|---|
| General | $ 3,033,364 | $ 26,560,334 | 11.4% | $ 26,219,281 | -1.3% |
| Highway | $ 335,452 | $ 4,105,231 | 8.2% | $ 4,105,231 | 0.0% |
| Bed Tax | $ 2,088 | $ 315,348 | 0.7% | $ 358,101 | 13.6% |
| Transit | $ 69,517 | $ 482,320 | 14.4% | $ 482,320 | 0.0% |

| | Surplus/(Deficit) | | | Fund Balance | |
|---|---|---|---|---|---|
| Fund | YTD | Budgeted | Year End Estimate | Budgeted | Year End Estimate |
| General | $ 1,114,345 | $ (344,350) | $ (1,140,230) | $ 10,620,363 | $ 9,194,619 * |
| Highway | $ 227,220 | $ (307,389) | $ (478,544) | $ 3,772,144 | $ 3,553,368 |
| Bed Tax | $ 45,963 | $ (44,779) | $ (87,532) | $ 987,870 | $ 902,013 |
| Transit | $ (61,824) | $ (27,475) | $ (116,295) | $ 54,532 | $ 19,741 |

* Represents 35.1% of General Fund year-end estimated expenditures

**ATTACHMENT B**

# August YTD Financial Status

*FY 2010/2011*

## General Fund

*% Budget Completion through August --- 16.7%*

| FINANCING SOURCES | Actuals thru 8/2010 | Budget | % Actuals to Budget | Year End Estimate | % Variance to Budget |
|---|---|---|---|---|---|
| **REVENUE:** | | | | | |
| LOCAL SALES TAX | 1,876,831 | 12,464,250 | 15.1% | 11,605,426 | -6.9% |
| BED TAX ALLOCATION | 77,400 | 600,000 | 12.9% | 600,000 | 0.0% |
| *(allocation from Bed Tax Fund to Gen Fund)* | | | | | |
| LICENSES & PERMITS | 154,374 | 1,276,510 | 12.1% | 1,028,301 | -19.4% |
| FEDERAL GRANTS | 58,331 | 881,239 | 6.6% | 881,239 | 0.0% |
| STATE GRANTS | 30,823 | 145,700 | 21.2% | 145,700 | 0.0% |
| STATE/COUNTY SHARED | 1,388,016 | 8,360,415 | 16.6% | 8,360,415 | 0.0% |
| OTHER INTERGOVERNMENTAL | 30,000 | 607,781 | 4.9% | 607,781 | 0.0% |
| CHARGES FOR SERVICES | 123,380 | 1,021,715 | 12.1% | 991,715 | -2.9% |
| FINES | 33,783 | 195,000 | 17.3% | 195,000 | 0.0% |
| INTEREST INCOME | 5,184 | 151,374 | 3.4% | 151,374 | 0.0% |
| MISCELLANEOUS | 2,589 | 145,000 | 1.8% | 145,100 | 0.1% |
| OTHER FINANCING SOURCES | 367,000 | 367,000 | 100.0% | 367,000 | 0.0% |
| **TOTAL FINANCING SOURCES** | **4,147,709** | **26,215,984** | **15.8%** | **25,079,051** | **-4.3%** |

| FINANCING USES | Actuals thru 8/2010 | Budget | % Actuals to Budget | Year End Estimate | % Variance to Budget |
|---|---|---|---|---|---|
| **EXPENDITURES:** | | | | | |
| TOWN COUNCIL | 66,186 | 220,610 | 30.0% | 220,610 | 0.0% |
| TOWN CLERK | 54,696 | 378,581 | 14.4% | 378,581 | 0.0% |
| TOWN MANAGER | 99,326 | 974,906 | 10.2% | 922,153 | -5.4% |
| HUMAN RESOURCES | 44,358 | 484,189 | 9.2% | 465,926 | -3.8% |
| FINANCE | 84,137 | 727,613 | 11.6% | 727,304 | 0.0% |
| INFORMATION TECHNOLOGY | 212,874 | 1,120,106 | 19.0% | 1,120,106 | 0.0% |
| GENERAL ADMINISTRATION | 229,341 | 3,458,898 | 6.6% | 3,394,447 | -1.9% |
| LEGAL | 84,574 | 842,785 | 10.0% | 770,785 | -8.5% |
| COURT | 94,656 | 753,772 | 12.6% | 753,772 | 0.0% |
| DEV & INFRASTRUCTURE SVCS | 339,510 | 3,084,586 | 11.0% | 2,951,309 | -4.3% |
| PARKS, REC, LIBRARY, & CULT RSCS | 381,698 | 2,947,715 | 12.9% | 2,947,715 | 0.0% |
| PUBLIC SAFETY | 1,342,009 | 11,566,573 | 11.6% | 11,566,573 | 0.0% |
| **TOTAL FINANCING USES** | **3,033,364** | **26,560,334** | **11.4%** | **26,219,281** | **-1.3%** |
| **SURPLUS/(DEFICIT)** | **1,114,345** | **(344,350)** | | **(1,140,230)** | |

**ATTACHMENT C**

August YTD Financial Status *FY 2010/2011*

## Highway Fund

*% Budget Completion through August --- 16.7%*

| FINANCING SOURCES | Actuals thru 8/2010 | Budget | % Actuals to Budget | Year End Estimate | % Variance to Budget |
|---|---|---|---|---|---|
| **REVENUE:** | | | | | |
| LOCAL SALES TAX | 68,126 | 630,188 | 10.8% | 459,033 | -27.2% |
| LICENSES & PERMITS | 5,610 | 50,192 | 11.2% | 50,192 | 0.0% |
| STATE GRANTS | 47,000 | 317,000 | 14.8% | 317,000 | 0.0% |
| STATE/COUNTY SHARED | 427,894 | 2,669,767 | 16.0% | 2,669,767 | 0.0% |
| INTEREST INCOME | 1,922 | 53,205 | 3.6% | 53,205 | 0.0% |
| MISCELLANEOUS | 1,320 | 12,686 | 10.4% | 12,686 | 0.0% |
| OTHER FINANCING SOURCES | 10,801 | 64,804 | 16.7% | 64,804 | 0.0% |
| **TOTAL FINANCING SOURCES** | **562,672** | **3,797,842** | **14.8%** | **3,626,687** | **-4.5%** |

| FINANCING USES | Actuals thru 8/2010 | Budget | % Actuals to Budget | Year End Estimate | % Variance to Budget |
|---|---|---|---|---|---|
| **EXPENDITURES:** | | | | | |
| ADMINISTRATION | 82,731 | 1,029,154 | 8.0% | 1,029,154 | 0.0% |
| TRANSPORTATION ENGINEERING | 69,968 | 1,285,320 | 5.4% | 1,285,320 | 0.0% |
| PAVEMENT MANAGEMENT | 23,427 | 201,893 | 11.6% | 201,893 | 0.0% |
| STREET MAINTENANCE | 99,827 | 954,481 | 10.5% | 954,481 | 0.0% |
| TRAFFIC ENGINEERING | 59,499 | 634,383 | 9.4% | 634,383 | 0.0% |
| **TOTAL FINANCING USES** | **335,452** | **4,105,231** | **8.2%** | **4,105,231** | **0.0%** |
| **SURPLUS/(DEFICIT)** | **227,220** | **(307,389)** | | **(478,544)** | |

**ATTACHMENT D**

August YTD Financial Status *FY 2010/2011*

## Bed Tax Fund

*% Budget Completion through August --- 16.7%*

| FINANCING SOURCES | Actuals thru 8/2010 | Budget | % Actuals to Budget | Year End Estimate | % Variance to Budget |
|---|---|---|---|---|---|
| **REVENUE:** | | | | | |
| BED TAXES | 125,009 | 861,569 | 14.5% | 861,569 | 0.0% |
| less allocation to General Fund | (77,400) | (600,000) | 12.9% | (600,000) | 0.0% |
| INTEREST INCOME | 442 | 9,000 | 4.9% | 9,000 | 0.0% |
| **TOTAL FINANCING SOURCES** | **48,051** | **270,569** | **17.8%** | **270,569** | **0.0%** |

| FINANCING USES | Actuals thru 8/2010 | Budget | % Actuals to Budget | Year End Estimate | % Variance to Budget |
|---|---|---|---|---|---|
| **EXPENDITURES:** | | | | | |
| ECONOMIC DEVELOPMENT | 2,088 | 315,348 | 0.7% | 358,101 | 13.6% |
| **TOTAL FINANCING USES** | **2,088** | **315,348** | **0.7%** | **358,101** | **13.6%** |
| **SURPLUS/(DEFICIT)** | **45,963** | **(44,779)** | | **(87,532)** | |

**ATTACHMENT E**

August YTD Financial Status *FY 2010/2011*

## Public Transportation Fund

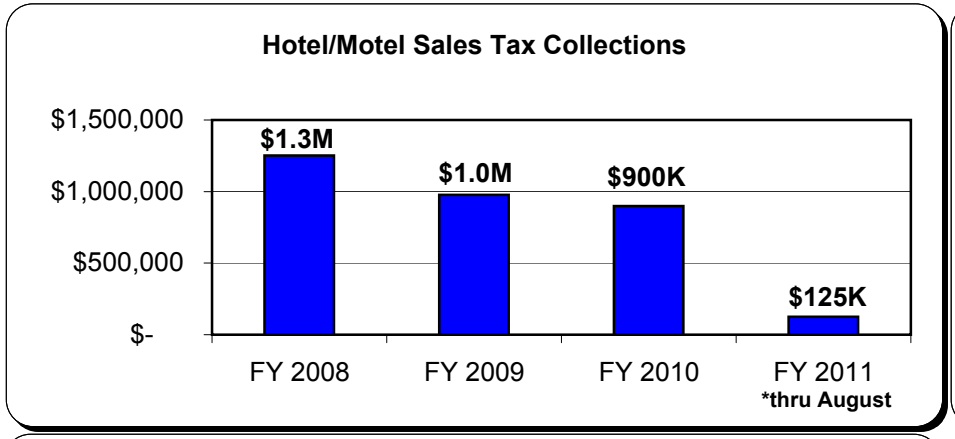
*% Budget Completion through August --- 16.7%*

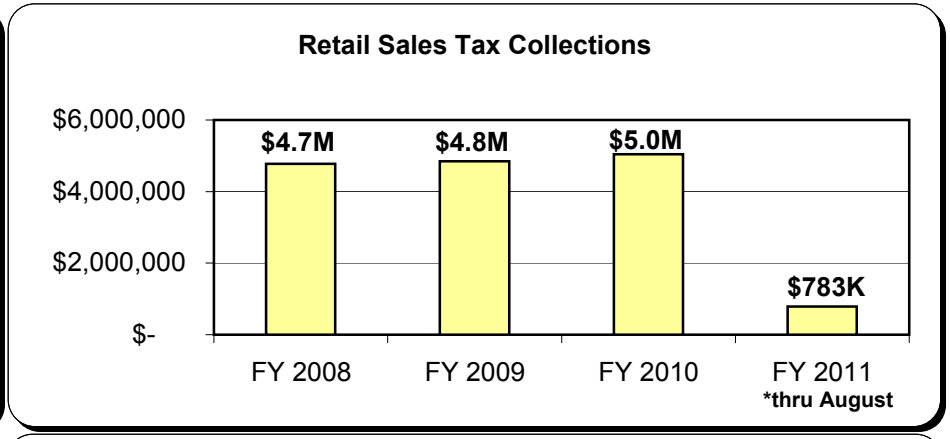
| FINANCING SOURCES | Actuals thru 8/2010 | Budget | % Actuals to Budget | Year End Estimate | % Variance to Budget |
|---|---|---|---|---|---|
| **REVENUE:** | | | | | |
| CHARGES FOR SERVICES | 7,636 | 34,545 | 22.1% | 45,725 | 32.4% |
| INTEREST INCOME | 57 | 1,800 | 3.2% | 1,800 | 0.0% |
| MISCELLANEOUS | - | 18,500 | 0.0% | 18,500 | 0.0% |
| TRANSFER FROM GEN FUND | - | 400,000 | 0.0% | 300,000 | -25.0% |
| **TOTAL FINANCING SOURCES** | **7,693** | **454,845** | **1.7%** | **366,025** | **-19.5%** |

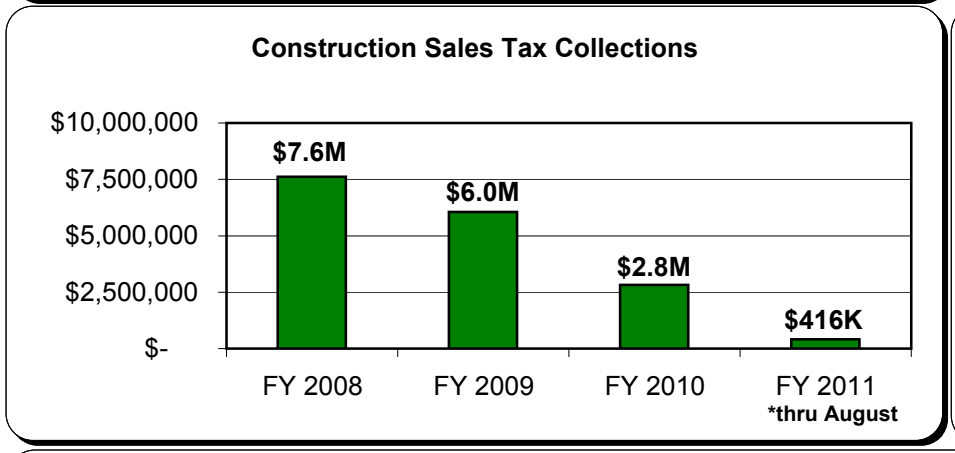
| FINANCING USES | Actuals thru 8/2010 | Budget | % Actuals to Budget | Year End Estimate | % Variance to Budget |
|---|---|---|---|---|---|
| **EXPENDITURES:** | | | | | |
| PUBLIC TRANSIT | 69,517 | 482,320 | 14.4% | 482,320 | 0.0% |
| **TOTAL FINANCING USES** | **69,517** | **482,320** | **14.4%** | **482,320** | **0.0%** |
| **SURPLUS/(DEFICIT)** | **(61,824)** | **(27,475)** | | **(116,295)** | |

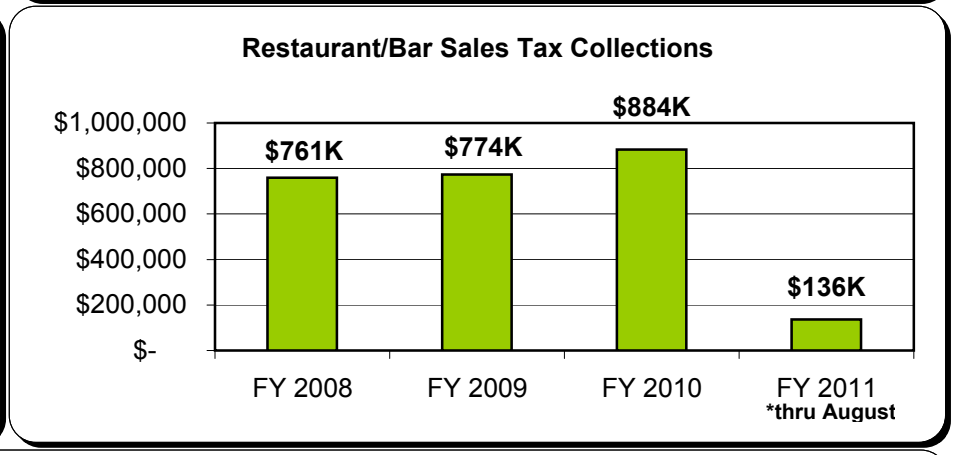
# Town of Oro Valley
# Financial Dashboard
# August Actuals

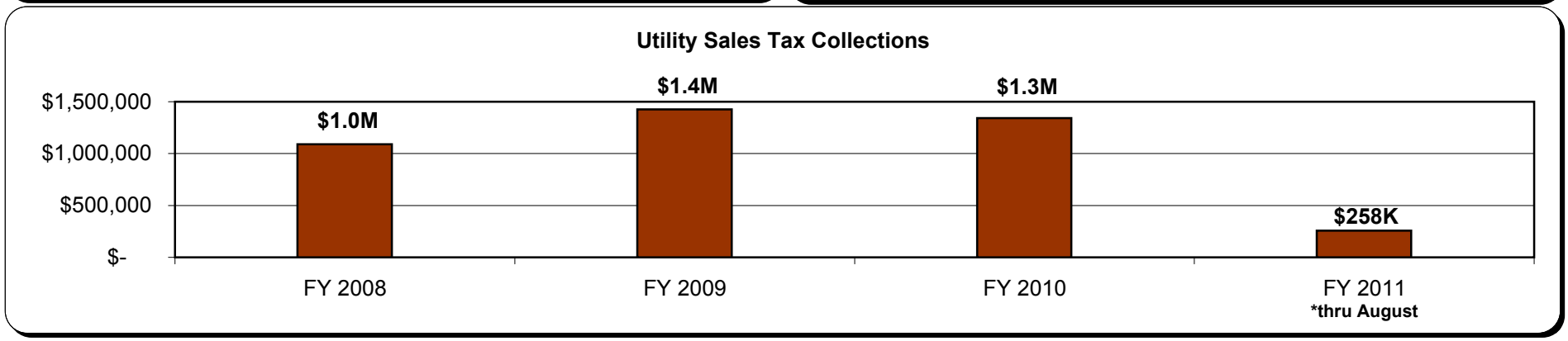
**ATTACHMENT F**



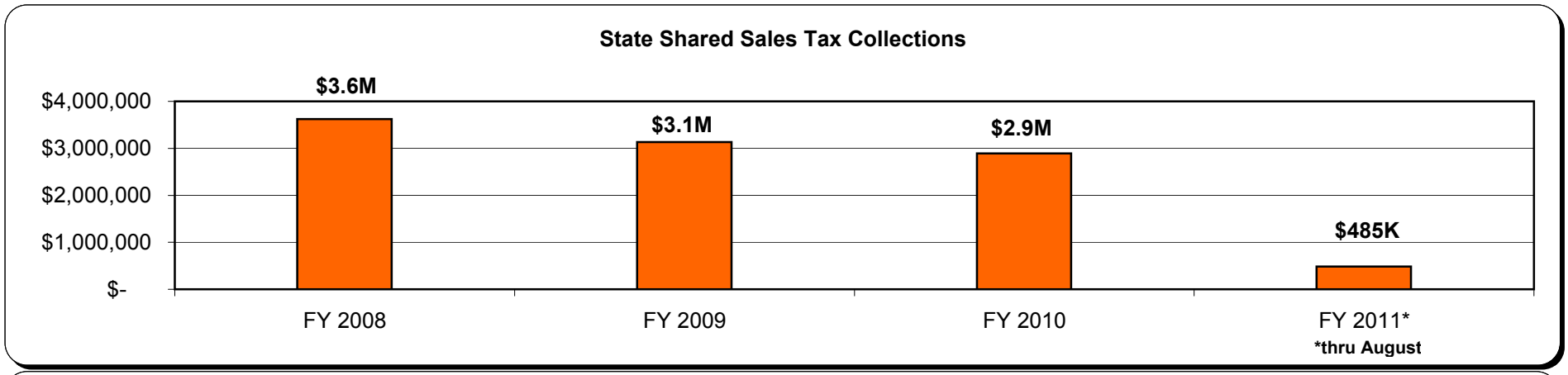



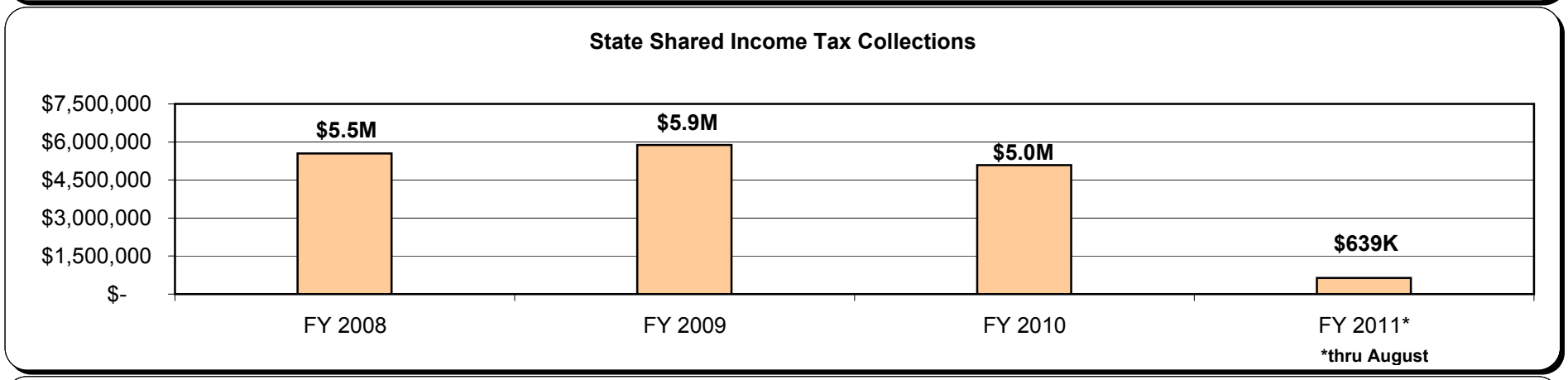



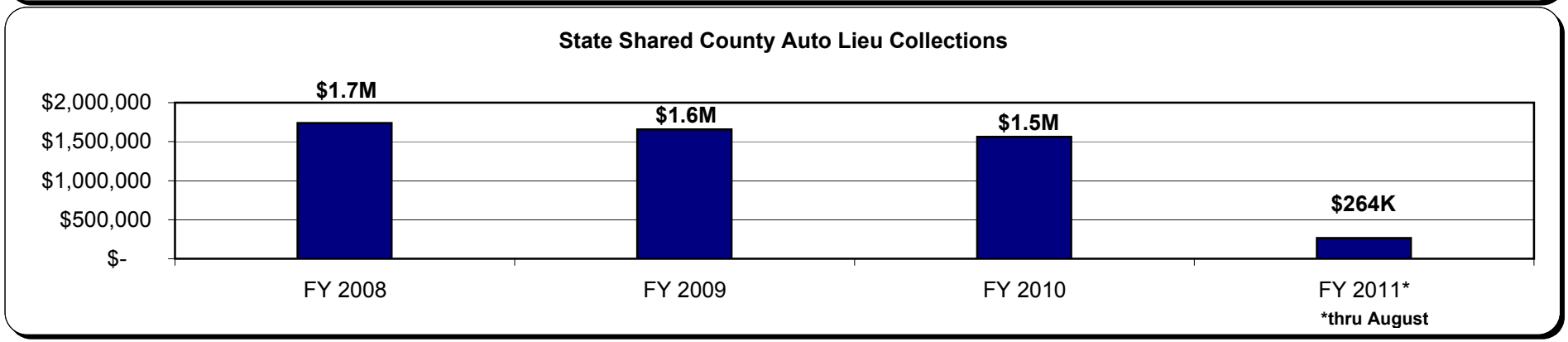



# Town of Oro Valley
# Financial Dashboard
# August Actuals

**ATTACHMENT F**

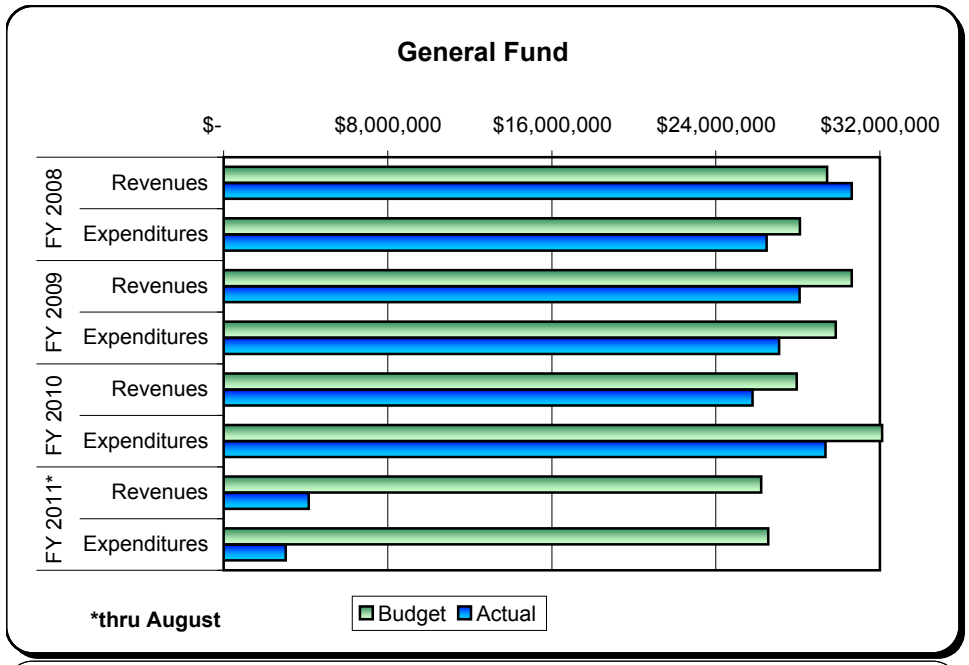


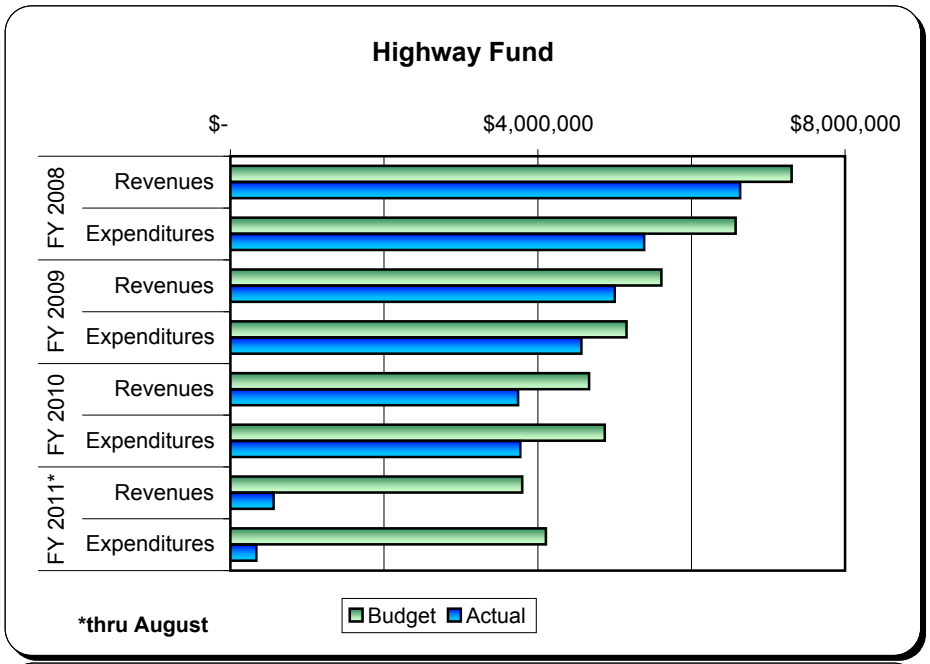



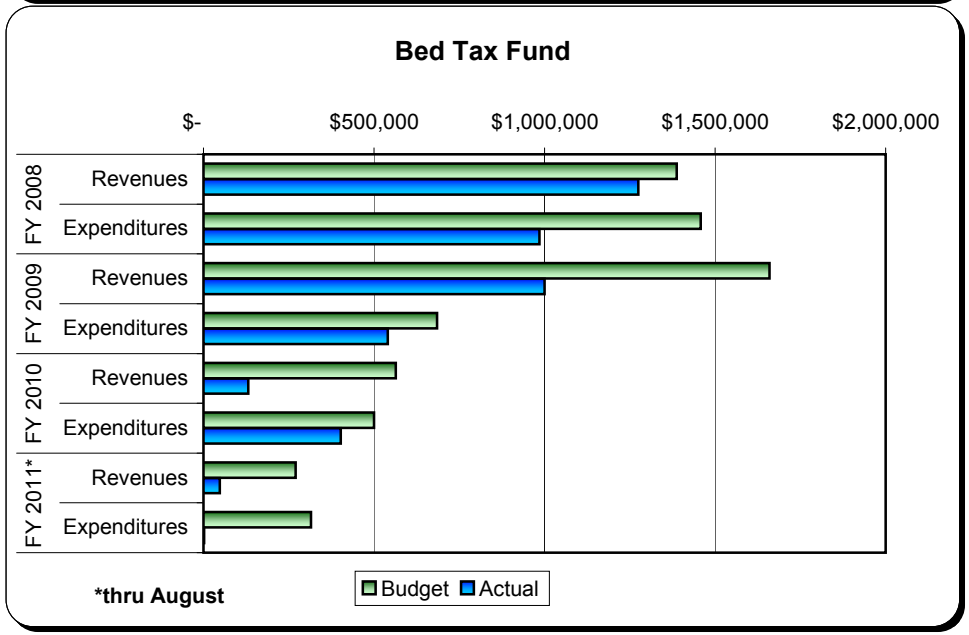



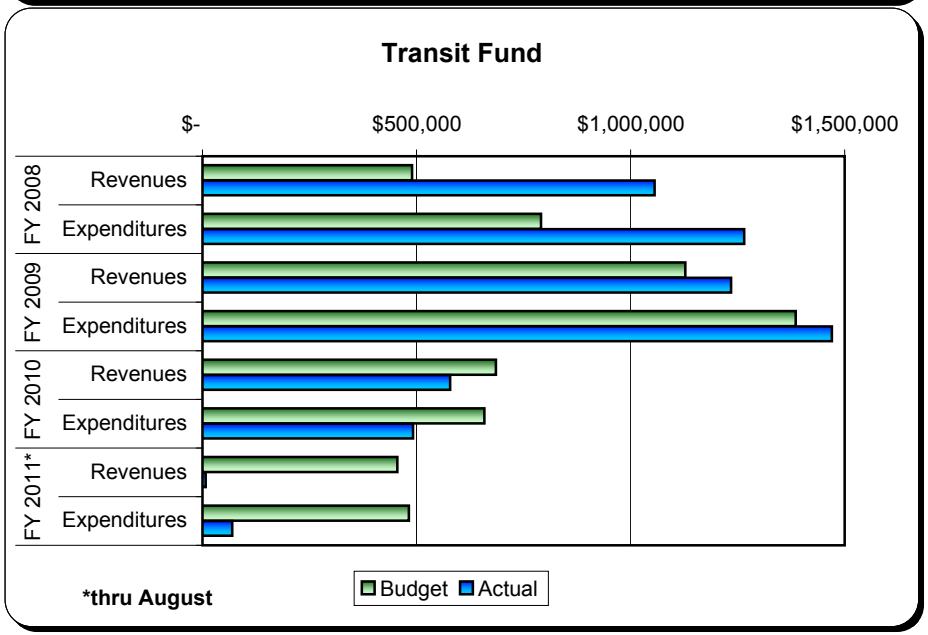
# Town of Oro Valley
# Financial Dashboard
# August Actuals

**ATTACHMENT F**



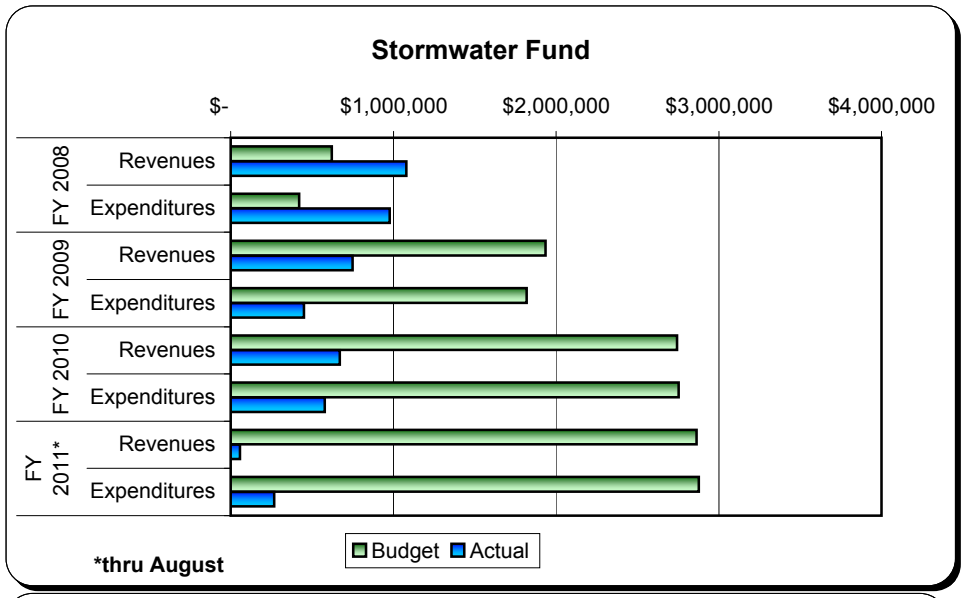



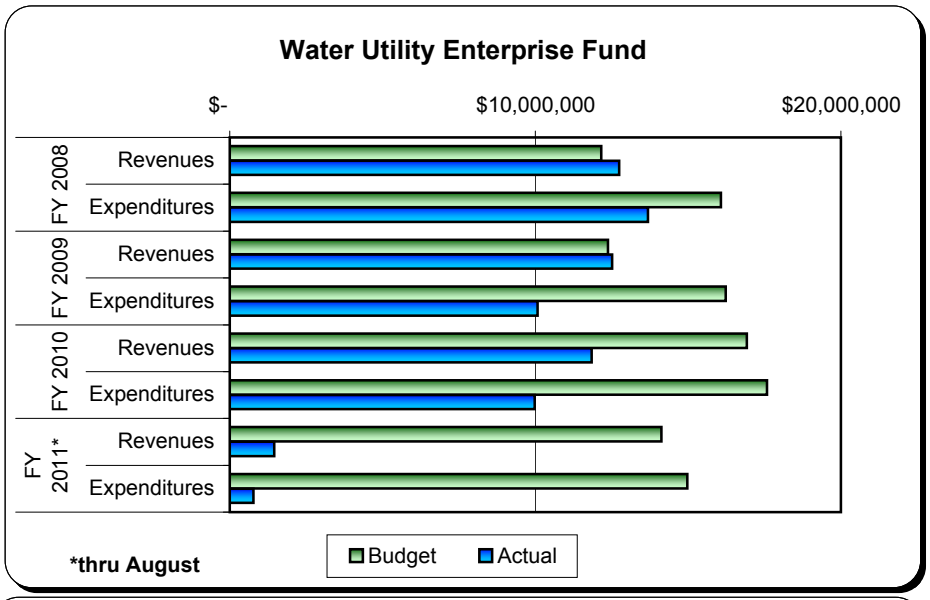



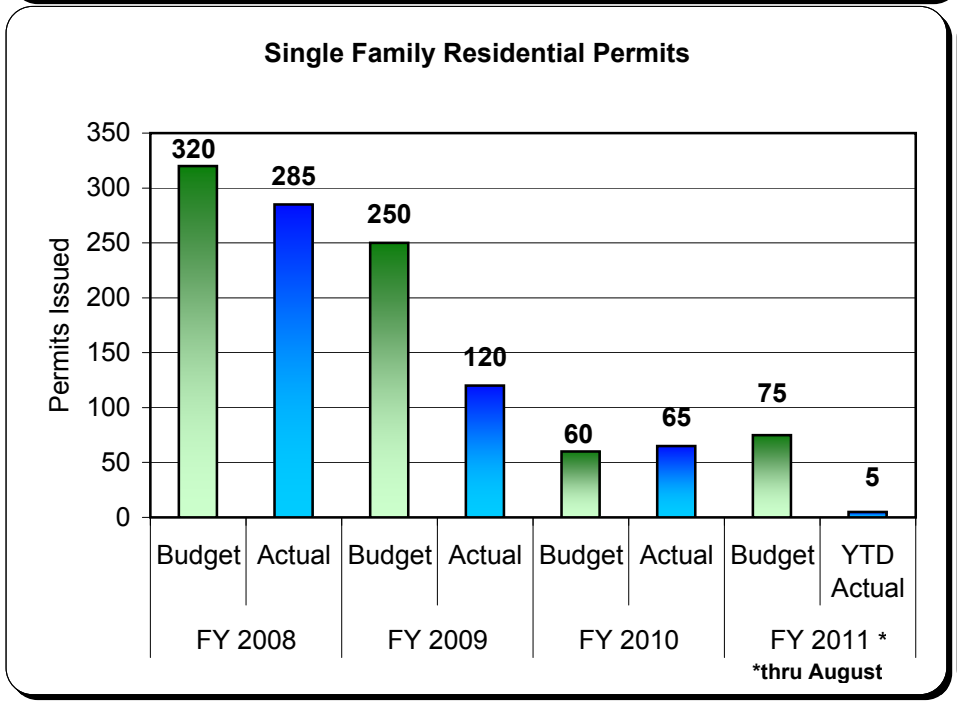



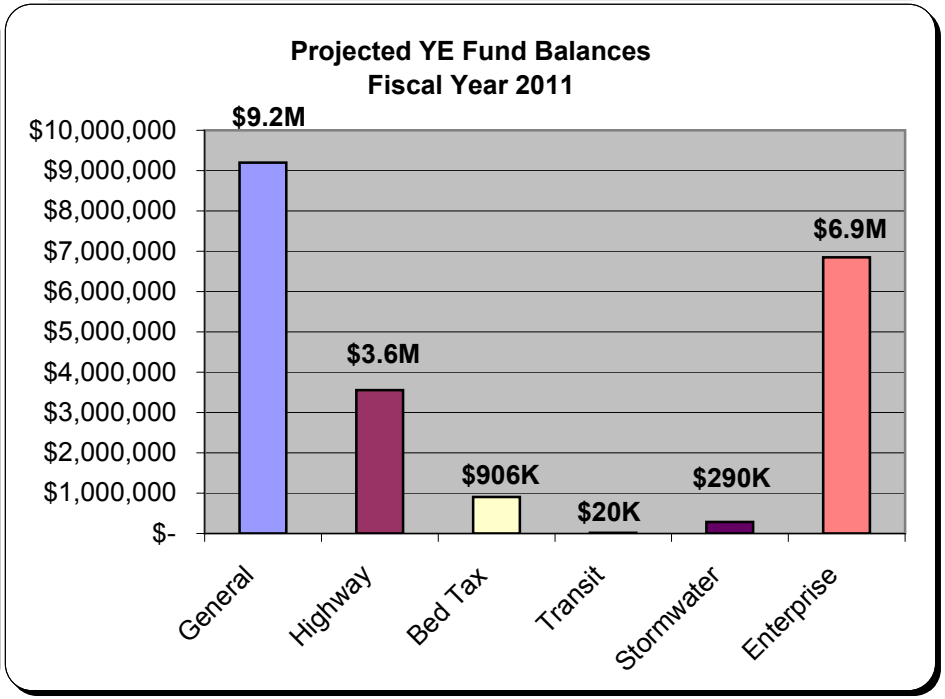
# Town of Oro Valley
# Financial Dashboard
# August Actuals

**ATTACHMENT F**



**Item #: 1. C.**

**TC Regular Session**
**Date: 10/20/2010**
**Police Department - August 2010 Statistics**

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## Information

**Subject**

Police Department - August 2010 Statistics

**Summary**

**Discussion**

**Fiscal Impact**

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## Attachments

Link: August 2010 Statistics

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# ORO VALLEY POLICE DEPARTMENT POLICE ACTIVITY SUMMARY

| 2010 | TOTAL | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Total Calls | 11463 | 1357 | 1343 | 1492 | 1345 | 1635 | 1371 | 1393 | 1527 | | | | |
| Commercial Veh Enforcement | 79 | 11 | 6 | 30 | 22 | 5 | 1 | 1 | 3 | | | | |
| Residential Burglaries**** | 36 | 3 | 8 | 2 | 7 | 2 | 4 | 4 | 6 | | | | |
| Non-Residential Burglaries**** | 15 | 3 | 1 | 3 | 2 | 2 | 3 | 0 | 1 | | | | |
| All Burglary Attempts**** | 4 | 1 | 0 | 0 | 0 | 2 | 1 | 0 | 0 | | | | |
| Thefts | 419 | 32 | 45 | 42 | 62 | 69 | 38 | 61 | 70 | | | | |
| Vehicle Thefts**** | 20 | 3 | 2 | 1 | 2 | 4 | 0 | 4 | 4 | | | | |
| Recovered Stolen Vehicles**** | 5 | 1 | 1 | 0 | 0 | 1 | 0 | 1 | 1 | | | | |
| Attempted Vehicle Thefts**** | 5 | 1 | 0 | 1 | 0 | 2 | 0 | 1 | 0 | | | | |
| DUI | 149 | 28 | 14 | 20 | 22 | 22 | 16 | 10 | 17 | | | | |
| Liquor Laws | 32 | 4 | 4 | 1 | 8 | 7 | 1 | 2 | 5 | | | | |
| Drug Offenses | 116 | 17 | 13 | 20 | 12 | 22 | 11 | 9 | 12 | | | | |
| Homicides | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | |
| Robbery | 5 | 0 | 1 | 0 | 0 | 1 | 0 | 1 | 2 | | | | |
| Assault | 82 | 12 | 7 | 8 | 11 | 13 | 5 | 10 | 16 | | | | |
| Total Arrests*** | 1364 | 174 | 193 | 164 | 179 | 217 | 144 | 118 | 175 | | | | |
| Assigned Cases | 490 | 60 | 66 | 70 | 50 | 64 | 53 | 56 | 71 | | | | |
| Alarms (Residential) | 608 | 56 | 68 | 69 | 61 | 69 | 104 | 100 | 81 | | | | |
| Alarms (Business) | 356 | 28 | 44 | 49 | 50 | 46 | 41 | 55 | 43 | | | | |
| K9 Searches | 179 | 26 | 10 | 33 | 18 | 18 | 24 | 30 | 20 | | | | |
| First Aid Calls | 1584 | 177 | 184 | 207 | 208 | 212 | 197 | 190 | 209 | | | | |
| Accidents | 315 | 48 | 41 | 41 | 42 | 43 | 38 | 23 | 39 | | | | |
| Citations (Traffic)** | 3894 | 683 | 650 | 536 | 351 | 609 | 477 | 588 | ** | | | | |
| Warnings | 4479 | 723 | 612 | 531 | 426 | 491 | 492 | 614 | 590 | | | | |
| Repair Orders | 840 | 127 | 156 | 150 | 107 | 78 | 59 | 67 | 96 | | | | |
| Public Assists* | 1550 | 175 | 201 | 264 | 228 | 196 | 95 | 141 | 250 | | | | |
| Reserve Man Hours | 917 | 133.5 | 132.5 | 140 | 176.5 | 140 | 46 | 67 | 81.5 | | | | |
| Dark House Checks* | 11015 | 846 | 462 | 641 | 1215 | 1729 | 1219 | 2219 | 2684 | | | | |
| Drug Task Force Arrest | 86 | 6 | 1 | 28 | 25 | 5 | 11 | 2 | 8 | | | | |
| CVAP Dark House Cks | 7049 | 413 | 145 | 204 | 767 | 1354 | 767 | 1474 | 1925 | | | | |
| CVAP Public Assists | 632 | 81 | 66 | 97 | 104 | 96 | 39 | 59 | 90 | | | | |
| CVAP Total Hours | 11723 | 1435 | 1448.5 | 1417 | 1544 | 1468 | 1186 | 1497 | 1727.5 | | | | |

*(Arrest stats updated for the year 07/19/10)*

** Total Includes CVAP*

*** Traffic data delayed 30 days due to data entry backlog*

**** As of 1/1/09 "Total Arrests" are compiled through the Spillman database and include all cite and release arrests along with all physical arrests. Based on further investigation, actual classifications may change resulting in small variances of case counts.*

*****Burglary Attempts and Non-Residential Burglaries/Vehicle Theft Attempts and Stolen Vehicle Recoveries have been separated from total counts as of August, 2010*

# ORO VALLEY POLICE DEPARTMENT
## MONTHLY BREAKDOWN OF CITATIONS BY VIOLATION

| Citations 2009 | TOTAL | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| TOWN CODE | 90 | 18 | 17 | 7 | 1 | 13 | 19 | 15 | | | | | |
| TITLE 28 VIOLATIONS | | | | | | | | | | | | | |
| SIZE, WEIGHT, LOAD | 2 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | | | | | |
| INSURANCE VIOLATION | 868 | 168 | 149 | 112 | 83 | 112 | 103 | 141 | | | | | |
| REGISTRATION VIOLATION | 450 | 116 | 72 | 51 | 33 | 66 | 55 | 57 | | | | | |
| DRIVERS LICENSE VIOLATION | 355 | 65 | 53 | 50 | 35 | 66 | 46 | 40 | | | | | |
| DUI | 134 | 28 | 15 | 20 | 23 | 22 | 16 | 10 | | | | | |
| RECKLESS/AGGRESSIVE DRIVING | 11 | 1 | 1 | 1 | 3 | 1 | 3 | 1 | | | | | |
| SPEEDING | 1052 | 151 | 163 | 130 | 98 | 123 | 177 | 210 | | | | | |
| LANE VIOLATIONS | 137 | 20 | 21 | 17 | 11 | 26 | 23 | 19 | | | | | |
| RED LIGHT | 75 | 10 | 19 | 10 | 5 | 13 | 11 | 7 | | | | | |
| STOP SIGN | 59 | 18 | 13 | 8 | 11 | 5 | 2 | 2 | | | | | |
| FAILURE TO YIELD | 73 | 12 | 18 | 8 | 9 | 12 | 7 | 7 | | | | | |
| SEATBELT VIOLATION | 263 | 26 | 44 | 53 | 2 | 77 | 19 | 42 | | | | | |
| CHILD RESTRAINT | 7 | 1 | 1 | 1 | 1 | 2 | 1 | 0 | | | | | |
| EQUIPMENT VIOLATIONS | 189 | 29 | 37 | 36 | 9 | 38 | 9 | 31 | | | | | |
| PARKING | 10 | 2 | 0 | 1 | 1 | 2 | 3 | 1 | | | | | |
| LITTERING | 14 | 1 | 0 | 2 | 2 | 4 | 2 | 3 | | | | | |
| ALL OTHER CITATIONS | 223 | 49 | 38 | 33 | 25 | 40 | 21 | 17 | | | | | |
| Total Citations | 3901 | 697 | 645 | 534 | 351 | 609 | 477 | 588 | | | | | |

*Based on further investigation and updating of information, actual classifications may change resulting in small variances in counts.*

| | Jan-Aug 2008 | Jan-Aug 2009 | Jan-Aug 2010 | | August 2008 | August 2009 | August 2010 |
|---|---|---|---|---|---|---|---|
| Total Calls | 11187 | 11213 | 11463 | | 1362 | 1464 | 1527 |
| Commercial Veh Enforcement | ## | ## | 79 | | ## | ## | 3 |
| Residential Burglaries | 52 | 52 | 36 | | 8 | 8 | 6 |
| Non-Residential Burglaries**** | 20 | 9 | 15 | | 1 | 1 | 1 |
| All Burglary Attempts**** | 11 | 10 | 4 | | 2 | 3 | 0 |
| Thefts | 381 | 354 | 419 | | 44 | 49 | 70 |
| Vehicle Thefts | 27 | 14 | 20 | | 2 | 2 | 4 |
| Recovered Stolen Vehicles**** | 7 | 7 | 5 | | 2 | 2 | 1 |
| Attempted Vehicle Theft**** | 4 | 2 | 5 | | 0 | 0 | 0 |
| DUI | 158 | 173 | 149 | | 18 | 25 | 17 |
| Liquor Laws | 51 | 49 | 32 | | 1 | 8 | 5 |
| Drug Offenses | 137 | 128 | 116 | | 12 | 15 | 12 |
| Homicides | 1 | 0 | 0 | | 1 | 0 | 0 |
| Robbery | 4 | 2 | 5 | | 2 | 0 | 2 |
| Assault | 97 | 81 | 82 | | 9 | 15 | 16 |
| Total Arrests*** | 1203 | 1676 | 1364 | | 152 | 202 | 175 |
| Assigned Cases | 780 | 517 | 490 | | 87 | 61 | 71 |
| Alarms (Residential) | 575 | 654 | 608 | | 81 | 78 | 81 |
| Alarms (Business) | 281 | 277 | 356 | | 41 | 48 | 43 |
| K9 Searches | 128 | 184 | 179 | | 20 | 23 | 20 |
| First Aid Calls | 1642 | 1604 | 1584 | | 182 | 213 | 209 |
| Accidents | 415 | 365 | 315 | | 44 | 39 | 39 |
| Citations (Traffic)** | 6567 | 5646 | ** | | 1032 | 576 | ** |
| Warnings | 2210 | 4802 | 4479 | | 445 | 681 | 590 |
| Repair Orders | 510 | 720 | 840 | | 78 | 138 | 96 |
| Public Assists* | 1584 | 1412 | 1550 | | 152 | 204 | 250 |
| Reserve Man Hours | 219 | 1759.5 | 917 | | 63 | 250.5 | 81.5 |
| Dark House Checks* | 6146 | 8762 | 11015 | | 1268 | 1618 | 2684 |
| Drug Task Force Arrest | 46 | 284 | 86 | | 7 | 19 | 8 |
| CVAP Dark House Cks | 4909 | 4478 | 7049 | | 1059 | 1102 | 1925 |
| CVAP Public Assists | 667 | 512 | 632 | | 60 | 102 | 90 |
| CVAP Total Hours | 10319.5 | 9187 | 11723 | | 1096 | 1130 | 1727.5 |

**Totals include CVAP ** Traffic data delayed 30 days due to data entry backlog*

****As of 1/1/09 "Total Arrests" are compiled through the Spillman database and include all cite and release arrests along with all physical arrests. The "Total Arrests" line has been updated through this Spillman database method for previous years for comparison. ****Burglary Attempts and Non-Residential Burglaries/Vehicle Theft Attempts have and Stolen Vehicle Recoveries have been separated from total counts as of August, 2010*

*## New Category as of 01/01/10*

# ORO VALLEY POLICE DEPARTMENT
# AUGUST 2010

| Priority 1 | | # of calls | % |
|---|---|---|---|
| Dispatch Time | < 1 minute | 25 | 93% |
| | > 1 minute | 2 | 7% |
| Travel Time | < 4 minutes | 22 | 81% |
| | > 4 minutes | 5 | 19% |
| Total Response Time | | | |
| | < 5 minutes | 23 | 85% |
| | > 5 minutes | 4 | 15% |
| Total Calls | 27 | | |

| Priority 2 | | # of calls | % |
|---|---|---|---|
| Dispatch Time | < 2 minute | 70 | 96% |
| | > 2 minute | 3 | 4% |
| Travel Time | < 6 minutes | 55 | 75% |
| | > 6 minutes | 18 | 25% |
| Total Response Time | | | |
| | < 8 minutes | 60 | 82% |
| | > 8 minutes | 13 | 18% |
| Total Calls | 73 | | |

| Priority 3 | | # of calls | % |
|---|---|---|---|
| Dispatch Time | < 5 minute | 303 | 99% |
| | > 5 minute | 4 | 1% |
| Travel Time | <10 minutes | 291 | 95% |
| | >10 minutes | 16 | 5% |
| Total Response Time | | | |
| | < 15 minutes | 305 | 99% |
| | > 15 minutes | 2 | 1% |
| Total Calls | 307 | | |

| Priority 4 | | # of calls | % |
|---|---|---|---|
| Dispatch Time | < 10 minute | 844 | 98% |
| | > 10 minute | 13 | 2% |
| Travel Time | < 20 minutes | 841 | 98% |
| | > 20 minutes | 16 | 2% |
| Total Response Time | | | |
| | < 30 minutes | 844 | 98% |
| | > 30 minutes | 13 | 2% |
| Total Calls | 857 | | |

**Item #: 1. D.**

**TC Regular Session**

**Date: 10/20/2010**

| | | | |
|---|---|---|---|
| **Requested by:** | Daniel G. Sharp, Police Chief | **Submitted By:** | Colleen Muhr, Police Department |
| **Department:** | Police Department | | |

## Information

**SUBJECT:**

**Resolution No. (R)10-70** Authorizing and Approving a High Intensity Drug Trafficking Area (HIDTA) Grant Agreement between the City of Tucson and the Town of Oro Valley, allowing for one (1) Officer to be assigned to the Pima County HIDTA Investigative Task Force

**SUMMARY:**

The initiative which funds this position has changed, and this replacement Grant Agreement is required to provide continued funding for the officer assigned to this task force.

**DISCUSSION:**

Request is being made to replace Grant Agreement HT20-10-1610, previously approved by Resolution No. (R) 10-20 on April 7, 2010, with Agreement HIDTA Cycle 20 – HT20-10-3010 between the City Of Tucson and the Oro Valley Police Department. This agreement provides for participation and administration of a multi-agency High Intensity Drug Trafficking Area (HIDTA) Task Force.

When approved, this agreement will continue to provide for salary, over time, and fringe benefits in the amount of $90,276 for one (1) Town of Oro Valley Police Department officer. The one officer will be assigned to the Pima County HIDTA Task Force. The agreement is effective on January 1, 2010 and will terminate on December 31, 2011.

**FISCAL IMPACT:**

FY 2010/2011 = $90,276 currently budgeted.

**CONCLUSION/RECOMMENDATION:**

Approval is recommended.

**SUGGESTED MOTION:**

I move to adopt Resolution No. (R)10-70 Authorizing and approving a high Intensity Drug Trafficing Area (HIDTA) Grant Agreement between the City of Tucson and the Town of Oro Valley, allowing for one (1) Officer to be assigned to the Pima County HIDTA Investigative Task Force.

## Attachments

Link: Resolution 70

Link: Grant Agreement

# RESOLUTION NO. (R) 10-70

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, AUTHORIZING AND APPROVING A HIGH INTENSITY DRUG TRAFFICKING AREA (HIDTA) GRANT AGREEMENT BETWEEN THE CITY OF TUCSON AND THE TOWN OF ORO VALLEY, ALLOWING FOR ONE (1) OFFICER TO BE ASSIGNED TO THE PIMA COUNTY HIDTA INVESTIGATIVE TASK FORCE**

**WHEREAS**, the Town of Oro Valley is a political subdivision of the State of Arizona vested with all associated rights, privileges and benefits and is entitled to the immunities and exemptions granted municipalities and political subdivisions under the Constitution and laws of the State of Arizona and the United States; and

**WHEREAS**, the Town of Oro Valley is authorized to establish and maintain the Oro Valley Police Department, pursuant to A.R.S. § 9-240 (B)(12); and

**WHEREAS**, the Town of Oro Valley desires to enter into a Grant Agreement with the City of Tucson for the participation and administration of a multi-agency High Intensity Drug Trafficking Area Investigative Task Force for a term effective January 1, 2010 through December 31, 2011; and

**WHEREAS**, it is in the best interest of the Town to enter into the Grant Agreement, attached hereto as Exhibit "A" and incorporated herein by this reference, in order to set forth the terms and conditions to provide for the health, safety and welfare of the residents in the Town of Oro Valley.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Town of Oro Valley, Arizona, that**:**

1. The Grant Agreement, attached hereto as Exhibit "A", between the Town of Oro Valley and the City of Tucson to participate in the High Intensity Drug Trafficking Area (HIDTA) Grant Agreement allowing for one (1) officer to be assigned to the Pima County HIDTA Investigative Task Force is hereby authorized and approved.

2. The Mayor, Chief of Police and other administrative officials are hereby authorized to take such steps as necessary to execute and implement the terms of the Grant Agreement.

**PASSED AND ADOPTED** by the Mayor and Council of the Town of Oro Valley, Arizona, this 20th day of October, 2010.

**TOWN OF ORO VALLEY, ARIZONA**

_____
Satish I. Hiremath, Mayor

**ATTEST:**

_____
Kathryn E. Cuvelier, Town Clerk

_____
Date

**APPROVED AS TO FORM:**

_____
Tobin Rosen, Town Attorney

_____
Date

# EXHIBIT “A”

# CITY OF TUCSON
# HIGH INTENSITY DRUG TRAFFICKING AREA (HIDTA)
# GRANT AGREEMENT

COT Grant Number ***HT20-10-3010***

This Grant Agreement is made this 1ST day of January 2010 by and between the CITY OF TUCSON hereinafter called "CITY" and CITY OF ORO VALLEY, through **Oro Valley Police Department** hereinafter called "GRANTEE". The CITY enters into this Agreement pursuant to its authority under the provisions of A.R.S. § 11-951, et seq., and the City of Tucson's Resolution number 21460, having satisfied itself as to the qualification of GRANTEE;

NOW, THEREFORE, it is agreed between the parties as follows:

1. This Agreement will commence on January 1, 2010 and terminate on December 31, 2011. This Agreement expires at the end of the award period unless prior written approval for an extension has been obtained from the CITY. A request for extension must be received by the CITY sixty (60) days prior to the end of the award period. The CITY may approve an extension that further the goals and objectives of the program and shall determine the length of any extension within ONDCP guidelines.

2. The GRANTEE agrees that grant funds will be used for the **Pima County HIDTA Investigative Task Force.**

3. The CITY will monitor the performance of the GRANTEE against goals and performance standards outlined in the grant application. Sub-standard performance as determined by the CITY will constitute non-compliance with this Agreement. The GRANTEE shall operate in a manner consistent with and in compliance with the provisions and stipulations of the approved grant application and this Agreement. If the CITY finds non-compliance, the GRANTEE will receive a written notice, which identifies the area of non-compliance, and the appropriate corrective action to be taken. If the GRANTEE does not respond within thirty calendar days to this notice, and does not provide sufficient information concerning the steps, which are being taken to correct the problem, the CITY may suspend funding or permanently terminate this Agreement or revoke the grant. Any deviation or failure to comply with the purpose and/or conditions of this Agreement without prior written CITY approval may constitute sufficient reason for the CITY to terminate this Agreement, revoke the grant, require the return of all unspent funds, perform an audit of expended funds, and require the return of any previously spent funds which are deemed to have been spent in violation of the purpose or conditions of this grant.

4. This Agreement may be modified only by a written amendment signed by the parties. Any notice given pursuant to this Agreement shall be in writing and shall be considered to have been given when actually received by the following addressee or their agents or employees:

   A. If to the City of Tucson:

City of Tucson Police Department
HIDTA FIDUCIARY SECTION
270 S. Stone
Tucson, Arizona 85701
Attn: HIDTA Financial Analyst

B. If to the GRANTEE:

**Oro Valley Police Department**
**11000 N. La Canada Dr**
**Oro Valley, AZ 85737**
**Attn: Chief of Police Daniel Sharp**

5. The GRANTEE may make budget adjustments only after written notification with signature approval from Arizona HIDTA Director is provided to the CITY. A grant adjustment notice (GAN) will be issued to the GRANTEE notifying the GRANTEE of the approval. Adjustments or reprogramming of the grantee's budget in an initiative or any reprogramming between initiative and/or agencies; in any amount, require the approval of the Board, the AZ HIDTA Director, and/or the Office of National Drug Control Policy (ONDCP) in accordance with HIDTA Program Policy and Budget Guidance.

| **APPROVED LINE ITEM PROGRAM BUDGET** | |
|---|---|
| Personnel: | |
| Salaries | **$54,670.00** |
| Fringe Benefits | **$25,606.00** |
| Overtime | **$10,000.00** |
| Travel | **$ .00** |
| Facilities | **$ .00** |
| Services | **$ .00** |
| Operating Expenses: | |
| Supplies | **$ .00** |
| Other | **$ .00** |
| Equipment (listed below) | **$ .00** |
| **TOTAL** | **$90,276.00** |
| See attached for budget detail. | |

6. It is agreed and understood that the total to be paid by the CITY under this Agreement shall not exceed **$90,276.00** in Federal funds awarded to the CITY by the Office of National Drug Control Policy. It is agreed and understood that funds will be used to support and enhance activities in accordance with the approved HIDTA Initiative.

7. The GRANTEE understands that financial reports are required for reimbursement of expenditures.

8. Every payment obligation of the CITY under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the CITY. No liability shall accrue to the CITY in the event this provision is exercised, and the CITY shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

9. The GRANTEE understands that prior to the expenditure of confidential funds, an authorized official of the GRANTEE shall sign a certification indicating that he or she has read, understands, and agrees to abide by all of the conditions pertaining to confidential fund expenditures as set forth in *ONDCP Financial and Administrative Guide for Cooperative Agreements Guidelines and Exhibit B.*

10. The GRANTEE certifies that it will comply with *OMB Circular A-102 Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments* as codified in 28 CFR Part 66 and *OMB Circular A-87 Cost Principles for State, Local and Indian Tribal Governments* and HIDTA Program Policy & Budget Guidance.
    **Link:** *OMB Circulars* http://www.whitehouse.gov/omb/circulars/index.html

11. The GRANTEE agrees to account for interest earned on Federal grant funds and shall remit interest earned in excess of the allowable amount as indicated in the *ONDCP Financial and Administrative Guide for Cooperative Agreements* and all unexpended grant funds to the CITY within 30 days after receipt of a written request from the CITY. The GRANTEE agrees to expend all encumbered funds within 90 days of expiration of this award.

12. The GRANTEE agrees to retain all books, account reports, files and other records, (paper and/or electronic) relating to this Agreement and the performance of this Agreement for no less than five (5) years from the last financial report submitted to the CITY. All such documents shall be subject to inspection and audit at reasonable times.

13. For the purpose of this grant, a capital expenditure is $1,000 or above. If the GRANTEE'S policy defines a capital expenditure as less than $1,000, the GRANTEE will use its own policy.

    The GRANTEE shall maintain a tracking system, in accordance with ONDCP HIDTA Program Policy & Budget Guidance Section 8.04(A), to account for all HIDTA purchased equipment, vehicles, and other items valued at $ 1000 or more at the time of purchase. This also includes lower cost, high-risk items electronic devices and software, such as but not limited to digital cameras, palm pilots, and GPS devices.

    The GRANTEE agrees to abide by Section 8.06 that use HIDTA funds to purchase equipment must maintain a current inventory of HIDTA-purchased equipment and must provide that inventory to the HIDTA Director or an ONDCP employee, and/or the CITY upon request. A 100-percent physical inventory of HIDTA-purchased equipment must be conducted at least every two years.

14. The GRANTEE agrees to follow equipment disposition policies outlined in *OMB Circular A-102 Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments* as codified in 28 CFR, Part 66.32 (e) (1-3) when the equipment is no longer needed for the grant program. When no longer needed for the original program, the equipment may be used in other activities supported by the Office of National Drug Control Policy.
    **Link:** *OMB Circulars* http://www.whitehouse.gov/omb/circulars/index.html

    The GRANTEE agrees the purchasing agency shall comply with ONDCP HIDTA Program Policy & Budget Guidance Section 8.07 in determining the end of the useful life and disposition of HIDTA purchased equipment. Purchasing agencies must retain documentation of the disposition and provide to the HIDTA Director and the CITY.

15. The GRANTEE agrees to keep time and attendance sheets signed by the employee and supervisory official having first hand knowledge of the work performed by the grant funded employees. The GRANTEE agrees to track overtime expenses in accordance with ONDCP HIDTA Program Policy & Budget Guidance.

16. The GRANTEE will comply with the audit requirements of *OMB Circular A-133 Audits of States, Local Governments and Non-Profit Organizations* and provide the CITY with the audit report and any findings within 90 days of receipt of such finding. If the report contains no findings, the GRANTEE must provide notification that the audit was completed.
    **Link:** *OMB Circular A-133* http://www.whitehouse.gov/omb/circulars/index.html

17. The GRANTEE agrees that it will submit financial reports and supporting documentation to the CITY through the AZ HIDTA Finance Manager on forms/format provided by the CITY, documenting the activities supported by these grant funds. In the event reports are not received on or before the indicated date(s), funding will be suspended until such time as delinquent report(s) are received. These reports are submitted according to the following schedule:

| **Report Period Month of:** | **Due Date:** | **Report Period Month of:** | **Due Date:** |
|---|---|---|---|
| January 1 - 31 | February 25 | July 1 – 31 | August 25 |
| February 1 - 29 | March 25 | August 1 - 31 | September 25 |
| March 1 – 30 | April 25 | September 1 – 30 | October 25 |
| October 1 - 31 | November 25 | April 1 - 30 | May 25 |
| November 1 - 30 | December 25 | May 1 - 31 | June 25 |
| December 1 - 31 | January 25 | June 1 - 30 | July 25 |

More frequent reports may be required for GRANTEES who are considered high risk.

18. All goods and services purchased with grant funds must be received by the GRANTEE within 60 days of the expiration of this award.

19. The GRANTEE agrees to obtain ONDCP approval through the Arizona HIDTA Director for all sole-source procurements in excess of $100,000, and provide written notification to the CITY, as indicated in 21 CFR Part 1403.36(d)(4).

20. The GRANTEE agrees to check the U.S. General Service Administration (GSA) Excluded Parties Listing Service as required by Executive Order 12549, as defined in 28 CFR Part 67.510 for individuals, agencies, companies and corporations debarred or suspended from doing business with recipients receiving Federal funds. The GRANTEE agrees not to do business with any individual, agency, company or corporation listed in the Excluded Parties Listing Service.
    **Link:** *Excluded Parties Listing System* http://epls.arnet.gov

21. No funds shall be used to supplant federal, state, county or local funds that would otherwise be made available for such purposes. Supplanting means the deliberate reduction of State or local funds because of the existence of Federal funds.

22. The GRANTEE assigns to the CITY any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services applied by third parties to the GRANTEE in exchange for grant funds provided under this Agreement.

23. The parties agree to use arbitration in the event of disputes in accordance with the provisions of A.R.S. § 12-1501 et seq.

24. The laws of the State of Arizona apply to questions arising under this Agreement and any litigation regarding this Agreement must be maintained in Arizona courts, except as provided in paragraph 25 of this Agreement pertaining to disputes, which are subject to arbitration.

25. The GRANTEE understands that grant funds will not be released until all required reports and reversion of funds from the prior year grant are submitted to the CITY.

26. The GRANTEE (as "Indemnitor") agrees to indemnify, defend and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses, (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are cased by the act, omission, negligence, misconduct, or other fault of the Indeminitor, its officers, officials, agents, employees, or volunteers. If the GRANTEE is a State agency this paragraph does not apply.

27. Unless GRANTEE is a State agency, GRANTEE shall cause its contractor(s) and subcontractors, if any to indemnify defend, save and hold harmless the City of Tucson, any jurisdictions or agency issuing any permits for any work arising out of this Agreement, and their respective directors, officers, officials, agents, and employees (hereinafter referred to as "indemnitee") from and against any and all claims, actions, liabilities, damages, losses or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims" ) for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of GRANTEE'S contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Worker's Compensation Law or arising out of the failure of such contractor to conform to any federal, state, or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligence or willful acts or omissions of the Imdemnitee, be indemnified by such contractor from and against any and all claims. It is agreed that such contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. Insurance requirements for any contractor used by GRANTEE are incorporated herein by this reference and attached to this Agreement as Exhibit "A".

28. If the GRANTEE is a governmental political subdivision, the GRANTEE should, to the extent possible and practical share criminal justice information with other authorized criminal justice agencies. The process control number (PCN) shall be used in accordance with A.R.S. § 41-1750 when sharing data with other criminal justice agencies as electronic data systems are developed or improved.

29. The GRANTEE agrees to comply with the non-discrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended; 42 USC 3789(d); Title VI of the Civil Rights Act of 1964, as amended; Section 504, Rehabilitation Act of 1973, as amended; Subtitle A, Title II of the Americans with Disabilities Act (ADA) (1990); Title IX of the Education Amendments of 1972 and the Department of Justice regulations 28 CFR Part 54; The Age Discrimination Act of 1975; Department of Justice Non-Discrimination Regulations, 28 CFR Part 42, Subparts C, D, E, G and I; Department of Justice regulations on disability discrimination 28 CFR Part 35; all applicable state laws of A.R.S. § 41-1463; and Executive Orders 1999-4 and 2000-4. These laws prohibit discrimination on the basis of race, color, religion, sex and national origin including Limited English Proficiency (LEP) in the delivery of service. In the event that a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing against the GRANTEE, the GRANTEE will forward a copy of the findings to the Office for Civil Rights, Office of Justice Programs and the CITY.

30. The GRANTEE agrees to formulate and keep on file an Equal Employment Opportunity Plan (EEOP) (if grantee is required pursuant to 28 CFR 42.302). The GRANTEE certifies that they have forwarded to the Office for Civil Rights, Office of Justice Programs the EEOP, or certifications that they have prepared and have on file an EEOP, or that they are exempt from EEOP requirements. Failure to comply may result in suspension of the receipt of grant funds. Copies of all submissions such as certifications to or correspondence with the Office for Civil Rights, Office of Justice Programs regarding this requirement must be provided to the CITY by the GRANTEE.

31. The GRANTEE certifies to comply with the Drug-Free Workplace Act of 1988, and implemented in 28 CFR Part 67, Subpart F, for grantees, as defined in 28 CFR, Part 67 Sections 67.615 and 67.620.

32. The GRANTEE agrees to complete and keep on file, as appropriate, Immigration and Naturalization Form (I-9). This form is to be used by recipients to verify that persons are eligible to work in the United States. Additionally the GRANTEE ensures compliance with Executive Order 2005-30 federal immigration laws by state employers and contractors.

33. The GRANTEE agrees to notify the Arizona HIDTA Director and provide written notification to the CITY within ten (10) days in the event that the project official is replaced during the award period.

34. No rights or interest in this Agreement shall be assigned by GRANTEE without prior written approval of the CITY.

35. The GRANTEE agrees that no funds provided, or personnel employed under this Agreement shall be in any way or to any extent engaged in conduct of political activities in violation of U.S.C. Title 5, Part II, Chapter 15, Section 1502.

36. The GRANTEE certifies that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement.

37. **T**he Grantee certifies that no federal funds will be paid, by or on behalf of, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into any cooperative agreement, and for the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement. If any funds other than Federal funds are paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal award, grant loan, or cooperative agreement, the GRANTEE will complete and submit to the CITY Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions

38. This Agreement is subject to cancellation pursuant to the provision of A.R.S. § 38-511.

39. This Agreement may be cancelled at the CITY's discretion if not returned with authorized signatures to the CITY within 90 days of commencement of the award.

40. If any provision of this Agreement is held invalid the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall be in full force and effect.

41. Pursuant to A.R.S. § 35-391.06 and § 35-393.06, the GRANTEE hereby warrant, and represent that they do not have, and its subcontractors do not have, and during the term hereof will not have a scrutinized business operation, as defined in A.R.S. § 35-391 and § 35-393, in either Sudan or Iran.

IN WITNESS WHEREOF, the parties have made and executed the Agreement the day and year first above written.

**FOR GRANTEE**:

Chief of Police Date

Printed Name and Title

Note: If applicable, the Agreement must be approved by the appropriate county supervisory board or municipal council and appropriate local counsel (i.e. county or city attorney). Furthermore, if applicable, resolutions and meeting minutes must be forwarded to the CITY with the signed Agreement.

**Approved as to form and authority to enter into Agreement:**

Legal counsel for GRANTEE Date

Printed Name and Title

**Statutory or other legal authority to enter into Agreement:**

Appropriate A.R.S., ordinance, or charter reference

**FOR CITY OF TUCSON:**

Roberto A. Villaseñor, Chief of Police Date
City of Tucson Police Department

Lisa Judge, Principal Assistant City Attorney Date
City of Tucson Police Department

CITY OF TUCSON
GRANT AGREEMENT

**Insurance Requirements**
**Exhibit "A"**

***Insurance Requirements*** **for Governmental Parties to a Grant Agreement:**

None.

***Insurance Requirements*** **for Any Contractors Used by a Party to the Grant Agreement:**

*(Note: this applies only to Contractors used by a governmental entity, not to the governmental entity itself.)* The *insurance requirements* herein are minimum requirements and in no way limit the indemnity covenants contained in the Intergovernmental Agreement. The City of Tucson in no way warrants that the minimum limits contained herein are sufficient to protect the governmental entity or Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, his agents, representatives, employees or subcontractors, and Contractor and the governmental entity are free to purchase additional insurance.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage with limits of liability not less than those stated below.

1. **Commercial General Liability – Occurrence Form**
   Policy shall include bodily injury, property damage, personal injury and broad form contractual liability.

| | |
|---|---|
| • General Aggregate | $2,000,000 |
| • Products – Completed Operations Aggregate | $1,000,000 |
| • Personal and Advertising Injury | $1,000,000 |
| • Blanket Contractual Liability – Written and Oral | $1,000,000 |
| • Fire Legal Liability | $50,000 |
| • Each Occurrence | $1,000,000 |

   a. The policy shall be endorsed to include the following additional insured language: ***"The City of Tucson, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor".***

      *(Note that the other governmental entity(ies) is/are also required to be additional insured(s) and they should supply the Contractor with their own list of persons to be insured.)*

   b. Policy shall contain a waiver of subrogation against the City of Tucson, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

2. **Automobile Liability**
   Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

   Combined Single Limit (CSL) $1,000,000

   a. The policy shall be endorsed to include the following additional insured language: ***"The City of Tucson, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor".***

      *(Note that the other governmental entity(ies) is/are also required to be additional insured(s) and they should supply the Contractor with their own list of persons to be insured.)*

3. **Worker's Compensation and Employers' Liability**

| | |
|---|---|
| Workers' Compensation | Statutory |
| Employers' Liability | |
| Each Accident | $500,000 |
| Disease – Each Employee | $500,000 |
| Disease – Policy Limit | $1,000,000 |

   a. Policy shall contain a waiver of subrogation against the City of Tucson, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

   b. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

B. **<u>ADDITIONAL INSURANCE REQUIREMENTS</u>:** The policies are to contain, or be endorsed to contain, the following provisions:

1. The City of Tucson, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees *and the other governmental entity* shall be additional insureds to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by the Contract.
2. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.
3. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of its Contract with the other governmental entity(ies) party to the Grant Agreement.

C. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Contract shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days prior written notice has been given the City of Tucson. Such notice shall be sent directly to the GRANTEE and shall be sent by certified mail, return receipt requested.

D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with duly licensed or approved non-admitted insurers in the State of Arizona with an "A.M. Best" rating of not less than A- VII. The City of Tucson in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

E. **VERIFICATION OF COVERAGE:** Contractor shall furnish the GRANTEE with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to the GRANTEE. The City of Tucson's project/contract number and project description are to be noted on the certificate of insurance. The City of Tucson reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time**. DO NOT SEND CERTIFICATES OF INSURANCE TO THE CITY OF TUCSON'S RISK MANAGEMENT SECTION.**

F. **SUBCONTRACTORS:** Contractor's certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall furnish to the county or local government agency responsible separate certificates for each subcontractor. All coverage's for subcontractors shall be subject to the minimum requirements identified above.

G. **APPROVAL:** Any modification or variation from the *insurance requirements* must have prior approval from the City of Tucson, Risk Management Section, whose decision shall be final. Such action will not require a formal contract amendment, but may be made by administrative action.

H. **EXCEPTIONS:** In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are a City of Tucson agency, board, commission, or university then none of the above shall apply.

CITY OF TUCSON
HIGH INTENSITY DRUG TRAFFICKING AREA (HIDTA)
GRANT AGREEMENT

**Confidential Funds Certification**
**Exhibit "B"**

## CONFIDENTIAL FUNDS CERTIFICATION

This is to certify that I have read, understand, and agree to abide by all of the conditions for confidential funds as set forth in the effective edition of the Office of National Drug Control Policy Financial and Administrative Guide.

Grant Number: HT20-10-3010

Date: _____ Signature: _____
Authorized Official

**PROCEDURES**
Each project agency authorized to disburse confidential funds must develop and follow internal procedures, which incorporate the following elements:

**Deviations from these elements must receive prior approval of the ONDCP.**

1. Imprest Fund. The funds authorized will be established in an imprest fund, which is controlled by a bonded cashier.

2. Advance of Funds: The supervisor of the unit to which the imprest funds is assigned must authorize all advances of funds for the P/I. Such authorization must specify the information be received, the amount of expenditures, and assume name of informant.

3. Informant Files: Informant files are confidential files of the true names, assumed names, and signature of all informants to whom payments of confidential expenditures have been made. To the extent possible, pictures and/or fingerprints of the informant payee should also be maintained. Refer to Informant Files "Documentation" (2) for a list of required documents for the informant files.

4. Cash Receipts.
   a. The cashier shall receive from the agent or officer authorized to make a confidential payment, receipt for cash advanced to him/her for such purposes.

   b. The agent or officer shall receive from the informant payee a receipt for cash paid to him/her.

5. Receipts for Purchase of Information. An Informant Payee Receipt shall identify the exact amount paid to and received by the informant payee on the date executed. Cumulative or anticipatory receipts are not permitted. Once the receipt has been completed no alteration is allowed. The agent shall prepare an Informant Payee Receipt containing the following information:

   a. The jurisdiction initiating the payment.
   b. A description of the information/evidence received.
   c. The amount of payment, both in numeral and word form.
   d. The date on which the payment was made.
   e. The signature of the informant payee.
   f. The signature of the case agent or officer making payment.
   g. The signature of at least one other officer witnessing the payment.
   h. The signature of the first-line supervisor authorizing and certifying the payment.

6. Review and Certification. The signed Informant Payee Receipt with a memorandum detailing the information received shall be forwarded to the agent or officer in charge. The agent or officer in charge shall compare the signatures. He/she shall also evaluate the information received in relation to the expense incurred, and add his/her evaluation remarks to the report of the agent or officer who made the expenditure from the imprest funds. The certification will be witnessed by the agent or officer in charge on the basis of the report and Informant Payee's Receipt.

7. Reporting of Funds. Each project shall prepare a reconciliation report on the imprest funds on a quarterly basis. Information to be included in the reconciliation report will be the assumed name of the informant payee, the amount received, the nature of the information given, and to what extent this information contributed to the investigation. Recipients/subrecipients shall retain the reconciliation report in their files and shall be available for review unless the State agency requests that the report be submitted to them on a quarterly basis.

8. Record and Audit Provisions. Each project and member agency must maintain specific records of each confidential fund transaction. At a minimum, these records must consist of all documentation concerning the request for funds, processing (to include the review and approve/disapprove), modifications, closure or impact material, and receipts and/or other documentation necessary to justify and track all expenditures. Refer to Informant Files Documentation (2) for a list of documents, which should be in an informant's file. In projects where funds are used for confidential expenditures, it will be understood that all of the above records, except the true name of the informant, are subject to the record and audit provision of grantor agency legislation.

## INFORMANT FILES

1. Security. A separate file should be established for each informant for accounting purposes. Informant files should be kept in a separate and secure storage facility, segregated from any other files, and under the exclusive control of the supervisor or an employee designated by him/her. The facility should be locked at all times when unattended. Access to these files should be limited to those employees who have a necessary legitimate need. An informant file should not leave the immediate area except for review by a management official or the handling agent, and should be returned prior to the close of business hours. Sign-out logs should be kept indicating the date, informant number, time in and out, and the signature of the person reviewing the file.

2. Documentation. Each file should include the following information:

   a. Informant Payment Record - kept on top of the file. This record provides a summary of informant payments.
   b. Informant Establishment Record - including complete identifying and location data, plus any other documents connected with the informant's establishment.
   c. Current photograph and fingerprint card (or FBI/State Criminal Identification Number).
   d. Agreement with cooperating individual.
   e. Receipt for P/I.
   f. Copies of all debriefing reports (except for the Headquarters case file).
   g. Copies of case initiation reports bearing on the utilization of the informant (except for the Headquarters case file).
   h. Copies of statements signed by the informant (unsigned copies will be placed in appropriate investigative files).
   i. Any administrative correspondence pertaining to the informant, including documentation of any representations made on his behalf or any other nonmonetary considerations furnished.
   j. Any deactivation report or declaration of any unsatisfactory informant.

## INFORMANT MANAGEMENT AND UTILIZATION

All persons who will be utilized as informants should be established as such. The specific procedures required in establishing a person as an informant may vary from jurisdiction to jurisdiction but, at a minimum, should include the following:

1. Assignment of an informant code name to protect the informant's identity.

2. An informant code book controlled by the supervisor or his/her designee containing:
   a. Informant's code number.
   b. Type of information (i.e. informant, defendant/informant, restricted use/informant).
   c. Informant's true name.
   d. Name of establishing law enforcement officer.
   e. Date the establishment is approved.
   f. Date of deactivation.

3. Establish each informant file in accordance with Informant File Documentation (2).

4. For each informant in an active status, the agent should review the informant file on a quarterly basis to assure it contains all relevant and current information. Where a MATERIAL face that was earlier reported on the Establishment Record is no longer correct (e.g. a change in criminal status, means of locating him/her, etc.), a supplemental establishing report should be submitted with the correct entry.

5. All informants being established should be checked in all available criminal indices. If verified FBI number is available, request a copy of the criminal records from the FBI. Where a verified FBI number is not available, the informant should be fingerprinted with a copy sent to the FBI and appropriate State authorities for analysis. The informant may be utilized on a provisional basis while awaiting a response from the FBI.

**PAYMENTS TO INFORMANTS**

1. Any person who is to receive payments charged against PE/PI funds should be established as an informant. This includes a person who may otherwise be categorized as sources of information or informants under the control of another agency. The amount of payment should be commensurate with the value of services and/or information provided and should be based on the following factors:

   a. The level of the targeted individual, organization or operation.
   b. The amount of the actual or potential seizure.
   c. The significance of the contribution made by the informant to the desired objectives.

2. There are various circumstances in which payments to informants may be made.

   a. Payments for Information and/or Active Participation. When an informant assists in developing an investigation, either through supplying information or actively participating in it, he/she may be paid for his/her service either in a lump sum or in staggered payments. Payments for information leading to a seizure, with no defendants, should be held to a minimum.

b. Payment for Informant Protection. When an informant needs protection, law enforcement agencies may absorb the expenses of relocation. These expenses may include travel for the informant and his/her immediate family, movement and/or storage of household goods, and living expense at the new location for a specific period of time (not to exceed 6 months). Payments should not exceed the amounts authorized by law enforcement employees for these activities.

c. Payments to Informants of Another Agency. To use or pay another agency's informant, he/she should be established as an informant. These payments should not be a duplication of a payment from another agency; however, sharing a payment is acceptable.

3. Documentation of payments to informants is critical and should be accomplished on a Informant Payee Receipt. Payment should be made and witnessed by two law enforcement officers and authorized payment amounts should be established and reviewed by at least the first line supervisory level. In unusual circumstances, a non-officer employee or an officer of another law enforcement agency may serve as witness. In all instances, the original signed receipt must be submitted to the project director for review and record keeping.

**ACCOUNTING AND CONTROL PROCEDURES**

Special accounting and control procedures should govern the use and handling of confidential expenditures, as described below:

1. It is important that expenditures which conceptually should be charged to PE/PI/PS are so charged. It is only in this manner that these funds may be properly managed at all levels, and accurate forecasts of projected needs be made.

2. Each law enforcement entity should apportion its PE/PI/PS allowance throughout its jurisdiction and delegate authority to approve PE/PI/PS expenditures to those offices, as it deems appropriate.

3. Headquarters management should establish guidelines authorizing offices to spend up to a predetermined limit of their total allowance on any buy or investigation.

4. In exercising his/her authority to approve these expenditures, the supervisor should consider:
   a. The significance of the investigation.
   b. The need for this expenditure to further the investigation.
   c. Anticipated expenditures in other investigations.

Funds for PE/PI/PS expenditures should be advanced to the officer for a specific purpose. If they are not expended for that purpose, they should be returned to the cashier. They should not be used for another purpose without first returning them and repeating the authorization and advance process based on the new purpose.

5. Funds for PE/PI/PS expenditure should be advanced to the officer on suitable receipt form. Informant Payee Receipt or a voucher for P/E should be completed to document funds used in the purchase of evidence or funds paid or advanced to an informant.

6. For security purposes there should be a 48-hour limit on the amount of time funds advanced for PE/PI/PS expenditure may be held outstanding. If it becomes apparent at any point within the 48-hour period that the expenditure will not materialize, the funds should be returned to the cashier as soon as possible. An extension of the 48-hour limit may be granted by the level of management that approved the advance. Factors to consider in granting such an extension are:
   a. The amount of funds involved.
   b. The degree of security under which the funds are being held.
   c. How long an extension is required.
   d. The significance of the expenditure.

   Such extensions should be limited to 48 hours. Beyond this, the funds should be returned and readvanced, if necessary. Regardless of circumstances, within 48 hours of the advance, the cashier should be presented with either the unexpended funds, an executed Informant Payee Receipt or purchase of evidence or written notification by management that an extension has been granted.

7. P/S expenditures, when not endangering the safety of the officer or informant, need to be supported by canceled tickets, receipts, lease agreements, etc. If not available, the supervisor, or his immediate subordinate, must certify that the expenditures were necessary and justify why supporting documents were not obtained.

**Item #: 1. E.**

**TC Regular Session**
**Date: 10/20/2010**

| | |
|---|---|
| **Requested by:** | Jose Rodriguez, Engineering Division Manager |
| **Submitted By:** | Jose Rodriguez, Development Infrastructure Services |
| **Department:** | Development Infrastructure Services |

## Information

**SUBJECT:**

**Resolution No. (R)10-71** Authorizing and Approving an Intergovernmental Agreement between the Town of Oro Valley and the Regional Transportation Authority of Pima County for Calle Concordia Bike Lanes From Calle Buena Vista to Calle Loma Linda

**SUMMARY:**

An Intergovernmental Agreement (IGA) for the Calle Concordia Bike project was approved by Town Council at the September 1, 2010 Regular Session and was placed on the RTA Board agenda for September 30, 2010.

Prior to RTA Board approval, RTA staff informed the Town that RTA funds may not be used for “overlays." The IGA was subsequently pulled from the RTA Board agenda.

The attached Resolution, IGA, and Exhibit have been modified from those approved by Town Council on September 1, 2010. Staff has deleted the word “overlay” from all documents, and the total funding amount requested was reduced by $30,000.00 to account for the overlay work as shown in the attached Exhibit.

The attached IGA is required between the RTA and the Town in order to release RTA funds to the Town.

**DISCUSSION:**

The project consists of adding bike lanes along both sides of Calle Concordia from Calle Buena Vista to Calle Loma Linda. Calle Concordia is currently a heavily used route for bicyclists seeking an alternative to riding on Oracle Road. The bike lanes will fill in the “missing link” of bike lanes for Calle Concordia. It has been identified by the Tucson-Pima County Bicycle Advisory Committee (TPCBAC) as an important gap to be closed in the regional bikeway system.

**FISCAL IMPACT:**

$30,000 from the Highway Fund will be required to replace the funding for the asphalt overlay for Calle Concordia.

**CONCLUSION/RECOMMENDATION:**

The Town Engineer recommends approval of this resolution.

**SUGGESTED MOTION:**

The Town may wish to consider one of the following motions:

I move to (approve or deny) Resolution No. (R)10 - 71 Authorizing and Approving an Intergovernmental Agreement between the Town of Oro Valley and the Regional Transportation Authority of Pima County for Calle Concordia Bike Lanes From Calle Buena Vista to Calle Loma Linda.

## Attachments

Link: Resolution 71

Link: IGA
Link: Exhibit
Link: Map

**RESOLUTION NO. (R) 10-71**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, AUTHORIZING AND APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF ORO VALLEY AND THE REGIONAL TRANSPORTATION AUTHORITY OF PIMA COUNTY FOR CALLE CONCORDIA BIKE LANES FROM CALLE BUENA VISTA TO CALLE LOMA LINDA**

**WHEREAS**, the Town of Oro Valley is a political subdivision of the State of Arizona vested with all associated rights, privileges and benefits and is entitled to the immunities and exemptions granted municipalities and political subdivisions under the Constitution and laws of the State of Arizona and the United States; and

**WHEREAS**, pursuant to A.R.S. § 11-951, *et seq*., the Regional Transportation Authority of Pima County ("Authority") and the Town of Oro Valley are authorized to enter into intergovernmental agreements for joint and cooperative action; and

**WHEREAS**, pursuant to A.R.S. § 9-276, the Town is authorized to lay out, maintain, control and manage public roads within its jurisdictional boundaries; and

**WHEREAS**, the Town desires to enter into an intergovernmental agreement with the Authority to set forth the responsibilities for the construction of Calle Concordia bike lanes from Calle Buena Vista to Calle Loma Linda; and

**WHEREAS,** it is in the best interest of the Town to enter into the Intergovernmental Agreement attached hereto as Exhibit "A" and incorporated herein by this reference, with the Regional Transportation Authority of Pima County in order to set forth the terms and conditions for the aforementioned construction.

**THEREFORE, BE IT RESOLVED, by the Mayor and Town Council of the Town of Oro Valley, Arizona that:**

1. The Intergovernmental Agreement, attached hereto as Exhibit "A" and incorporated herein by this reference, between the Town of Oro Valley and the Regional Transportation Authority of Pima County for the construction of Calle Concordia bike lanes from Calle Buena Vista to Calle Loma Linda is hereby authorized and approved.

2. The Mayor and any other administrative officials are hereby authorized to take such steps necessary to execute and implement the terms of the Agreement.

**PASSED AND ADOPTED** by the Mayor and Town Council of the Town of Oro Valley, Arizona this 20th day of October, 2010.

**TOWN OF ORO VALLEY**

_____
Satish I. Hiremath, Mayor

**ATTEST:**

_____
Kathryn E. Cuvelier, Town Clerk

_____
Date

**APPROVED AS TO FORM:**

_____
Tobin Rosen, Town Attorney

_____
Date

# EXHIBIT “A”

**INTERGOVERNMENTAL TRANSPORTATION FUNDING AGREEMENT**
**BETWEEN**
**THE REGIONAL TRANSPORTATION AUTHORITY OF PIMA COUNTY**
**AND**
**TOWN OF ORO VALLEY**
**FOR**
**CALLE CONCORDIA BIKE LANES**
**FROM CALLE BUENA VISTA TO CALLE LOMA LINDA**

This Agreement (hereinafter "the Agreement") is entered into by and between the Regional Transportation Authority of Pima County ("RTA" or "the Authority"), a special taxing district formed pursuant to Title 48 Chapter 30 of the Arizona Revised Statutes (A.R.S.), and Town of Oro Valley, a body politic and corporate of the State of Arizona ("the Lead Agency") pursuant to A.R.S. § 11-952.

## RECITALS

A. A.R.S.§ 48-5301, et seq., authorizes the Authority to act as a regional taxing authority for the purpose of funding multi-model transportation operations and improvements identified in the Regional Transportation Plan ("the Plan") approved by the voters at the special election held in Pima County, Arizona, on May 16, 2006.

B. The governing board of the Authority is composed of representatives of each member of the regional council of governments in accordance with A.R.S. § 48-5303.

C. Pursuant to A.R.S. § 48-5304 (12), the governing board of the Authority has sole authority to implement the elements of the Plan.

D. Pursuant to A.R.S. § 48-5304 (13), the governing board of the Authority shall coordinate the implementation of the Plan among the local jurisdictions.

E. A Regional Transportation Fund was established by the Arizona Legislature per A.R.S. § 48-5307 to be the repository for those funds collected for the purpose of funding the transportation projects identified in the Plan.

F. The Authority is authorized by A.R.S. §§ 48-5304 (16) and 48-5308 to administer and distribute the regional transportation funds to the members of the Authority and to sell bonds in furtherance of that purpose to fund those projects or programs identified in the Plan.

G. The Lead Agency is authorized by A.R.S. § 9-276 to lay out, maintain, control and manage public roads within the Lead Agency's jurisdictional boundaries.

H. The Lead Agency may have a legal contract with one or more jurisdictions within Pima County empowering the Lead Agency to perform roadway and other improvements outside the Lead Agency's jurisdictional boundaries.

I. The Lead Agency and the Authority wish to cooperate in constructing bike lanes on Calle Concordia from Calle Buena Vista to Calle Loma Linda ("the Project").

J. The Project is one of the transportation projects included in the Plan or is eligible for funding as part of a categorical program included in the Plan.

K. The Authority intends to fund the Project under the terms and conditions contained in this Agreement and have entered into this Agreement for that purpose.

L. It is the policy of the Authority to require that a lead agency be identified and an intergovernmental agreement (IGA) be approved and entered into by the Authority and the lead agency before requests for funding reimbursement or payment can be processed by the Authority.

M. Town of Oro Valley has been identified as the Lead Agency for the Project and will be responsible for all aspects of project implementation including, but not limited to, planning, project management, risk management, design, right of way acquisition and construction, advertisement, award, execution and administration of the design and construction contracts for the Project.

N. The RTA's Administrative Code will control all payments and other procedures unless otherwise specified herein.

O. The Authority and the Lead Agency may contract for services and enter into agreements with one another for joint and cooperative action pursuant to A.R.S. § 11-951, et seq.

NOW, THEREFORE**,** the Town of Oro Valley and Authority, pursuant to the above and in consideration of the matters and things set forth herein, do mutually agree as follows:

## AGREEMENT

**1. Purpose.** The purpose of this Agreement is to set forth the responsibilities of the parties for the design, construction, maintenance and operation of the Project and to address the legal and administrative matters among the parties.

**2. Project.** The Project consists of widening Calle Concordia from Calle Buena Vista to Calla Loma Linda to accommodate bike lanes, as more fully depicted in the attached Exhibit A, including the following:

a) Detailed project scope and schedule.
b) Project budget and cost breakdown of items eligible for reimbursement by the Authority including any proposed billing of staff time directly attributable to Project.
c) Total amount of RTA funding allowed for the Project plus a breakdown of any other regional, local, federal or state funding available.
d) Designation of Project phases, if applicable, and any additional related agreements.
e) Estimated construction start date and duration of construction.
f) Projected cost reimbursement timeline.
g) Identification of the Lead Agency's duly authorized representative for signing and submitting payment requests.

**3. Effective Date; Term.** This Agreement shall become effective upon filing a fully executed original with the office of the Pima County Recorder and shall continue in effect until all improvements constructed pursuant to this Agreement are completed, all reimbursement payments to the Lead Agency are concluded, and all warranties applicable to the Project have expired.

**4. Responsibilities of the Lead Agency.**

a. The Lead Agency shall be responsible for the design, construction and/or installation of the Project in accordance with this Agreement and all applicable public roadway, traffic signal, and street lighting design and construction standards. Design Standards are federal, state, county or municipal standards for engineering, traffic, safety or public works facilities design. Examples of Design Standards include the American Association of State Highway and Transportation Officials and Federal Highway Administration standards for highway engineering and construction, the Pima County/City of Tucson Standard Specifications for Public Improvements, the Pima County Roadway Design Manual, October 2002 revision, the Pima County Department of Transportation /City of Tucson Department of Transportation Pavement Marking Design Manual, and Pima County and municipal design guidelines for roadway lane widths and level of drainage protection.

b. If consultants or contractors are employed to perform any portion of the Project, the Lead Agency shall be responsible for the contracts for design and construction of the Project and shall select the consultants and contractors to be used on the Project. The Lead Agency shall immediately provide to the Authority copies of any and all contract documents and related materials upon request by the Authority. The Lead Agency shall retain the usual rights of the owner of a public contract including the authority to approve changes and make payments. However, any changes to the Project which would result in the final project cost deviating, by ten or more percent, from the Authority's budget amount for the Project, must be approved by the Authority in advance of those changes being made, regardless of the fact that the Authority will not be paying for them.

c. The Lead Agency shall be responsible for all traffic management, including public notification, during construction of the Project.

d. The Lead Agency shall operate and maintain the improvements during and after completion of construction.

e. The final cost of the Project shall be that amount necessary to complete the Project including any unanticipated work incorporated into the Project by change orders and amendments executed by the Lead Agency. The Lead Agency shall be responsible for all Project costs in excess of the RTA funds contributed to the Project.

f. The Lead Agency shall exercise its power of eminent domain, if necessary, to acquire property needed for the Project.

g. The Lead Agency will be responsible for assuming all risks associated with the Project except those that are assigned to another agency or jurisdiction that has agreed to that assumption.

h. The Lead Agency shall require its contractors performing any portion of the Project to name the Authority as additional insured and additional indemnitee in all of the Lead Agency's construction contracts for the Project. The Lead Agency shall also require its contractors to name the Authority as an additional beneficiary in any performance and payment related assurances posted for the Project.

i. The Lead Agency shall be responsible for preparing and submitting to the Authority, within the first week of each month or as otherwise specified herein, invoices for payment signed by a duly authorized representative of the Lead Agency and which include sufficient background information documenting payments made to contractors, vendors or any other eligible costs identified in this Agreement or the RTA's Administrative Code. The Lead Agency must retain and certify all vendor receipts, invoices and any related Project records as needed and ensure that they are available for review for a minimum of five (5) years after final payment is made unless otherwise specified herein.

j. The Lead Agency shall be responsible for submitting a status report describing its progress and adherence to the Project scope, schedule and budget with each request for payment.

**5. Responsibilities of Authority.**

a. Upon receipt of authorized payment requests, the Authority shall convey to the Lead Agency RTA funds in the amount specified in Exhibit A on a reimbursement basis unless otherwise specified herein. All payments and reimbursements shall follow the policies outlined in the RTA's Administrative Code.

b. Reimbursements will generally be based on the Project schedules established by the Lead Agency and contained in Exhibit A.

c. The RTA staff will review all payment requests to confirm that the request is for reimbursement of costs incurred by the Lead Agency for the Project. If the Authority determines that additional information is needed, the Lead agency will be notified of the request for additional information within five days of the receipt of the invoice by RTA.

d. Upon approval of the request by RTA, the payment invoice will be processed for payment within ten working days of the invoice submittal.

e. RTA shall provide all necessary cooperation and assistance to its fiscal agent to process all payment requests from the Lead Agency.

**6. Termination**. Either party may terminate this Agreement for material breach of the Agreement by the other party. Prior to any termination under this paragraph, the party allegedly in default shall be given written notice by the other party of the nature of the alleged default. The party said to be in default shall have forty-five days to cure the default. If the default is not cured within that time, the other party may terminate this Agreement. Any such termination shall not relieve either party from liabilities or costs already incurred under this Agreement.

**7. Non-assignment**. Neither party to this Agreement shall assign its rights under this Agreement to any other party without written permission from the other party to this Agreement.

**8. Construction of Agreement.**

a. Entire agreement. This instrument constitutes the entire agreement between the parties pertaining to the subject matter hereof, and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein. Any exhibits to this Agreement are incorporated herein by this reference.

b. Amendment. This Agreement may be modified, amended, altered or changed only by written agreement signed by both parties.

c. Construction and interpretation. All provisions of this Agreement shall be construed to be consistent with the intention of the parties as expressed in the Recitals hereof.

d. Captions and headings. The headings used in this Agreement are for convenience only and are not intended to affect the meaning of any provision of this Agreement.

e. Severability. In the event that any provision of this Agreement or the application thereof is declared invalid or void by statute or judicial decision, such action shall have no effect on other provisions and their application, which can be given effect without the invalid or void provision or application, and to this extent the provisions of the Agreement are severable. In the event that any provision of this Agreement is declared invalid or void, the parties agree to meet promptly upon request of the other party in an attempt to reach an agreement on a substitute provision.

f. This Agreement is subject to the provisions of A.R.S. § 38-511.

**9. Ownership of Improvements**. Ownership and title to all materials, equipment and appurtenances installed pursuant to this Agreement shall automatically vest in the Lead Agency upon completion of the Project.

**10. Legal Jurisdiction**. Nothing in this Agreement shall be construed as either limiting or extending the legal jurisdiction of the Lead Agency or the Authority.

**11. No Joint Venture**. It is not intended by this Agreement to, and nothing contained in this Agreement shall be construed to, create any partnership, joint venture or employment relationship between the parties or create any employer-employee relationship between the Lead Agency and any Authority employees, or between Authority and any Lead Agency employees. Neither party shall be liable for any debts, accounts, obligations nor other liabilities whatsoever

of the other, including (without limitation) the other party's obligation to withhold Social Security and income taxes for itself or any of its employees.

**12. No Third Party Beneficiaries**. Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to this Agreement or affect the legal liability of either party to the Agreement by imposing any standard of care different from the standard of care imposed by law.

**13. Compliance with Laws.** The parties shall comply with all applicable federal, state and local laws, rules, regulations, standards and executive orders, without limitation to those designated within this Agreement.

a. Anti-Discrimination. The provisions of A.R.S. § 41-1463 and Executive Order Number 99-4 issued by the Governor of the State of Arizona are incorporated by this reference as a part of this Agreement.

b. Americans with Disabilities Act. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

c. Workers' Compensation. An employee of either party shall be deemed to be an "employee" of both public agencies, while performing pursuant to this Agreement, for purposes of A.R.S. § 23-1022 and the Arizona Workers' Compensation laws. The primary employer shall be solely liable for any workers' compensation benefits, which may accrue. Each party shall post a notice pursuant to the provisions of A.R.S. § 23-906 in substantially the following form:

> All employees are hereby further notified that they may be required to work under the jurisdiction or control or within the jurisdictional boundaries of another public agency pursuant to an intergovernmental agreement or contract, and under such circumstances they are deemed by the laws of Arizona to be employees of both public agencies for the purposes of workers' compensation.

**14. Waiver.** Waiver by either party of any breach of any term, covenant or condition herein contained shall not be deemed a waiver of any other term, covenant or condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

**15. Force Majeure**. A party shall not be in default under this Agreement if it does not fulfill any of its obligations under this Agreement because it is prevented or delayed in doing so by reason of uncontrollable forces. The term "uncontrollable forces" shall mean, for the purpose of this Agreement, any cause beyond the control of the party affected, including but not limited to failure of facilities, breakage or accident to machinery or transmission facilities, weather conditions, flood, earthquake, lightning, fire, epidemic, war, riot, civil disturbance, sabotage, strike, lockout, labor dispute, boycott, material or energy shortage, casualty loss, acts of God, or action or non-action by governmental bodies in approving or failing to act upon applications for approvals or permits which are not due to the negligence or willful action of the parties, order of any government officer or court (excluding orders promulgated by the parties themselves), and declared local, state or national emergency, which, by exercise of due diligence and foresight,

such party could not reasonably have been expected to avoid. Either party rendered unable to fulfill any obligations by reason of uncontrollable forces shall exercise due diligence to remove such inability with all reasonable dispatch.

**16. Notification**. All notices or demands upon any party to this Agreement shall be in writing, unless other forms are designated elsewhere, and shall be delivered in person or sent by mail addressed as follows:

The Authority:
Mr. Gary G. Hayes, Executive Director
177 N. Church Avenue, #405
Tucson, AZ 85701

Town of Oro Valley:
Craig Civalier, P.E., Town Engineer
11000 N. La Cañada Drive
Oro Valley, Arizona 85737

Town of Oro Valley
Tobin Rosen, Town Attorney
11000 N. La Cañada Drive
Oro Valley, Arizona 85743

**17. Remedies**. Either party may pursue any remedies provided by law for the breach of this Agreement. No right or remedy is intended to be exclusive of any other right or remedy and each shall be cumulative and in addition to any other right or remedy existing at law or in equity or by virtue of this Agreement.

**18. Counterparts**. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterpart may be removed from such counterpart and attached to a single instrument.

In Witness Whereof, Town of Oro Valley has caused this Agreement to be executed by the Town of Oro Valley, upon resolution of the Mayor and Council attested to by the Town Clerk, and the Authority has caused this Agreement to be executed by its Chair of the Board.

**REGIONAL TRANSPORTATION AUTHORITY OF PIMA COUNTY**

_____ _____
Lynne Skelton, Board Chair Date

**Town of Oro Valley:**

_____ _____
Mayor Satish I. Hiremath Date

**ATTEST:**

_____ _____
Kathryn Cuvelier, Town Clerk Date

The foregoing Agreement between Town of Oro Valley and the Authority has been approved as to content and is hereby recommended by the undersigned.

_____ _____

Mr. Gary Hayes, Executive Director

**ATTORNEY CERTIFICATION**

The foregoing Agreement by and between the Regional Transportation Authority of Pima County and Town of Oro Valley has been reviewed pursuant to A.R.S. Section 11-952 by the undersigned who have determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to those parties to the Agreement.

**Regional Transportation Authority of Pima County:**

_____ _____

Thomas Benavidez, Attorney for the Authority Date

**Town of Oro Valley:**

_____ _____

Tobin Rosen, Town Attorney Date

**EXHIBIT A**

**CALLE CONCORDIA BIKE LANES**
**FROM CALLE BUENA VISTA TO CALLE LOMA LINDA**

1. RTA Ballot Project/Program Number: 41

2. RTA Plan Project Element or Program Category:
   **Environmental and Economic Vitality Element**

3. TIP Project Number: **34.10**

4. Project Name: Calle Concordia Bike Lane

5. Type of Work (Pre-design, Design, Right-of-way, Construction, other)
   i. Pre-Design _____
   ii. Design ____X___
   iii. Right-of-Way _____
   iv. Construction ___X____
   v. Other _____

6. Project Manager for Status Reports (Include Contact Information):
   **Jose N. Rodriguez, PE, Engineering Division Manager** – Town of Oro Valley
   Office: 229-4872 Cell: 940-1937 E-Mail: jrodriguez@orovalleyaz.gov

7. Authorized representative for signing and submitting payment requests (Include Contact Information)
   **Jose N. Rodriguez, PE, Engineering Division Manager** – Town of Oro Valley
   Office: 229-4872 Cell: 940-1937 E-Mail: jrodriguez@orovalleyaz.gov

   **Lynn Garcia, Administrator Coordinator** – Town of Oro Valley
   Office: 229-4875 E-Mail: lgarcia@orovalleyaz.gov

8. Map of Project Limits and Municipal Boundaries: **Attached**

9. Narrative description of scope of Project, what improvements are included and the intent of the Project (Discuss any problems and how Project addresses same).

   Project Summary for Calle Concordia Bike Lanes: This project consists of widening Calle Concordia to accommodate bike lanes on both sides. Calle Concordia is currently a heavily used route for bicyclists seeking an alternative to riding on Oracle Road.

Furthermore, this project addresses the "missing link" in the bike lanes for Calle Concordia. It has been identified by the Tucson-Pima County Bicycle Advisory Committee (TPCBAC) as an important gap to be closed in the regional bikeway system.

The estimated construction start date: March 1, 2011
The estimated construction completion date: April 30, 2011

10. Total maximum amount of Authority funding allowed for the Project or Project component under this Agreement. **$120,000**

11. Total Project cost and breakdown of any other regional, local, federal and/or state funding, if applicable, to meet that cost.

    RTA funds $120,000_____
    Local Funds (please specify) _____
    Regional Funds (STP, 12%) _____
    Other (please specify) _____

12. Detailed Project budget and cost breakdown identifying total cost of eligible items sought for reimbursement from the Authority, including any proposed billing of staff time directly attributable to the Project.

| **Item** | **Estimated In-House Staff Costs** | **Estimated Consultant/ Contractor Costs** |
|---|---|---|
| Project Management | 3.0% of construction cost = $4,000 | None |
| Design | 5.4% of Design cost = $7,000 | |
| Right-of-way acquisition | N/A | N/A |
| Construction | 6.2% of construction cost = $8,000 | $100,000 |
| Design concept reports | | |
| Environmental studies | | |
| Bicycle lanes | | |
| Pedestrian improvements | | |
| Utility relocations | | |
| Drainage improvements | | |
| Noise, privacy, screen wall, and other buffers | | |

| Item | Estimated In-House Staff Costs | Estimated Consultant/ Contractor Costs |
|---|---|---|
| Environmental mitigation | | |
| Public Art | | |
| Public Outreach | $1,000 (Open-House) | |
| Critical wildlife linkages and trails | | |
| Contingency | | |
| Other (Specify) | | |
| Sub Total | $20,000 | $100,000 |
| Total | **$120,000** | |

13. Identification of project phases or components not covered by this Agreement and the need for future agreements, if any, to cover those items. **N/A**

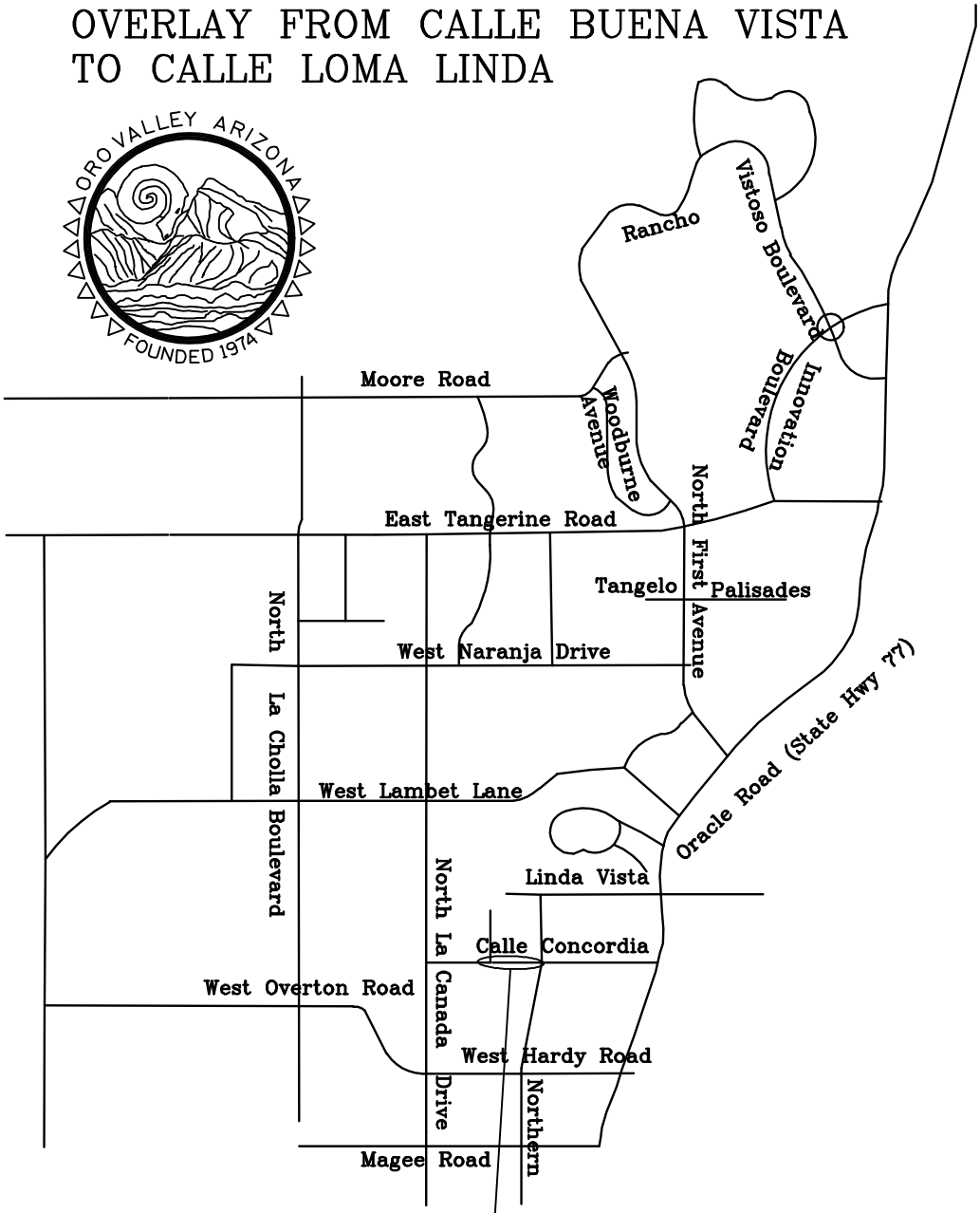
14. Estimated construction start date and duration of construction.

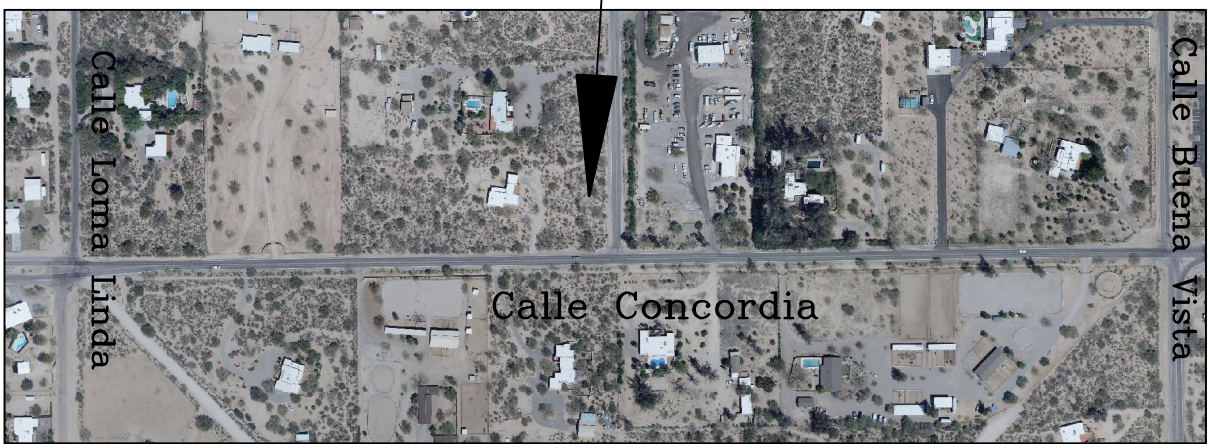
    **Start: March 1, 2011 Finish: April 30, 2011**

15. Projected cost reimbursement timeline (to be used by Authority for cash flow planning).

| Reimbursement Submittal Date | Estimated Reimbursement Amount |
|---|---|
| October 1, 2010 (Use estimated date of 1st bill) | |
| November 1, 2010 | |
| December 1, 2010 | |
| January 2, 2011 | $4,000 |
| February 1, 2011 | $4,000 |
| March 1, 2011 | $4,000 |
| April 1, 2011 | $50,000 |
| May 1, 2011 | $58,000 |
| June 1, 2011 | |
| July 1, 2011 | |
| August 1, 2011 | |
| September 1, 2011 | |
| October 1, 2011 | |

# CALLE CONCORDIA BIKE LANES AND OVERLAY FROM CALLE BUENA VISTA TO CALLE LOMA LINDA



**Item #: 1. F.**

**TC Regular Session**

**Date: 10/20/2010**

| | | | |
|---|---|---|---|
| **Requested by:** | Daniel G. Sharp, Police Chief | **Submitted By:** | Colleen Muhr, Police Department |
| **Department:** | Police Department | | |

## Information

**SUBJECT:**

**Resolution No. (R)10-72** Authorizing and Approving a Subgrantee Agreement Between the Town of Oro Valley and the Arizona Department of Homeland Security to Purchase Air Cards to Enhance Communication for the Oro Valley Police Department's Terror Liaison Officer

**SUMMARY:**

The Town of Oro Valley wishes to enter into an Intergovernmental Agreement with the Arizona Department of Homeland Security for the benefit of the Oro Valley Police Department, as well as other partnering law enforcement agencies.

**DISCUSSION:**

Grant application was made with the Oro Valley Police Department as a member agency of a five-member cooperative titled 'TUASI Regional TLO Enhancement.'

This funding will allow the Town of Oro Valley Police Department to purchase air cards for the TUASI Terror Liaison Officer Program for regional collaboration with Pima County and the State of Arizona. These cards fit into any computer to allow officers to access the internet in any location, operating as a wireless from any location, such as the trunk of a car or wherever an individual may be situated.

**FISCAL IMPACT:**

FY 2011 = $10,320 currently budgeted.

**CONCLUSION/RECOMMENDATION:**

Approval is recommended.

**SUGGESTED MOTION:**

I move to approve Resolution No. (R)10 -72 Authorizing and Approving a Subgrantee Agreement Between the Town of Oro Valley and the Arizona Department of Homeland Security to Purchase Air Cards to Enhance Communication for the Oro Valley Police Department's Terror Liaison Officer.

## Attachments

Link: Resolution 72

Link: Agreement

**RESOLUTION (R) 10-72**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, AUTHORIZING AND APPROVING A SUBGRANTEE AGREEMENT BETWEEN THE TOWN OF ORO VALLEY AND THE ARIZONA DEPARTMENT OF HOMELAND SECURITY TO PURCHASE AIR CARDS TO ENHANCE COMMUNICATION FOR THE ORO VALLEY POLICE DEPARTMENT'S TERROR LIAISON OFFICER**

**WHEREAS**, The Town of Oro Valley is a municipal corporation within the State of Arizona and is vested with all the rights, privileges and benefits and entitled to the immunities and exemptions granted to municipalities and political subdivisions under the Laws of the State of Arizona; and

**WHEREAS**, the Arizona Department of Homeland Security requires participating jurisdictions to enter into a Subgrantee Agreement to receive the funds granted under the Tucson Urban Area Security Initiative (TUASI) Regional Planning Cooperative; and

**WHEREAS**, the Town of Oro Valley's allocation under the grant is a maximum of $10,320.00 which will be used to purchase air cards to enhance communication for Police Department's Terror Liaison Officer; and

**WHEREAS**, it is in the best interest of the Town of Oro Valley to enter into the Subgrantee Agreement (attached hereto as Exhibit "A") in order to receive the funds which will be used to purchase air cards to enhance communication for the Police Department's Terror Liaison Officer.

**NOW THEREFORE BE IT RESOLVED by the Mayor and Town Council of the Town of Oro Valley, Arizona, that:**

1. The Subgrantee Agreement between the Town of Oro Valley, for the benefit of the Oro Valley Police Department and the Arizona Department of Homeland Security, attached hereto as Exhibit "A" and incorporated herein by this reference, for the purchase of air cards is hereby authorized and approved.

2. The Mayor and other administrative officials of the Town of Oro Valley are hereby authorized to take such steps as are necessary to execute and implement the terms of the Subgrantee Agreement.

**PASSED AND ADOPTED** by the Mayor and Town Council of the Town of Oro Valley, Arizona this 20th day of October, 2010.

**TOWN OF ORO VALLEY, ARIZONA**

_____

Satish I. Hiremath, Mayor

| | |
|---|---|
| **ATTEST:** | **APPROVED AS TO FORM:** |
| _____ | _____ |
| Kathryn E. Cuvelier, Town Clerk | Tobin Rosen, Town Attorney |
| Date: _____ | Date: _____ |

# EXHIBIT “A”

# SUBGRANTEE AGREEMENT

## 10-AZDOHS-HSGP- 777903-01

Enter Grant Agreement Number above (e.g., 777xxx-xx)

## Between

## The Arizona Department of Homeland Security
## And

Town of Oro Valley Police Department

Enter the Name of the Subrecipient Agency Above

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

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

Town of Oro Valley Police Department

Enter the Name of the Subrecipient Agency Above

(subrecipient) for services under the terms of this Grant Agreement.

**I. PURPOSE OF AGREEMENT**

The purpose of this Agreement is to specify the responsibilities and procedures for the subrecipient's role in administering homeland security grant funds.

**II. TERM OF AGREEMENT, TERMINATION AND AMENDMENTS**

This Agreement shall become effective on October 1, 2010 and shall terminate on September 30, 2011. The obligations of the subrecipient as described herein will survive termination of this agreement.

**III. DESCRIPTION OF SERVICES**

The subrecipient shall provide the services for the State of Arizona, Arizona Department of Homeland Security as approved in the grant application titled

" TUASI Regional TLO Initiative "

Enter Title of Application

and funded at $ 10,320.00 (as may have been modified by the award letter).

Enter Funded Amount above

**IV. MANNER OF FINANCING**

The AZDOHS shall:

a) Provide up to $ 10,320.00 to the subrecipient for services provided under Paragraph III.

Enter Funded Amount above

b) Payment made by the AZDOHS to the subrecipient shall be on a reimbursement basis only and is conditioned upon receipt of proof of payment and applicable, accurate and complete reimbursement documents, as deemed necessary by the AZDOHS, to be submitted by the subrecipient. A listing of acceptable documentation can be found at www.azdohs.gov. Payments will be contingent upon receipt of all reporting requirements of the subrecipient under this Agreement.

## V. FISCAL RESPONSBILITY

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

## VI. FINANCIAL AUDIT/PROGRAMATIC MONITORING

The subrecipient agrees to terms specified in A.R.S. § 35-214 and § 35-215.

a) In addition, in compliance with the Federal Single Audit Act (31 U.S.C. par. 7501-7507), as amended by the Single Audit Act Amendments of 1996 (P.L. 104 to 156), the subrecipient must have an annual audit conducted in accordance with OMB Circular #A-133 ("Audits of States, Local Governments, and Non-profit Organizations") if the subrecipient expends more than $500,000 from Federal awards. If the subrecipient has expended more than $500,000 in Federal dollars, a copy of the subrecipient's audit report for the previous fiscal year must be submitted to the AZDOHS for review within thirty (30) days of signing this Agreement.

b) Subrecipients will be monitored periodically by the AZDOHS staff, both programmatically and financially, to ensure that the project goals, objectives, performance requirements, timelines, milestone completion, budgets, and other related program criteria are being met. Monitoring will be accomplished through a combination of office-based reviews and onsite monitoring visits. Monitoring can involve aspects of the work involved under this contract including but not limited to the review and analysis of the financial, programmatic, performance and administrative issues relative to each program and will identify areas where technical assistance and other support may be needed.

## VII. APPLICABLE FEDERAL REGULATIONS

The subrecipient must comply with the grant guidance Office of Management and Budget (OMB) Circulars Code of Federal Regulations (CFR) and other Federal guidance including but not limited to:

a) 44 CFR Chapter 1, Federal Emergency Management Agency, Department of Homeland Security at http://www.access.gpo.gov/nara/cfr/waisidx_07/44cfrv1_07.html.

b) 2 CFR 225 Cost Principles for State, Local & Indian Tribal Governments (formerly OMB), at http://www.access.gpo.gov/nara/cfr/waisidx_07/2cfr225_07.html.
Cost Principles: 2 CFR Part 225, State and Local Governments; 2 CFR Part 220, Educational Institutions; 2 CFR Part 230, Non-Profit Organizations; Federal Acquisition Regulation Sub-part 31.2, Contracts with Commercial Organizations.
OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, at http://www.whitehouse.gov/omb/circulars/a133/a133.html.

c) 44 CFR Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (formerly OMB Circular A-102), at http://149.168.212.15/mitigation/Library/44_CFR-Part_13.pdf. U.S. Department of Homeland Security Authorized Equipment List (AEL), at https://www.rkb.mipt.org/ael.cfm 2 CFR Part 215, Institutions of Higher Education, Hospitals and Other Non-Profit Organizations.

d) 28 CFR applicable to grants and cooperative agreements, including Part II, Applicability of Office of Management and Budget Circulators; Part 18, Administrative Review Procedure; Part 20, Criminal Justice Information Systems; Part 22, Confidentiality of Identifiable Research and Statistical Information; Part 23, Criminal Intelligence System Operating Policies; Part 42, Non-discrimination Equal Employment Opportunities Policies and Procedures; Part 61, Procedures for Implementing the National Environmental Policy Act; Part 63, Floodplain Management and Wetland Protection Procedures; and Part 66, Uniform Administrative Requirements for Grants and Co-operative Agreements to State and Local Government.

Included within the above mentioned guidance documents are provisions for the following:

**NIMSCAST**
The subrecipient agrees to complete the National Incident Management System Compliance Assistance Support Tool (NIMSCAST) and remain in compliance.

**Environmental Planning and Historic Preservation**
The subrecipient shall comply with all applicable Federal, State, and local environmental and historic preservation (EHP) requirements and shall provide any information requested by FEMA to ensure compliance with applicable laws including: National Environmental Policy Act, National Historic Preservation Act, Endangered Species Act, and Executive Orders on Floodplains (11988), Wetlands (11990) and Environmental Justice (12898).Subrecipient shall not undertake any project having the potential to impact EHP resources without the prior approval of AZDOHS/FEMA, including but not limited to communications towers, physical security enhancements, new construction, and modifications to buildings that are 50 years old or greater. Subrecipient must comply with all conditions placed on the project as the result of the EHP review. Any change to the approved project scope of work will require re-evaluation for compliance with these EHP requirements. If ground disturbing activities occur during project implementation, the subrecipient must ensure monitoring of ground disturbance and if any potential archeological resources arc discovered, the subrecipient will immediately cease construction in that area and notify FEMA and the appropriate State Historic Preservation Office. Construction activities shall not be initiated prior to the full environmental and historic preservation review.

**Consultants/Trainers/Training Providers**
Billings for consultants/trainers/training providers must include at a minimum: a description of services; dates of services; number of hours for services performed; rate charged for services; and, the total cost of services performed. Consultant/trainer/training provider costs must be within the prevailing rates, must be obtained under consistent treatment with the procurement policies of the subrecipient and 44 CFR Chapter 1, Part 13 and shall not exceed the maximum of $450 per day per consultant/trainer/training provider unless prior written approval is granted by the AZDOHS. In addition to the per day $450 maximum amount, the consultant/trainer/training provider may be reimbursed

reasonable travel, lodging, and per diem not to exceed the state rate. Itemized receipts are required for lodging and travel reimbursements. The subrecipient will not be reimbursed costs other than travel, lodging, and per diem on travel days for consultants/trainers/training providers.

**Contractors/Subcontractors**
The subrecipient may enter into written subcontract(s) for performance of certain of its functions under the contract in accordance with terms established in the OMB Circulars, Code of Federal Regulations, DHS Guidance and DHS Program Guide. The subrecipient agrees and understands that no subcontract that the subrecipient enters into with respect to performance under this Agreement shall in any way relieve the subrecipient of any responsibilities for performance of its duties. The subrecipient shall give the AZDOHS immediate notice in writing by certified mail of any action or suit filed and prompt notice of any claim made against the subrecipient by any subcontractor or vendor which in the opinion of the subrecipient may result in litigation related in any way to the Agreement with the AZDOHS.

**Personnel and Travel Costs**
All grant funds expended for personnel, travel, lodging, and per diem must be consistent with the subrecipient's policies and procedures and must be applied uniformly to both federally financed and other activities of the agency. At no time will the subrecipient's reimbursement(s) exceed the State rate established by the Arizona Department of Administration, General Accounting Office Travel Policies: http://www.gao.state.gov.

**Procurement**
The subrecipient shall comply with all internal agency procurement rules/policies and must also comply with Federal procurement rules/policies as outlined in section VII and all procurement must comply with substantially with Arizona State procurement code and rules. The Federal intent is that all Homeland Security Funds are awarded competitively. The subrecipient shall not enter into a Sole or Single Source procurement agreement, unless prior written approval is granted by the AZDOHS.

**Training**
The subrecipient agrees that any grant funds used for training must be in compliance with grant guidance. All training must be approved through the ADEM/AZDOHS training request process prior to execution of training contract(s).

**Nonsupplanting Agreement**
The subrecipient shall not use funds to supplant State or Local funds or other resources that would otherwise have been made available for this program/project. Further, if a position created by a grant is filled from within, the vacancy created by this action must be filled within thirty (30) days. If the vacancy is not filled within thirty (30) days, the subrecipient must stop charging the grant for the new position. Upon filling the vacancy, the subrecipient may resume charging for the grant position.

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

a) The subrecipient warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. (That subsection reads: "After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program).

b) A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract and the subrecipient may be subject to penalties up to and including termination of the Agreement.

c) The AZDOHS retains the legal right to inspect the papers of any employee who works on the Agreement to ensure that the subrecipient is complying with the warranty under paragraph (a) above.

**Property Control**

Effective control and accountability must be maintained for all property. The subrecipient must adequately safeguard all such property and must assure that it is used solely for authorized purposes as described in the guidance and application. The subrecipient shall exercise caution in the use, maintenance, protection and preservation of such property.

Terms used in this sub-part have the following meaning (see also Reclamation Supplement to Federal Property Management Regulations, Part 60 Property Accountability, Sub-part 114S-60.4 Classification of Property).

a) Nonexpendable property is property which has a continuing use, is not consumed in use, is of a durable nature with an expected service life of one or more years, has an acquisition cost of $300 or more, and does not become a fixture or lose its identity as a component of other equipment or plant.

b) At the time when the final request for reimbursement is submitted, the subrecipient must file with the AZDOHS a copy of the Property Control Record Form listing all such property acquired with grant funds. The subrecipient agrees to be subject to equipment monitoring and auditing by state or federal authorized representatives for verification of information.

c) Equipment shall be used by the subrecipient in the program or project for which it was acquired as long as needed, whether or not the program or project continues to be supported by federal grant funds. When use of the property for project activities is discontinued, the subrecipient shall request in writing disposition instructions from the AZDOHS before actual disposition of the property. Theft, destruction, or loss of property shall be reported to the AZDOHS immediately. An equipment/capital asset list shall be maintained for the entire scope of the program or project for which it was acquired. All equipment having an acquisition cost of $5,000 (Five Thousand Dollars) or more per unit and/or a useful life of more than one year shall be included in the equipment/capital asset list.

**Allowable Costs**

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

a) The subrecipient agrees that grant funds are not to be expended for any indirect costs that may be incurred by the subrecipient for administering these funds.
b) The subrecipeint agrees that grant funds are not to be expended for any Management and Administrative (M&A) costs that may be incurred by the subrecipient for administering these funds unless explicitly applied for and approved in writing by the AZDOHS and shall be in compliance with Grant Guidance.

## VIII. DEBARMENT CERTIFICATION

The subrecipient agrees to comply with the Federal Debarment and Suspension regulations as outlined in the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions."

## IX. FUNDS MANAGEMENT

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

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

- Financial Management
- Procurement
- Personnel
- Property
- Travel

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

## X. REPORTING REQUIREMENTS

Regular reports by the subrecipient shall include:

a) Programmatic Reports
The subrecipient shall provide quarterly programmatic reports to the AZDOHS within fifteen (15) working days of the last day of the quarter in which services are provided. The subrecipient shall use the form provided by the AZDOHS to submit quarterly programmatic reports. The report shall contain such information as deemed necessary by the AZDOHS. The subrecipient shall use the Quarterly Programmatic Report Format template, which is posted at www.azdohs.gov. If the scope of the project has been fully completed and implemented, and there will be no further updates, then the quarterly programmatic report for the quarter in which the project was completed will be sufficient as the final report. The report should be marked as final and should be inclusive of all necessary and pertinent information regarding the project as deemed necessary by the AZDOHS. Quarterly programmatic reports shall be submitted to the AZDOHS until the entire scope of the project is completed

b) Quarterly reports are due:
**January 15** (period October 1– December 31)
**April 15** (period January 1 – March 31)
**July 15** (period April 1 – June 30)
**October 15** (period July 1 – September 30)

c) Financial Reimbursements
The subrecipient shall provide as frequently as monthly but not less than quarterly requests for reimbursement. Reimbursements shall be submitted with the Reimbursement Form provided by the AZDOHS staff. The subrecipient shall submit a final reimbursement for expenses received and invoiced prior to the end of the termination of this Agreement no more than forty-five (45) days after the end of the Agreement. Requests for reimbursement received later than the forty-five (45) days after the Agreement termination will not be paid. The final reimbursement request as submitted shall be marked FINAL, and include a copy of the Property Control Form.

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

## XI. ASSIGNMENT AND DELEGATION

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

## XII. AMENDMENTS

Any change in this Agreement including but not limited to the Description of Services and budget described herein, whether by modification or supplementation, must be accomplished by a formal Agreement amendment signed and approved by and between the duly authorized representative of the subrecipient and the AZDOHS.

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

## XIII. OFFSHORE PERFORMANCE OF WORK PROHIBITED

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

## XIV. AGREEMENT RENEWAL

This Agreement shall not bind nor purport to bind the AZDOHS for any contractual commitment in excess of the original Agreement period.

## XV. RIGHT TO ASSURANCE

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

## XVI. CANCELLATION FOR CONFLICT OF INTEREST

The AZDOHS may, by written notice to the subrecipient, immediately cancel this Agreement without penalty or further obligation pursuant to A.R.S. § 38-511 if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement

on behalf of the State or its subdivisions (unit of Local Government) is an employee or agent of any other party in any capacity or a consultant to any other party to the Agreement with respect to the subject matter of the Agreement. Such cancellation shall be effective when the parties to the Agreement receive written notice from the AZDOHS, unless the notice specifies a later time.

**XVII. THIRD PARTY ANTITRUST VIOLATIONS**

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

**XVIII. AVAILABILITY OF FUNDS**

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

**XIX. FORCE MAJEURE**

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

**XX. PARTIAL INVALIDITY**

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

**XXI. ARBITRATION**

In the event of any dispute arising under this Agreement, written notice of the dispute must be provided to the other party within thirty (30) days of the events giving the rise to the dispute. The subrecipient agrees to terms specified in A.R.S. § 12-1518.

**XXII. GOVERNING LAW AND CONTRACT INTERPRETATION**

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

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

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

**XXIII. ENTIRE AGREEMENT**

This Agreement and its Exhibits constitute the entire Agreement between the parties hereto pertaining to the subject matter hereof and may not be changed or added to except by a writing signed by all parties hereto in conformity with Paragraph X, REPORTING REQUIREMENTS; provided; however, that the AZDOHS shall have the right to immediately amend this Agreement so that it complies with any new legislation, laws, ordinances, or rules affecting this Agreement. The subrecipient agrees to execute any such amendment within ten (10) business days of its receipt. All prior and contemporaneous agreements, representations, and understandings of the parties, oral, written, pertaining to the subject matter hereof, are hereby superseded or merged herein.

**XXIV. RESTRICTIONS ON LOBBYING**

The subrecipient shall not use funds made available to it under this Agreement to pay for, influence, or seek to influence any officer or employee of a State or Federal government.

**XXV. LICENSING**

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

**XXVI. NON-DISCRIMINATION**

The subrecipient shall comply with all State and Federal equal opportunity and non-discrimination requirements and conditions of employment, including the Americans with Disabilities Act, in accordance with A.R.S. title 41, Chapter 9, Article 4 and Executive Order2009-09.

**XXVII. SECTARIAN REQUESTS**

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

**XXVIII. SEVERABILITY**

The provisions of this Agreement are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Agreement.

**XXIX. ADVERTISING AND PROMOTION OF AGREEMENT**

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

**XXX. OWNERSHIP OF INFORMATION, PRINTED AND PUBLISHED MATERIAL**

The AZDOHS reserves the right to review and approve any publications funded or partially funded through this Agreement. All publications funded or partially funded through this Agreement shall recognize the AZDOHS and the U.S. Department of Homeland Security. The U.S. Department of Homeland Security and the AZDOHS shall have full and complete rights to reproduce, duplicate, disclose, perform, and otherwise use all materials prepared under this Agreement.

The subrecipient agrees that any report, printed matter, or publication (written, visual, or sound, but excluding press releases, newsletters, and issue analyses) issued by the subrecipient describing programs or projects funded in whole or in part with Federal funds shall contain the following statement:

"This document was prepared under a grant from U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Homeland Security."

The subrecipient also agrees that one copy of any such publication, report, printed matter, or publication shall be submitted to the AZDOHS to be placed on file and distributed as appropriate to other potential sub-recipients or interested parties. The AZDOHS may waive the requirement for submission of any specific publication upon submission of a request providing justification from the subrecipient.

The AZDOHS and the subrecipient recognize that research resulting from this Agreement has the potential to become public information. However, prior to the termination of this Agreement, the subrecipient agrees that no research-based data resulting from this Agreement shall be published or otherwise distributed in any form without express written permission from the AZDOHS and possibly the U.S. Department of Homeland Security. It is also agreed that any report or printed matter completed as a part of this agreement is a work for hire and shall not be copyrighted by the subrecipient.

**XXXI. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS**

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

**XXXII. INDEMNIFICATION**

To the extent permitted by law, each party (as indemnitor) agrees to indemnify, defend and hold harmless the other party (as indemnitee) from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as claims) arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers.

**XXXIII. TERMINATION**

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

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

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

**XXXIV. CONTINUATION OF PERFORMANCE THROUGH TERMINATION**

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

**XXXV. PARAGRAPH HEADINGS**

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

**XXXVI. COUNTERPARTS**

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

**XXXVII. AUTHORITY TO EXECUTE THIS AGREEMENT**

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

**XXXVIII. SPECIAL CONDITIONS**

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

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

c) The subrecipient agrees that, when practicable, any equipment purchased with grant funding shall be prominently marked as follows: **"Purchased with funds provided by the U.S. Department of Homeland Security."**

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

e) The subrecipient is prohibited from transferring funds between programs (State Homeland Security Program, Urban Area Security Initiative, Citizen Corps Program, Operation Stonegarden, and Metropolitan Medical Response System).

**XXXIX. NOTICES**

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

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

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

The subrecipient shall submit reimbursement requests relative to this Agreement to the appropriate the AZDOHS staff; contact information at www.azdohs.gov

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

Lt. John Teachout
Enter Title, First & Last Name above
Town of Oro Valley Police Department
Enter Agency Name above
11000 N. La Canada Drive
Enter Street Address
Oro Valley, AZ 85737
Enter City, State, ZIP

## XXXX. IN WITNESS WHEREOF

The parties hereto agree to execute this Agreement.

**FOR AND BEHALF OF THE**

Town of Oro Valley Police Department
Enter Agency Name above

Authorized Signature above
Satish I. Hiremath
Print Name & Title above

Enter Date above

**FOR AND BEHALF OF THE**

Arizona Department of Homeland Security

Gilbert M. Orrantia
Director

Date

*(Please be sure to complete and mail two original documents to the Arizona Department of Homeland Security.)*

**Item #: 1. G.**

**TC Regular Session**

**Date: 10/20/2010**

| | | | |
|---|---|---|---|
| **Requested by:** | Daniel G. Sharp, Police Chief | **Submitted By:** | Colleen Muhr, Police Department |
| **Department:** | Police Department | | |

## Information

**SUBJECT:**

**Resolution No. (R)10-73** Authorizing and Approving a Subgrantee Agreement Between the Town of Oro Valley and the Arizona Department of Homeland Security for Purchasing Equipment for Enhanced Telecommunication for the Oro Valley Police Department's Terror Liaison Officer

**SUMMARY:**

The Town of Oro Valley wishes to enter into a Subgrantee Agreement with the Arizona Department of Homeland Security for the benefit of the Oro Valley Police Department, as well as other partnering law enforcement agencies.

**DISCUSSION:**

Grant application was made with the Oro Valley Police Department as a member agency of a five member cooperative titled 'TUASI Regional Planning Cooperative (RPC)" (one member of five member Coop).

This funding will allow the Town of Oro Valley Police Department to purchase telecommunication equipment for the TUASI Terror Liaison Officer program for regional communication and collaboration within Pima County and Southern Arizona agencies.

**FISCAL IMPACT:**

FY 2011 = $7,200 currently budgeted.

**CONCLUSION/RECOMMENDATION:**

Approval is recommended.

**SUGGESTED MOTION:**

I move to approve Resolution No. (R)10-73 Authorizing and Approving a Subgrantee Agreement Between the Town of Oro Valley and the Arizona Department of Homeland Security to Purchase Air Cards to Enhance Communication for the Oro Valley Police Department's Terror Liaison Officer.

## Attachments

Link: Resolution 73

Link: Agreement

**RESOLUTION (R) 10-73**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, AUTHORIZING AND APPROVING A SUBGRANTEE AGREEMENT BETWEEN THE TOWN OF ORO VALLEY AND THE ARIZONA DEPARTMENT OF HOMELAND SECURITY FOR PURCHASING EQUIPMENT FOR ENHANCED TELECOMMUNICATION FOR THE ORO VALLEY POLICE DEPARTMENT'S TERROR LIAISON OFFICER**

**WHEREAS**, The Town of Oro Valley is a municipal corporation within the State of Arizona and is vested with all the rights, privileges and benefits and entitled to the immunities and exemptions granted to municipalities and political subdivisions under the Laws of the State of Arizona; and

**WHEREAS**, the Arizona Department of Homeland Security requires participating jurisdictions to enter into a Subgrantee Agreement to receive the funds granted under the Tucson Urban Area Security Initiative (TUASI) Regional Planning Cooperative; and

**WHEREAS**, the Town of Oro Valley's allocation under the grant is a maximum of $7,200.00 which will be used to purchase telecommunication equipment for Police Department's Terror Liaison Officer; and

**WHEREAS**, it is in the best interest of the Town of Oro Valley to enter into the Subgrantee Agreement (attached hereto as Exhibit "A") in order to receive the funds which will be used to purchase telecommunication equipment for the Police Department's Terror Liaison Officer.

**NOW THEREFORE BE IT RESOLVED by the Mayor and Town Council of the Town of Oro Valley, Arizona, that:**

1. The Subgrantee Agreement between the Town of Oro Valley, for the benefit of the Oro Valley Police Department and the Arizona Department of Homeland Security, attached hereto as Exhibit "A" and incorporated herein by this reference, for the purchase of telecommunication equipment is hereby authorized and approved.

2. The Mayor and other administrative officials of the Town of Oro Valley are hereby authorized to take such steps as are necessary to execute and implement the terms of the Subgrantee Agreement.

**PASSED AND ADOPTED** by the Mayor and Town Council of the Town of Oro Valley, Arizona this 20th day of October, 2010.

**TOWN OF ORO VALLEY, ARIZONA**

_____

Satish I. Hiremath, Mayor

| | |
|---|---|
| **ATTEST:** | **APPROVED AS TO FORM:** |
| _____ | _____ |
| Kathryn E. Cuvelier, Town Clerk | Tobin Rosen, Town Attorney |
| Date: _____ | Date: _____ |

# EXHIBIT “A”

# SUBGRANTEE AGREEMENT

## 10-AZDOHS-HSGP- 777903-01

Enter Grant Agreement Number above (e.g., 777xxx-xx)

## Between

## The Arizona Department of Homeland Security
## And

Town of Oro Valley Police Department

Enter the Name of the Subrecipient Agency Above

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

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

Town of Oro Valley Police Department

Enter the Name of the Subrecipient Agency Above

(subrecipient) for services under the terms of this Grant Agreement.

**I. PURPOSE OF AGREEMENT**

The purpose of this Agreement is to specify the responsibilities and procedures for the subrecipient's role in administering homeland security grant funds.

**II. TERM OF AGREEMENT, TERMINATION AND AMENDMENTS**

This Agreement shall become effective on October 1, 2010 and shall terminate on September 30, 2011. The obligations of the subrecipient as described herein will survive termination of this agreement.

**III. DESCRIPTION OF SERVICES**

The subrecipient shall provide the services for the State of Arizona, Arizona Department of Homeland Security as approved in the grant application titled

" TUASI Regional TLO Initiative "

Enter Title of Application

and funded at $ 10,320.00 (as may have been modified by the award letter).

Enter Funded Amount above

**IV. MANNER OF FINANCING**

The AZDOHS shall:

a) Provide up to $ 10,320.00 to the subrecipient for services provided under Paragraph III.

Enter Funded Amount above

b) Payment made by the AZDOHS to the subrecipient shall be on a reimbursement basis only and is conditioned upon receipt of proof of payment and applicable, accurate and complete reimbursement documents, as deemed necessary by the AZDOHS, to be submitted by the subrecipient. A listing of acceptable documentation can be found at www.azdohs.gov. Payments will be contingent upon receipt of all reporting requirements of the subrecipient under this Agreement.

## V. FISCAL RESPONSBILITY

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

## VI. FINANCIAL AUDIT/PROGRAMATIC MONITORING

The subrecipient agrees to terms specified in A.R.S. § 35-214 and § 35-215.

a) In addition, in compliance with the Federal Single Audit Act (31 U.S.C. par. 7501-7507), as amended by the Single Audit Act Amendments of 1996 (P.L. 104 to 156), the subrecipient must have an annual audit conducted in accordance with OMB Circular #A-133 ("Audits of States, Local Governments, and Non-profit Organizations") if the subrecipient expends more than $500,000 from Federal awards. If the subrecipient has expended more than $500,000 in Federal dollars, a copy of the subrecipient's audit report for the previous fiscal year must be submitted to the AZDOHS for review within thirty (30) days of signing this Agreement.

b) Subrecipients will be monitored periodically by the AZDOHS staff, both programmatically and financially, to ensure that the project goals, objectives, performance requirements, timelines, milestone completion, budgets, and other related program criteria are being met. Monitoring will be accomplished through a combination of office-based reviews and onsite monitoring visits. Monitoring can involve aspects of the work involved under this contract including but not limited to the review and analysis of the financial, programmatic, performance and administrative issues relative to each program and will identify areas where technical assistance and other support may be needed.

## VII. APPLICABLE FEDERAL REGULATIONS

The subrecipient must comply with the grant guidance Office of Management and Budget (OMB) Circulars Code of Federal Regulations (CFR) and other Federal guidance including but not limited to:

a) 44 CFR Chapter 1, Federal Emergency Management Agency, Department of Homeland Security at http://www.access.gpo.gov/nara/cfr/waisidx_07/44cfrv1_07.html.

b) 2 CFR 225 Cost Principles for State, Local & Indian Tribal Governments (formerly OMB), at http://www.access.gpo.gov/nara/cfr/waisidx_07/2cfr225_07.html.
Cost Principles: 2 CFR Part 225, State and Local Governments; 2 CFR Part 220, Educational Institutions; 2 CFR Part 230, Non-Profit Organizations; Federal Acquisition Regulation Sub-part 31.2, Contracts with Commercial Organizations.
OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, at http://www.whitehouse.gov/omb/circulars/a133/a133.html.

c) 44 CFR Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (formerly OMB Circular A-102), at http://149.168.212.15/mitigation/Library/44_CFR-Part_13.pdf. U.S. Department of Homeland Security Authorized Equipment List (AEL), at https://www.rkb.mipt.org/ael.cfm 2 CFR Part 215, Institutions of Higher Education, Hospitals and Other Non-Profit Organizations.

d) 28 CFR applicable to grants and cooperative agreements, including Part II, Applicability of Office of Management and Budget Circulators; Part 18, Administrative Review Procedure; Part 20, Criminal Justice Information Systems; Part 22, Confidentiality of Identifiable Research and Statistical Information; Part 23, Criminal Intelligence System Operating Policies; Part 42, Non-discrimination Equal Employment Opportunities Policies and Procedures; Part 61, Procedures for Implementing the National Environmental Policy Act; Part 63, Floodplain Management and Wetland Protection Procedures; and Part 66, Uniform Administrative Requirements for Grants and Co-operative Agreements to State and Local Government.

Included within the above mentioned guidance documents are provisions for the following:

**NIMSCAST**
The subrecipient agrees to complete the National Incident Management System Compliance Assistance Support Tool (NIMSCAST) and remain in compliance.

**Environmental Planning and Historic Preservation**
The subrecipient shall comply with all applicable Federal, State, and local environmental and historic preservation (EHP) requirements and shall provide any information requested by FEMA to ensure compliance with applicable laws including: National Environmental Policy Act, National Historic Preservation Act, Endangered Species Act, and Executive Orders on Floodplains (11988), Wetlands (11990) and Environmental Justice (12898).Subrecipient shall not undertake any project having the potential to impact EHP resources without the prior approval of AZDOHS/FEMA, including but not limited to communications towers, physical security enhancements, new construction, and modifications to buildings that are 50 years old or greater. Subrecipient must comply with all conditions placed on the project as the result of the EHP review. Any change to the approved project scope of work will require re-evaluation for compliance with these EHP requirements. If ground disturbing activities occur during project implementation, the subrecipient must ensure monitoring of ground disturbance and if any potential archeological resources arc discovered, the subrecipient will immediately cease construction in that area and notify FEMA and the appropriate State Historic Preservation Office. Construction activities shall not be initiated prior to the full environmental and historic preservation review.

**Consultants/Trainers/Training Providers**
Billings for consultants/trainers/training providers must include at a minimum: a description of services; dates of services; number of hours for services performed; rate charged for services; and, the total cost of services performed. Consultant/trainer/training provider costs must be within the prevailing rates, must be obtained under consistent treatment with the procurement policies of the subrecipient and 44 CFR Chapter 1, Part 13 and shall not exceed the maximum of $450 per day per consultant/trainer/training provider unless prior written approval is granted by the AZDOHS. In addition to the per day $450 maximum amount, the consultant/trainer/training provider may be reimbursed

reasonable travel, lodging, and per diem not to exceed the state rate. Itemized receipts are required for lodging and travel reimbursements. The subrecipient will not be reimbursed costs other than travel, lodging, and per diem on travel days for consultants/trainers/training providers.

**Contractors/Subcontractors**
The subrecipient may enter into written subcontract(s) for performance of certain of its functions under the contract in accordance with terms established in the OMB Circulars, Code of Federal Regulations, DHS Guidance and DHS Program Guide. The subrecipient agrees and understands that no subcontract that the subrecipient enters into with respect to performance under this Agreement shall in any way relieve the subrecipient of any responsibilities for performance of its duties. The subrecipient shall give the AZDOHS immediate notice in writing by certified mail of any action or suit filed and prompt notice of any claim made against the subrecipient by any subcontractor or vendor which in the opinion of the subrecipient may result in litigation related in any way to the Agreement with the AZDOHS.

**Personnel and Travel Costs**
All grant funds expended for personnel, travel, lodging, and per diem must be consistent with the subrecipient's policies and procedures and must be applied uniformly to both federally financed and other activities of the agency. At no time will the subrecipient's reimbursement(s) exceed the State rate established by the Arizona Department of Administration, General Accounting Office Travel Policies: http://www.gao.state.gov.

**Procurement**
The subrecipient shall comply with all internal agency procurement rules/policies and must also comply with Federal procurement rules/policies as outlined in section VII and all procurement must comply with substantially with Arizona State procurement code and rules. The Federal intent is that all Homeland Security Funds are awarded competitively. The subrecipient shall not enter into a Sole or Single Source procurement agreement, unless prior written approval is granted by the AZDOHS.

**Training**
The subrecipient agrees that any grant funds used for training must be in compliance with grant guidance. All training must be approved through the ADEM/AZDOHS training request process prior to execution of training contract(s).

**Nonsupplanting Agreement**
The subrecipient shall not use funds to supplant State or Local funds or other resources that would otherwise have been made available for this program/project. Further, if a position created by a grant is filled from within, the vacancy created by this action must be filled within thirty (30) days. If the vacancy is not filled within thirty (30) days, the subrecipient must stop charging the grant for the new position. Upon filling the vacancy, the subrecipient may resume charging for the grant position.

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

a) The subrecipient warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. (That subsection reads: "After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program).

b) A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract and the subrecipient may be subject to penalties up to and including termination of the Agreement.

c) The AZDOHS retains the legal right to inspect the papers of any employee who works on the Agreement to ensure that the subrecipient is complying with the warranty under paragraph (a) above.

**Property Control**

Effective control and accountability must be maintained for all property. The subrecipient must adequately safeguard all such property and must assure that it is used solely for authorized purposes as described in the guidance and application. The subrecipient shall exercise caution in the use, maintenance, protection and preservation of such property.

Terms used in this sub-part have the following meaning (see also Reclamation Supplement to Federal Property Management Regulations, Part 60 Property Accountability, Sub-part 114S-60.4 Classification of Property).

a) Nonexpendable property is property which has a continuing use, is not consumed in use, is of a durable nature with an expected service life of one or more years, has an acquisition cost of $300 or more, and does not become a fixture or lose its identity as a component of other equipment or plant.

b) At the time when the final request for reimbursement is submitted, the subrecipient must file with the AZDOHS a copy of the Property Control Record Form listing all such property acquired with grant funds. The subrecipient agrees to be subject to equipment monitoring and auditing by state or federal authorized representatives for verification of information.

c) Equipment shall be used by the subrecipient in the program or project for which it was acquired as long as needed, whether or not the program or project continues to be supported by federal grant funds. When use of the property for project activities is discontinued, the subrecipient shall request in writing disposition instructions from the AZDOHS before actual disposition of the property. Theft, destruction, or loss of property shall be reported to the AZDOHS immediately. An equipment/capital asset list shall be maintained for the entire scope of the program or project for which it was acquired. All equipment having an acquisition cost of $5,000 (Five Thousand Dollars) or more per unit and/or a useful life of more than one year shall be included in the equipment/capital asset list.

**Allowable Costs**

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

a) The subrecipient agrees that grant funds are not to be expended for any indirect costs that may be incurred by the subrecipient for administering these funds.
b) The subrecipeint agrees that grant funds are not to be expended for any Management and Administrative (M&A) costs that may be incurred by the subrecipient for administering these funds unless explicitly applied for and approved in writing by the AZDOHS and shall be in compliance with Grant Guidance.

## VIII. DEBARMENT CERTIFICATION

The subrecipient agrees to comply with the Federal Debarment and Suspension regulations as outlined in the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions."

## IX. FUNDS MANAGEMENT

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

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

- Financial Management
- Procurement
- Personnel
- Property
- Travel

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

## X. REPORTING REQUIREMENTS

Regular reports by the subrecipient shall include:

a) Programmatic Reports
The subrecipient shall provide quarterly programmatic reports to the AZDOHS within fifteen (15) working days of the last day of the quarter in which services are provided. The subrecipient shall use the form provided by the AZDOHS to submit quarterly programmatic reports. The report shall contain such information as deemed necessary by the AZDOHS. The subrecipient shall use the Quarterly Programmatic Report Format template, which is posted at www.azdohs.gov. If the scope of the project has been fully completed and implemented, and there will be no further updates, then the quarterly programmatic report for the quarter in which the project was completed will be sufficient as the final report. The report should be marked as final and should be inclusive of all necessary and pertinent information regarding the project as deemed necessary by the AZDOHS. Quarterly programmatic reports shall be submitted to the AZDOHS until the entire scope of the project is completed

b) Quarterly reports are due:
**January 15** (period October 1– December 31)
**April 15** (period January 1 – March 31)
**July 15** (period April 1 – June 30)
**October 15** (period July 1 – September 30)

c) Financial Reimbursements
The subrecipient shall provide as frequently as monthly but not less than quarterly requests for reimbursement. Reimbursements shall be submitted with the Reimbursement Form provided by the AZDOHS staff. The subrecipient shall submit a final reimbursement for expenses received and invoiced prior to the end of the termination of this Agreement no more than forty-five (45) days after the end of the Agreement. Requests for reimbursement received later than the forty-five (45) days after the Agreement termination will not be paid. The final reimbursement request as submitted shall be marked FINAL, and include a copy of the Property Control Form.

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

## XI. ASSIGNMENT AND DELEGATION

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

## XII. AMENDMENTS

Any change in this Agreement including but not limited to the Description of Services and budget described herein, whether by modification or supplementation, must be accomplished by a formal Agreement amendment signed and approved by and between the duly authorized representative of the subrecipient and the AZDOHS.

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

## XIII. OFFSHORE PERFORMANCE OF WORK PROHIBITED

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

## XIV. AGREEMENT RENEWAL

This Agreement shall not bind nor purport to bind the AZDOHS for any contractual commitment in excess of the original Agreement period.

## XV. RIGHT TO ASSURANCE

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

## XVI. CANCELLATION FOR CONFLICT OF INTEREST

The AZDOHS may, by written notice to the subrecipient, immediately cancel this Agreement without penalty or further obligation pursuant to A.R.S. § 38-511 if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement

on behalf of the State or its subdivisions (unit of Local Government) is an employee or agent of any other party in any capacity or a consultant to any other party to the Agreement with respect to the subject matter of the Agreement. Such cancellation shall be effective when the parties to the Agreement receive written notice from the AZDOHS, unless the notice specifies a later time.

**XVII. THIRD PARTY ANTITRUST VIOLATIONS**

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

**XVIII. AVAILABILITY OF FUNDS**

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

**XIX. FORCE MAJEURE**

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

**XX. PARTIAL INVALIDITY**

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

**XXI. ARBITRATION**

In the event of any dispute arising under this Agreement, written notice of the dispute must be provided to the other party within thirty (30) days of the events giving the rise to the dispute. The subrecipient agrees to terms specified in A.R.S. § 12-1518.

**XXII. GOVERNING LAW AND CONTRACT INTERPRETATION**

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

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

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

**XXIII. ENTIRE AGREEMENT**

This Agreement and its Exhibits constitute the entire Agreement between the parties hereto pertaining to the subject matter hereof and may not be changed or added to except by a writing signed by all parties hereto in conformity with Paragraph X, REPORTING REQUIREMENTS; provided; however, that the AZDOHS shall have the right to immediately amend this Agreement so that it complies with any new legislation, laws, ordinances, or rules affecting this Agreement. The subrecipient agrees to execute any such amendment within ten (10) business days of its receipt. All prior and contemporaneous agreements, representations, and understandings of the parties, oral, written, pertaining to the subject matter hereof, are hereby superseded or merged herein.

**XXIV. RESTRICTIONS ON LOBBYING**

The subrecipient shall not use funds made available to it under this Agreement to pay for, influence, or seek to influence any officer or employee of a State or Federal government.

**XXV. LICENSING**

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

**XXVI. NON-DISCRIMINATION**

The subrecipient shall comply with all State and Federal equal opportunity and non-discrimination requirements and conditions of employment, including the Americans with Disabilities Act, in accordance with A.R.S. title 41, Chapter 9, Article 4 and Executive Order2009-09.

**XXVII. SECTARIAN REQUESTS**

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

**XXVIII. SEVERABILITY**

The provisions of this Agreement are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Agreement.

**XXIX. ADVERTISING AND PROMOTION OF AGREEMENT**

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

**XXX. OWNERSHIP OF INFORMATION, PRINTED AND PUBLISHED MATERIAL**

The AZDOHS reserves the right to review and approve any publications funded or partially funded through this Agreement. All publications funded or partially funded through this Agreement shall recognize the AZDOHS and the U.S. Department of Homeland Security. The U.S. Department of Homeland Security and the AZDOHS shall have full and complete rights to reproduce, duplicate, disclose, perform, and otherwise use all materials prepared under this Agreement.

The subrecipient agrees that any report, printed matter, or publication (written, visual, or sound, but excluding press releases, newsletters, and issue analyses) issued by the subrecipient describing programs or projects funded in whole or in part with Federal funds shall contain the following statement:

"This document was prepared under a grant from U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Homeland Security."

The subrecipient also agrees that one copy of any such publication, report, printed matter, or publication shall be submitted to the AZDOHS to be placed on file and distributed as appropriate to other potential sub-recipients or interested parties. The AZDOHS may waive the requirement for submission of any specific publication upon submission of a request providing justification from the subrecipient.

The AZDOHS and the subrecipient recognize that research resulting from this Agreement has the potential to become public information. However, prior to the termination of this Agreement, the subrecipient agrees that no research-based data resulting from this Agreement shall be published or otherwise distributed in any form without express written permission from the AZDOHS and possibly the U.S. Department of Homeland Security. It is also agreed that any report or printed matter completed as a part of this agreement is a work for hire and shall not be copyrighted by the subrecipient.

**XXXI. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS**

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

**XXXII. INDEMNIFICATION**

To the extent permitted by law, each party (as indemnitor) agrees to indemnify, defend and hold harmless the other party (as indemnitee) from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as claims) arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers.

**XXXIII. TERMINATION**

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

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

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

**XXXIV. CONTINUATION OF PERFORMANCE THROUGH TERMINATION**

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

**XXXV. PARAGRAPH HEADINGS**

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

**XXXVI. COUNTERPARTS**

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

**XXXVII. AUTHORITY TO EXECUTE THIS AGREEMENT**

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

**XXXVIII. SPECIAL CONDITIONS**

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

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

c) The subrecipient agrees that, when practicable, any equipment purchased with grant funding shall be prominently marked as follows: **"Purchased with funds provided by the U.S. Department of Homeland Security."**

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

e) The subrecipient is prohibited from transferring funds between programs (State Homeland Security Program, Urban Area Security Initiative, Citizen Corps Program, Operation Stonegarden, and Metropolitan Medical Response System).

**XXXIX. NOTICES**

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

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

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

The subrecipient shall submit reimbursement requests relative to this Agreement to the appropriate the AZDOHS staff; contact information at www.azdohs.gov

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

Lt. John Teachout
Enter Title, First & Last Name above
Town of Oro Valley Police Department
Enter Agency Name above
11000 N. La Canada Drive
Enter Street Address
Oro Valley, AZ 85737
Enter City, State, ZIP

## XXXX. IN WITNESS WHEREOF

The parties hereto agree to execute this Agreement.

**FOR AND BEHALF OF THE**

Town of Oro Valley Police Department
Enter Agency Name above

Authorized Signature above
Satish I. Hiremath
Print Name & Title above

Enter Date above

**FOR AND BEHALF OF THE**

Arizona Department of Homeland Security

Gilbert M. Orrantia
Director

Date

*(Please be sure to complete and mail two original documents to the Arizona Department of Homeland Security.)*

**Item #: 1. H.**

**TC Regular Session**

**Date: 10/20/2010**

| | | | |
|---|---|---|---|
| **Requested by:** | Daniel G. Sharp, Police Chief | **Submitted By:** | Colleen Muhr, Police Department |
| **Department:** | Police Department | | |

## Information

**SUBJECT:**

**Resolution No. (R)10-74** Authorizing and Approving a Subgrantee Agreement Between the Town of Oro Valley and the Arizona Department of Homeland Security to Fund the Tucson Urban Area Security Initiative (TUASI) Regional Emergency Operations Center Equipment Initiative

**SUMMARY:**

The Town of Oro Valley wishes to enter into a Subgrantee Agreement with the Arizona Department of Homeland Security for the benefit of the Oro Valley Police Department, as well as the Town of Oro Valley, by establishing an emergency operations center.

**DISCUSSION:**

Grant application was made with the Oro Valley Police Department as a member agency of a five member cooperative titled 'TUASI Regional EOC equipment initiative.'

This funding will allow the Town of Oro Valley Police Department to purchase equipment to establish an emergency operations center for the town in our Oro Valley Marketplace substation and expand regional collaboration within Pima County.

At the time of the construction, the substation was built with the infrastructure necessary for later installation of technology and needs relating to an emergency operations center.

**FISCAL IMPACT:**

FY 2011 = $33,666 currently budgeted.

**CONCLUSION/RECOMMENDATION:**

Approval is recommended.

**SUGGESTED MOTION:**

I move to approve Resolution No. (R)10-75 Authorizing and Approving a Subgrantee Agreement Between the Town of Oro Valley and the Arizona Department of Homeland Security to Fund the Tucson Urban Area Security Initiative Regional Emergency Operations Center Equipment Initiative.

## Attachments

Link: Resolution 74

Link: Agreement

**RESOLUTION (R) 10-74**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, AUTHORIZING AND APPROVING A SUBGRANTEE AGREEMENT BETWEEN THE TOWN OF ORO VALLEY AND THE ARIZONA DEPARTMENT OF HOMELAND SECURITY TO FUND THE TUCSON URBAN AREA SECURITY INITIATIVE REGIONAL EMERGENCY OPERATIONS CENTER EQUIPMENT INITIATIVE**

**WHEREAS**, The Town of Oro Valley is a municipal corporation within the State of Arizona and is vested with all the rights, privileges and benefits and entitled to the immunities and exemptions granted to municipalities and political subdivisions under the Laws of the State of Arizona; and

**WHEREAS**, the Arizona Department of Homeland Security requires participating jurisdictions to enter into a Subgrantee Agreement to receive the funds granted under the Tucson Urban Area Security Initiative (TUASI) Regional Planning Cooperative; and

**WHEREAS**, the Town of Oro Valley's allocation under the grant is a maximum of $33,666.00 which will be used to fund the TUASI Regional Emergency Operations Center Equipment Initiative; and

**WHEREAS**, it is in the best interest of the Town of Oro Valley to enter into the Subgrantee Agreement (attached hereto as Exhibit "A") in order to receive the funds which will be used to fund the TUASI Regional Emergency Operations Center Equipment Initiative.

**NOW THEREFORE BE IT RESOLVED by the Mayor and Town Council of the Town of Oro Valley, Arizona, that:**

1. The Subgrantee Agreement between the Town of Oro Valley, for the benefit of the Oro Valley Police Department and the Arizona Department of Homeland Security, attached hereto as Exhibit "A" and incorporated herein by this reference, to fund the Tucson Urban Area Security Initiative Regional Emergency Operations Center Equipment Initiative is hereby authorized and approved.

2. The Mayor and other administrative officials of the Town of Oro Valley are hereby authorized to take such steps as are necessary to execute and implement the terms of the Subgrantee Agreement.

**PASSED AND ADOPTED** by the Mayor and Town Council of the Town of Oro Valley, Arizona this 20th day of October, 2010.

**TOWN OF ORO VALLEY, ARIZONA**

_____

Satish I. Hiremath, Mayor

| | |
|---|---|
| **ATTEST:** | **APPROVED AS TO FORM:** |
| _____ | _____ |
| Kathryn E. Cuvelier, Town Clerk | Tobin Rosen, Town Attorney |
| Date: _____ | Date: _____ |

# EXHIBIT “A”

# SUBGRANTEE AGREEMENT

## 10-AZDOHS-HSGP- 777903-01

Enter Grant Agreement Number above (e.g., 777xxx-xx)

## Between

## The Arizona Department of Homeland Security
## And

Town of Oro Valley Police Department

Enter the Name of the Subrecipient Agency Above

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

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

Town of Oro Valley Police Department

Enter the Name of the Subrecipient Agency Above

(subrecipient) for services under the terms of this Grant Agreement.

**I. PURPOSE OF AGREEMENT**

The purpose of this Agreement is to specify the responsibilities and procedures for the subrecipient's role in administering homeland security grant funds.

**II. TERM OF AGREEMENT, TERMINATION AND AMENDMENTS**

This Agreement shall become effective on October 1, 2010 and shall terminate on September 30, 2011. The obligations of the subrecipient as described herein will survive termination of this agreement.

**III. DESCRIPTION OF SERVICES**

The subrecipient shall provide the services for the State of Arizona, Arizona Department of Homeland Security as approved in the grant application titled

" TUASI Regional TLO Initiative "

Enter Title of Application

and funded at $ 10,320.00 (as may have been modified by the award letter).

Enter Funded Amount above

**IV. MANNER OF FINANCING**

The AZDOHS shall:

a) Provide up to $ 10,320.00 to the subrecipient for services provided under Paragraph III.

Enter Funded Amount above

b) Payment made by the AZDOHS to the subrecipient shall be on a reimbursement basis only and is conditioned upon receipt of proof of payment and applicable, accurate and complete reimbursement documents, as deemed necessary by the AZDOHS, to be submitted by the subrecipient. A listing of acceptable documentation can be found at www.azdohs.gov. Payments will be contingent upon receipt of all reporting requirements of the subrecipient under this Agreement.

## V. FISCAL RESPONSBILITY

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

## VI. FINANCIAL AUDIT/PROGRAMATIC MONITORING

The subrecipient agrees to terms specified in A.R.S. § 35-214 and § 35-215.

a) In addition, in compliance with the Federal Single Audit Act (31 U.S.C. par. 7501-7507), as amended by the Single Audit Act Amendments of 1996 (P.L. 104 to 156), the subrecipient must have an annual audit conducted in accordance with OMB Circular #A-133 ("Audits of States, Local Governments, and Non-profit Organizations") if the subrecipient expends more than $500,000 from Federal awards. If the subrecipient has expended more than $500,000 in Federal dollars, a copy of the subrecipient's audit report for the previous fiscal year must be submitted to the AZDOHS for review within thirty (30) days of signing this Agreement.

b) Subrecipients will be monitored periodically by the AZDOHS staff, both programmatically and financially, to ensure that the project goals, objectives, performance requirements, timelines, milestone completion, budgets, and other related program criteria are being met. Monitoring will be accomplished through a combination of office-based reviews and onsite monitoring visits. Monitoring can involve aspects of the work involved under this contract including but not limited to the review and analysis of the financial, programmatic, performance and administrative issues relative to each program and will identify areas where technical assistance and other support may be needed.

## VII. APPLICABLE FEDERAL REGULATIONS

The subrecipient must comply with the grant guidance Office of Management and Budget (OMB) Circulars Code of Federal Regulations (CFR) and other Federal guidance including but not limited to:

a) 44 CFR Chapter 1, Federal Emergency Management Agency, Department of Homeland Security at http://www.access.gpo.gov/nara/cfr/waisidx_07/44cfrv1_07.html.

b) 2 CFR 225 Cost Principles for State, Local & Indian Tribal Governments (formerly OMB), at http://www.access.gpo.gov/nara/cfr/waisidx_07/2cfr225_07.html.
Cost Principles: 2 CFR Part 225, State and Local Governments; 2 CFR Part 220, Educational Institutions; 2 CFR Part 230, Non-Profit Organizations; Federal Acquisition Regulation Sub-part 31.2, Contracts with Commercial Organizations.
OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, at http://www.whitehouse.gov/omb/circulars/a133/a133.html.

c) 44 CFR Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (formerly OMB Circular A-102), at http://149.168.212.15/mitigation/Library/44_CFR-Part_13.pdf. U.S. Department of Homeland Security Authorized Equipment List (AEL), at https://www.rkb.mipt.org/ael.cfm 2 CFR Part 215, Institutions of Higher Education, Hospitals and Other Non-Profit Organizations.

d) 28 CFR applicable to grants and cooperative agreements, including Part II, Applicability of Office of Management and Budget Circulators; Part 18, Administrative Review Procedure; Part 20, Criminal Justice Information Systems; Part 22, Confidentiality of Identifiable Research and Statistical Information; Part 23, Criminal Intelligence System Operating Policies; Part 42, Non-discrimination Equal Employment Opportunities Policies and Procedures; Part 61, Procedures for Implementing the National Environmental Policy Act; Part 63, Floodplain Management and Wetland Protection Procedures; and Part 66, Uniform Administrative Requirements for Grants and Co-operative Agreements to State and Local Government.

Included within the above mentioned guidance documents are provisions for the following:

**NIMSCAST**
The subrecipient agrees to complete the National Incident Management System Compliance Assistance Support Tool (NIMSCAST) and remain in compliance.

**Environmental Planning and Historic Preservation**
The subrecipient shall comply with all applicable Federal, State, and local environmental and historic preservation (EHP) requirements and shall provide any information requested by FEMA to ensure compliance with applicable laws including: National Environmental Policy Act, National Historic Preservation Act, Endangered Species Act, and Executive Orders on Floodplains (11988), Wetlands (11990) and Environmental Justice (12898).Subrecipient shall not undertake any project having the potential to impact EHP resources without the prior approval of AZDOHS/FEMA, including but not limited to communications towers, physical security enhancements, new construction, and modifications to buildings that are 50 years old or greater. Subrecipient must comply with all conditions placed on the project as the result of the EHP review. Any change to the approved project scope of work will require re-evaluation for compliance with these EHP requirements. If ground disturbing activities occur during project implementation, the subrecipient must ensure monitoring of ground disturbance and if any potential archeological resources arc discovered, the subrecipient will immediately cease construction in that area and notify FEMA and the appropriate State Historic Preservation Office. Construction activities shall not be initiated prior to the full environmental and historic preservation review.

**Consultants/Trainers/Training Providers**
Billings for consultants/trainers/training providers must include at a minimum: a description of services; dates of services; number of hours for services performed; rate charged for services; and, the total cost of services performed. Consultant/trainer/training provider costs must be within the prevailing rates, must be obtained under consistent treatment with the procurement policies of the subrecipient and 44 CFR Chapter 1, Part 13 and shall not exceed the maximum of $450 per day per consultant/trainer/training provider unless prior written approval is granted by the AZDOHS. In addition to the per day $450 maximum amount, the consultant/trainer/training provider may be reimbursed

reasonable travel, lodging, and per diem not to exceed the state rate. Itemized receipts are required for lodging and travel reimbursements. The subrecipient will not be reimbursed costs other than travel, lodging, and per diem on travel days for consultants/trainers/training providers.

**Contractors/Subcontractors**
The subrecipient may enter into written subcontract(s) for performance of certain of its functions under the contract in accordance with terms established in the OMB Circulars, Code of Federal Regulations, DHS Guidance and DHS Program Guide. The subrecipient agrees and understands that no subcontract that the subrecipient enters into with respect to performance under this Agreement shall in any way relieve the subrecipient of any responsibilities for performance of its duties. The subrecipient shall give the AZDOHS immediate notice in writing by certified mail of any action or suit filed and prompt notice of any claim made against the subrecipient by any subcontractor or vendor which in the opinion of the subrecipient may result in litigation related in any way to the Agreement with the AZDOHS.

**Personnel and Travel Costs**
All grant funds expended for personnel, travel, lodging, and per diem must be consistent with the subrecipient's policies and procedures and must be applied uniformly to both federally financed and other activities of the agency. At no time will the subrecipient's reimbursement(s) exceed the State rate established by the Arizona Department of Administration, General Accounting Office Travel Policies: http://www.gao.state.gov.

**Procurement**
The subrecipient shall comply with all internal agency procurement rules/policies and must also comply with Federal procurement rules/policies as outlined in section VII and all procurement must comply with substantially with Arizona State procurement code and rules. The Federal intent is that all Homeland Security Funds are awarded competitively. The subrecipient shall not enter into a Sole or Single Source procurement agreement, unless prior written approval is granted by the AZDOHS.

**Training**
The subrecipient agrees that any grant funds used for training must be in compliance with grant guidance. All training must be approved through the ADEM/AZDOHS training request process prior to execution of training contract(s).

**Nonsupplanting Agreement**
The subrecipient shall not use funds to supplant State or Local funds or other resources that would otherwise have been made available for this program/project. Further, if a position created by a grant is filled from within, the vacancy created by this action must be filled within thirty (30) days. If the vacancy is not filled within thirty (30) days, the subrecipient must stop charging the grant for the new position. Upon filling the vacancy, the subrecipient may resume charging for the grant position.

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

a) The subrecipient warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. (That subsection reads: "After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program).

b) A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract and the subrecipient may be subject to penalties up to and including termination of the Agreement.

c) The AZDOHS retains the legal right to inspect the papers of any employee who works on the Agreement to ensure that the subrecipient is complying with the warranty under paragraph (a) above.

**Property Control**

Effective control and accountability must be maintained for all property. The subrecipient must adequately safeguard all such property and must assure that it is used solely for authorized purposes as described in the guidance and application. The subrecipient shall exercise caution in the use, maintenance, protection and preservation of such property.

Terms used in this sub-part have the following meaning (see also Reclamation Supplement to Federal Property Management Regulations, Part 60 Property Accountability, Sub-part 114S-60.4 Classification of Property).

a) Nonexpendable property is property which has a continuing use, is not consumed in use, is of a durable nature with an expected service life of one or more years, has an acquisition cost of $300 or more, and does not become a fixture or lose its identity as a component of other equipment or plant.

b) At the time when the final request for reimbursement is submitted, the subrecipient must file with the AZDOHS a copy of the Property Control Record Form listing all such property acquired with grant funds. The subrecipient agrees to be subject to equipment monitoring and auditing by state or federal authorized representatives for verification of information.

c) Equipment shall be used by the subrecipient in the program or project for which it was acquired as long as needed, whether or not the program or project continues to be supported by federal grant funds. When use of the property for project activities is discontinued, the subrecipient shall request in writing disposition instructions from the AZDOHS before actual disposition of the property. Theft, destruction, or loss of property shall be reported to the AZDOHS immediately. An equipment/capital asset list shall be maintained for the entire scope of the program or project for which it was acquired. All equipment having an acquisition cost of $5,000 (Five Thousand Dollars) or more per unit and/or a useful life of more than one year shall be included in the equipment/capital asset list.

**Allowable Costs**

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

a) The subrecipient agrees that grant funds are not to be expended for any indirect costs that may be incurred by the subrecipient for administering these funds.
b) The subrecipeint agrees that grant funds are not to be expended for any Management and Administrative (M&A) costs that may be incurred by the subrecipient for administering these funds unless explicitly applied for and approved in writing by the AZDOHS and shall be in compliance with Grant Guidance.

## VIII. DEBARMENT CERTIFICATION

The subrecipient agrees to comply with the Federal Debarment and Suspension regulations as outlined in the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions."

## IX. FUNDS MANAGEMENT

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

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

- Financial Management
- Procurement
- Personnel
- Property
- Travel

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

## X. REPORTING REQUIREMENTS

Regular reports by the subrecipient shall include:

a) Programmatic Reports
The subrecipient shall provide quarterly programmatic reports to the AZDOHS within fifteen (15) working days of the last day of the quarter in which services are provided. The subrecipient shall use the form provided by the AZDOHS to submit quarterly programmatic reports. The report shall contain such information as deemed necessary by the AZDOHS. The subrecipient shall use the Quarterly Programmatic Report Format template, which is posted at www.azdohs.gov. If the scope of the project has been fully completed and implemented, and there will be no further updates, then the quarterly programmatic report for the quarter in which the project was completed will be sufficient as the final report. The report should be marked as final and should be inclusive of all necessary and pertinent information regarding the project as deemed necessary by the AZDOHS. Quarterly programmatic reports shall be submitted to the AZDOHS until the entire scope of the project is completed

b) Quarterly reports are due:
**January 15** (period October 1– December 31)
**April 15** (period January 1 – March 31)
**July 15** (period April 1 – June 30)
**October 15** (period July 1 – September 30)

c) Financial Reimbursements
The subrecipient shall provide as frequently as monthly but not less than quarterly requests for reimbursement. Reimbursements shall be submitted with the Reimbursement Form provided by the AZDOHS staff. The subrecipient shall submit a final reimbursement for expenses received and invoiced prior to the end of the termination of this Agreement no more than forty-five (45) days after the end of the Agreement. Requests for reimbursement received later than the forty-five (45) days after the Agreement termination will not be paid. The final reimbursement request as submitted shall be marked FINAL, and include a copy of the Property Control Form.

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

## XI. ASSIGNMENT AND DELEGATION

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

## XII. AMENDMENTS

Any change in this Agreement including but not limited to the Description of Services and budget described herein, whether by modification or supplementation, must be accomplished by a formal Agreement amendment signed and approved by and between the duly authorized representative of the subrecipient and the AZDOHS.

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

## XIII. OFFSHORE PERFORMANCE OF WORK PROHIBITED

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

## XIV. AGREEMENT RENEWAL

This Agreement shall not bind nor purport to bind the AZDOHS for any contractual commitment in excess of the original Agreement period.

## XV. RIGHT TO ASSURANCE

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

## XVI. CANCELLATION FOR CONFLICT OF INTEREST

The AZDOHS may, by written notice to the subrecipient, immediately cancel this Agreement without penalty or further obligation pursuant to A.R.S. § 38-511 if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement

on behalf of the State or its subdivisions (unit of Local Government) is an employee or agent of any other party in any capacity or a consultant to any other party to the Agreement with respect to the subject matter of the Agreement. Such cancellation shall be effective when the parties to the Agreement receive written notice from the AZDOHS, unless the notice specifies a later time.

**XVII. THIRD PARTY ANTITRUST VIOLATIONS**

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

**XVIII. AVAILABILITY OF FUNDS**

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

**XIX. FORCE MAJEURE**

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

**XX. PARTIAL INVALIDITY**

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

**XXI. ARBITRATION**

In the event of any dispute arising under this Agreement, written notice of the dispute must be provided to the other party within thirty (30) days of the events giving the rise to the dispute. The subrecipient agrees to terms specified in A.R.S. § 12-1518.

**XXII. GOVERNING LAW AND CONTRACT INTERPRETATION**

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

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

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

**XXIII. ENTIRE AGREEMENT**

This Agreement and its Exhibits constitute the entire Agreement between the parties hereto pertaining to the subject matter hereof and may not be changed or added to except by a writing signed by all parties hereto in conformity with Paragraph X, REPORTING REQUIREMENTS; provided; however, that the AZDOHS shall have the right to immediately amend this Agreement so that it complies with any new legislation, laws, ordinances, or rules affecting this Agreement. The subrecipient agrees to execute any such amendment within ten (10) business days of its receipt. All prior and contemporaneous agreements, representations, and understandings of the parties, oral, written, pertaining to the subject matter hereof, are hereby superseded or merged herein.

**XXIV. RESTRICTIONS ON LOBBYING**

The subrecipient shall not use funds made available to it under this Agreement to pay for, influence, or seek to influence any officer or employee of a State or Federal government.

**XXV. LICENSING**

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

**XXVI. NON-DISCRIMINATION**

The subrecipient shall comply with all State and Federal equal opportunity and non-discrimination requirements and conditions of employment, including the Americans with Disabilities Act, in accordance with A.R.S. title 41, Chapter 9, Article 4 and Executive Order2009-09.

**XXVII. SECTARIAN REQUESTS**

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

**XXVIII. SEVERABILITY**

The provisions of this Agreement are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Agreement.

**XXIX. ADVERTISING AND PROMOTION OF AGREEMENT**

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

**XXX. OWNERSHIP OF INFORMATION, PRINTED AND PUBLISHED MATERIAL**

The AZDOHS reserves the right to review and approve any publications funded or partially funded through this Agreement. All publications funded or partially funded through this Agreement shall recognize the AZDOHS and the U.S. Department of Homeland Security. The U.S. Department of Homeland Security and the AZDOHS shall have full and complete rights to reproduce, duplicate, disclose, perform, and otherwise use all materials prepared under this Agreement.

The subrecipient agrees that any report, printed matter, or publication (written, visual, or sound, but excluding press releases, newsletters, and issue analyses) issued by the subrecipient describing programs or projects funded in whole or in part with Federal funds shall contain the following statement:

"This document was prepared under a grant from U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Homeland Security."

The subrecipient also agrees that one copy of any such publication, report, printed matter, or publication shall be submitted to the AZDOHS to be placed on file and distributed as appropriate to other potential sub-recipients or interested parties. The AZDOHS may waive the requirement for submission of any specific publication upon submission of a request providing justification from the subrecipient.

The AZDOHS and the subrecipient recognize that research resulting from this Agreement has the potential to become public information. However, prior to the termination of this Agreement, the subrecipient agrees that no research-based data resulting from this Agreement shall be published or otherwise distributed in any form without express written permission from the AZDOHS and possibly the U.S. Department of Homeland Security. It is also agreed that any report or printed matter completed as a part of this agreement is a work for hire and shall not be copyrighted by the subrecipient.

**XXXI. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS**

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

**XXXII. INDEMNIFICATION**

To the extent permitted by law, each party (as indemnitor) agrees to indemnify, defend and hold harmless the other party (as indemnitee) from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as claims) arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers.

**XXXIII. TERMINATION**

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

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

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

**XXXIV. CONTINUATION OF PERFORMANCE THROUGH TERMINATION**

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

**XXXV. PARAGRAPH HEADINGS**

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

**XXXVI. COUNTERPARTS**

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

**XXXVII. AUTHORITY TO EXECUTE THIS AGREEMENT**

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

**XXXVIII. SPECIAL CONDITIONS**

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

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

c) The subrecipient agrees that, when practicable, any equipment purchased with grant funding shall be prominently marked as follows: **"Purchased with funds provided by the U.S. Department of Homeland Security."**

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

e) The subrecipient is prohibited from transferring funds between programs (State Homeland Security Program, Urban Area Security Initiative, Citizen Corps Program, Operation Stonegarden, and Metropolitan Medical Response System).

**XXXIX. NOTICES**

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

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

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

The subrecipient shall submit reimbursement requests relative to this Agreement to the appropriate the AZDOHS staff; contact information at www.azdohs.gov

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

Lt. John Teachout
Enter Title, First & Last Name above
Town of Oro Valley Police Department
Enter Agency Name above
11000 N. La Canada Drive
Enter Street Address
Oro Valley, AZ 85737
Enter City, State, ZIP

## XXXX. IN WITNESS WHEREOF

The parties hereto agree to execute this Agreement.

**FOR AND BEHALF OF THE**

Town of Oro Valley Police Department
Enter Agency Name above

Authorized Signature above
Satish I. Hiremath
Print Name & Title above

Enter Date above

**FOR AND BEHALF OF THE**

Arizona Department of Homeland Security

Gilbert M. Orrantia
Director

Date

*(Please be sure to complete and mail two original documents to the Arizona Department of Homeland Security.)*

**Item #: 1. I.**

**TC Regular Session**

**Date: 10/20/2010**

| | | | |
|---|---|---|---|
| **Requested by:** | Daniel G. Sharp, Police Chief | **Submitted By:** | Colleen Muhr, Police Department |
| **Department:** | Police Department | | |

## Information

**SUBJECT:**

**Resolution No. (R)10-75** Authorizing and Approving a Subgrantee Agreement Between the Town of Oro Valley and the Arizona Department of Homeland Security to Continue Funding a Full Time Oro Valley Police Department Planner for the Tucson Urban Area Security Initiative (TUASI) Regional Planning Cooperative

**SUMMARY:**

The Town of Oro Valley wishes to enter into a Subgrantee Agreement with the Arizona Department of Homeland Security for the benefit of the Oro Valley Police Department, as well as other partnering law enforcement agencies.

**DISCUSSION:**

Grant application was made with the Oro Valley Police Department as a member agency of a five member cooperative titled ‘TUASI Regional Planning Cooperative (RPC) (one member of five member Coop)”.

This funding will allow the Town of Oro Valley Police Department to continue funding one (1) FTE for the position of 'Planner'. The current position reports to Oro Valley Police Department and is also housed at a regional location with four (4) other planners.

**FISCAL IMPACT:**

FY 2011 = $90,000 currently budgeted.

**CONCLUSION/RECOMMENDATION:**

Approval is recommended.

**SUGGESTED MOTION:**

I move to approve Resolution No. (R)10-75 Authorizing and Approving a Subgrantee Agreement Between the Town of Oro Valley and the Arizona Department of Homeland Security to Continue Funding a Full Time Oro Valley Police Department Planner for the Tucson Urban Area Security Initiative Regional Planning Cooperative.

## Attachments

Link: Resolution 75

Link: Agreement

**RESOLUTION (R) 10-75**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, AUTHORIZING AND APPROVING A SUBGRANTEE AGREEMENT BETWEEN THE TOWN OF ORO VALLEY AND THE ARIZONA DEPARTMENT OF HOMELAND SECURITY TO CONTINUE FUNDING A FULL TIME ORO VALLEY POLICE DEPARTMENT PLANNER FOR THE TUCSON URBAN AREA SECURITY INITIATIVE REGIONAL PLANNING COOPERATIVE**

**WHEREAS**, The Town of Oro Valley is a municipal corporation within the State of Arizona and is vested with all the rights, privileges and benefits and entitled to the immunities and exemptions granted to municipalities and political subdivisions under the Laws of the State of Arizona; and

**WHEREAS**, the Arizona Department of Homeland Security requires participating jurisdictions to enter into a Subgrantee Agreement to receive the funds granted under the Tucson Urban Area Security Initiative (TUASI) Regional Planning Cooperative; and

**WHEREAS**, the Town of Oro Valley's allocation under the grant is a maximum of $90,000.00 which will be used to continue funding a full time Oro Valley Police Department Planner for the TUASI Regional Planning Cooperative; and

**WHEREAS**, it is in the best interest of the Town of Oro Valley to enter into the Subgrantee Agreement (attached hereto as Exhibit "A") in order to receive the funds which will be used to continue funding a full time Oro Valley Police Department Planner for TUASI Regional Planning Cooperative.

**NOW THEREFORE BE IT RESOLVED by the Mayor and Town Council of the Town of Oro Valley, Arizona, that:**

1. The Subgrantee Agreement between the Town of Oro Valley, for the benefit of the Oro Valley Police Department and the Arizona Department of Homeland Security, attached hereto as Exhibit "A" and incorporated herein by this reference, to continue funding a full time Oro Valley Police Department Planner for the Tucson Urban Area Security Initiative Regional Planning Cooperative is hereby authorized and approved.

2. The Mayor and other administrative officials of the Town of Oro Valley are hereby authorized to take such steps as are necessary to execute and implement the terms of the Subgrantee Agreement.

**PASSED AND ADOPTED** by the Mayor and Town Council of the Town of Oro Valley, Arizona this 20th day of October, 2010.

**TOWN OF ORO VALLEY, ARIZONA**

_____

Satish I. Hiremath, Mayor

| | |
|---|---|
| **ATTEST:** | **APPROVED AS TO FORM:** |
| _____ | _____ |
| Kathryn E. Cuvelier, Town Clerk | Tobin Rosen, Town Attorney |
| Date: _____ | Date: _____ |

# EXHIBIT “A”

# SUBGRANTEE AGREEMENT

## 10-AZDOHS-HSGP- 777903-01

Enter Grant Agreement Number above (e.g., 777xxx-xx)

## Between

## The Arizona Department of Homeland Security
## And

Town of Oro Valley Police Department

Enter the Name of the Subrecipient Agency Above

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

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

Town of Oro Valley Police Department

Enter the Name of the Subrecipient Agency Above

(subrecipient) for services under the terms of this Grant Agreement.

**I. PURPOSE OF AGREEMENT**

The purpose of this Agreement is to specify the responsibilities and procedures for the subrecipient's role in administering homeland security grant funds.

**II. TERM OF AGREEMENT, TERMINATION AND AMENDMENTS**

This Agreement shall become effective on October 1, 2010 and shall terminate on September 30, 2011. The obligations of the subrecipient as described herein will survive termination of this agreement.

**III. DESCRIPTION OF SERVICES**

The subrecipient shall provide the services for the State of Arizona, Arizona Department of Homeland Security as approved in the grant application titled

" TUASI Regional TLO Initiative "

Enter Title of Application

and funded at $ 10,320.00 (as may have been modified by the award letter).

Enter Funded Amount above

**IV. MANNER OF FINANCING**

The AZDOHS shall:

a) Provide up to $ 10,320.00 to the subrecipient for services provided under Paragraph III.

Enter Funded Amount above

b) Payment made by the AZDOHS to the subrecipient shall be on a reimbursement basis only and is conditioned upon receipt of proof of payment and applicable, accurate and complete reimbursement documents, as deemed necessary by the AZDOHS, to be submitted by the subrecipient. A listing of acceptable documentation can be found at www.azdohs.gov. Payments will be contingent upon receipt of all reporting requirements of the subrecipient under this Agreement.

## V. FISCAL RESPONSBILITY

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

## VI. FINANCIAL AUDIT/PROGRAMATIC MONITORING

The subrecipient agrees to terms specified in A.R.S. § 35-214 and § 35-215.

a) In addition, in compliance with the Federal Single Audit Act (31 U.S.C. par. 7501-7507), as amended by the Single Audit Act Amendments of 1996 (P.L. 104 to 156), the subrecipient must have an annual audit conducted in accordance with OMB Circular #A-133 ("Audits of States, Local Governments, and Non-profit Organizations") if the subrecipient expends more than $500,000 from Federal awards. If the subrecipient has expended more than $500,000 in Federal dollars, a copy of the subrecipient's audit report for the previous fiscal year must be submitted to the AZDOHS for review within thirty (30) days of signing this Agreement.

b) Subrecipients will be monitored periodically by the AZDOHS staff, both programmatically and financially, to ensure that the project goals, objectives, performance requirements, timelines, milestone completion, budgets, and other related program criteria are being met. Monitoring will be accomplished through a combination of office-based reviews and onsite monitoring visits. Monitoring can involve aspects of the work involved under this contract including but not limited to the review and analysis of the financial, programmatic, performance and administrative issues relative to each program and will identify areas where technical assistance and other support may be needed.

## VII. APPLICABLE FEDERAL REGULATIONS

The subrecipient must comply with the grant guidance Office of Management and Budget (OMB) Circulars Code of Federal Regulations (CFR) and other Federal guidance including but not limited to:

a) 44 CFR Chapter 1, Federal Emergency Management Agency, Department of Homeland Security at http://www.access.gpo.gov/nara/cfr/waisidx_07/44cfrv1_07.html.

b) 2 CFR 225 Cost Principles for State, Local & Indian Tribal Governments (formerly OMB), at http://www.access.gpo.gov/nara/cfr/waisidx_07/2cfr225_07.html.
Cost Principles: 2 CFR Part 225, State and Local Governments; 2 CFR Part 220, Educational Institutions; 2 CFR Part 230, Non-Profit Organizations; Federal Acquisition Regulation Sub-part 31.2, Contracts with Commercial Organizations.
OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, at http://www.whitehouse.gov/omb/circulars/a133/a133.html.

c) 44 CFR Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (formerly OMB Circular A-102), at http://149.168.212.15/mitigation/Library/44_CFR-Part_13.pdf. U.S. Department of Homeland Security Authorized Equipment List (AEL), at https://www.rkb.mipt.org/ael.cfm 2 CFR Part 215, Institutions of Higher Education, Hospitals and Other Non-Profit Organizations.

d) 28 CFR applicable to grants and cooperative agreements, including Part II, Applicability of Office of Management and Budget Circulators; Part 18, Administrative Review Procedure; Part 20, Criminal Justice Information Systems; Part 22, Confidentiality of Identifiable Research and Statistical Information; Part 23, Criminal Intelligence System Operating Policies; Part 42, Non-discrimination Equal Employment Opportunities Policies and Procedures; Part 61, Procedures for Implementing the National Environmental Policy Act; Part 63, Floodplain Management and Wetland Protection Procedures; and Part 66, Uniform Administrative Requirements for Grants and Co-operative Agreements to State and Local Government.

Included within the above mentioned guidance documents are provisions for the following:

**NIMSCAST**
The subrecipient agrees to complete the National Incident Management System Compliance Assistance Support Tool (NIMSCAST) and remain in compliance.

**Environmental Planning and Historic Preservation**
The subrecipient shall comply with all applicable Federal, State, and local environmental and historic preservation (EHP) requirements and shall provide any information requested by FEMA to ensure compliance with applicable laws including: National Environmental Policy Act, National Historic Preservation Act, Endangered Species Act, and Executive Orders on Floodplains (11988), Wetlands (11990) and Environmental Justice (12898).Subrecipient shall not undertake any project having the potential to impact EHP resources without the prior approval of AZDOHS/FEMA, including but not limited to communications towers, physical security enhancements, new construction, and modifications to buildings that are 50 years old or greater. Subrecipient must comply with all conditions placed on the project as the result of the EHP review. Any change to the approved project scope of work will require re-evaluation for compliance with these EHP requirements. If ground disturbing activities occur during project implementation, the subrecipient must ensure monitoring of ground disturbance and if any potential archeological resources arc discovered, the subrecipient will immediately cease construction in that area and notify FEMA and the appropriate State Historic Preservation Office. Construction activities shall not be initiated prior to the full environmental and historic preservation review.

**Consultants/Trainers/Training Providers**
Billings for consultants/trainers/training providers must include at a minimum: a description of services; dates of services; number of hours for services performed; rate charged for services; and, the total cost of services performed. Consultant/trainer/training provider costs must be within the prevailing rates, must be obtained under consistent treatment with the procurement policies of the subrecipient and 44 CFR Chapter 1, Part 13 and shall not exceed the maximum of $450 per day per consultant/trainer/training provider unless prior written approval is granted by the AZDOHS. In addition to the per day $450 maximum amount, the consultant/trainer/training provider may be reimbursed

reasonable travel, lodging, and per diem not to exceed the state rate. Itemized receipts are required for lodging and travel reimbursements. The subrecipient will not be reimbursed costs other than travel, lodging, and per diem on travel days for consultants/trainers/training providers.

**Contractors/Subcontractors**
The subrecipient may enter into written subcontract(s) for performance of certain of its functions under the contract in accordance with terms established in the OMB Circulars, Code of Federal Regulations, DHS Guidance and DHS Program Guide. The subrecipient agrees and understands that no subcontract that the subrecipient enters into with respect to performance under this Agreement shall in any way relieve the subrecipient of any responsibilities for performance of its duties. The subrecipient shall give the AZDOHS immediate notice in writing by certified mail of any action or suit filed and prompt notice of any claim made against the subrecipient by any subcontractor or vendor which in the opinion of the subrecipient may result in litigation related in any way to the Agreement with the AZDOHS.

**Personnel and Travel Costs**
All grant funds expended for personnel, travel, lodging, and per diem must be consistent with the subrecipient's policies and procedures and must be applied uniformly to both federally financed and other activities of the agency. At no time will the subrecipient's reimbursement(s) exceed the State rate established by the Arizona Department of Administration, General Accounting Office Travel Policies: http://www.gao.state.gov.

**Procurement**
The subrecipient shall comply with all internal agency procurement rules/policies and must also comply with Federal procurement rules/policies as outlined in section VII and all procurement must comply with substantially with Arizona State procurement code and rules. The Federal intent is that all Homeland Security Funds are awarded competitively. The subrecipient shall not enter into a Sole or Single Source procurement agreement, unless prior written approval is granted by the AZDOHS.

**Training**
The subrecipient agrees that any grant funds used for training must be in compliance with grant guidance. All training must be approved through the ADEM/AZDOHS training request process prior to execution of training contract(s).

**Nonsupplanting Agreement**
The subrecipient shall not use funds to supplant State or Local funds or other resources that would otherwise have been made available for this program/project. Further, if a position created by a grant is filled from within, the vacancy created by this action must be filled within thirty (30) days. If the vacancy is not filled within thirty (30) days, the subrecipient must stop charging the grant for the new position. Upon filling the vacancy, the subrecipient may resume charging for the grant position.

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

a) The subrecipient warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. (That subsection reads: "After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program).

b) A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract and the subrecipient may be subject to penalties up to and including termination of the Agreement.

c) The AZDOHS retains the legal right to inspect the papers of any employee who works on the Agreement to ensure that the subrecipient is complying with the warranty under paragraph (a) above.

**Property Control**

Effective control and accountability must be maintained for all property. The subrecipient must adequately safeguard all such property and must assure that it is used solely for authorized purposes as described in the guidance and application. The subrecipient shall exercise caution in the use, maintenance, protection and preservation of such property.

Terms used in this sub-part have the following meaning (see also Reclamation Supplement to Federal Property Management Regulations, Part 60 Property Accountability, Sub-part 114S-60.4 Classification of Property).

a) Nonexpendable property is property which has a continuing use, is not consumed in use, is of a durable nature with an expected service life of one or more years, has an acquisition cost of $300 or more, and does not become a fixture or lose its identity as a component of other equipment or plant.

b) At the time when the final request for reimbursement is submitted, the subrecipient must file with the AZDOHS a copy of the Property Control Record Form listing all such property acquired with grant funds. The subrecipient agrees to be subject to equipment monitoring and auditing by state or federal authorized representatives for verification of information.

c) Equipment shall be used by the subrecipient in the program or project for which it was acquired as long as needed, whether or not the program or project continues to be supported by federal grant funds. When use of the property for project activities is discontinued, the subrecipient shall request in writing disposition instructions from the AZDOHS before actual disposition of the property. Theft, destruction, or loss of property shall be reported to the AZDOHS immediately. An equipment/capital asset list shall be maintained for the entire scope of the program or project for which it was acquired. All equipment having an acquisition cost of $5,000 (Five Thousand Dollars) or more per unit and/or a useful life of more than one year shall be included in the equipment/capital asset list.

**Allowable Costs**

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

a) The subrecipient agrees that grant funds are not to be expended for any indirect costs that may be incurred by the subrecipient for administering these funds.
b) The subrecipeint agrees that grant funds are not to be expended for any Management and Administrative (M&A) costs that may be incurred by the subrecipient for administering these funds unless explicitly applied for and approved in writing by the AZDOHS and shall be in compliance with Grant Guidance.

## VIII. DEBARMENT CERTIFICATION

The subrecipient agrees to comply with the Federal Debarment and Suspension regulations as outlined in the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions."

## IX. FUNDS MANAGEMENT

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

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

- Financial Management
- Procurement
- Personnel
- Property
- Travel

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

## X. REPORTING REQUIREMENTS

Regular reports by the subrecipient shall include:

a) Programmatic Reports
The subrecipient shall provide quarterly programmatic reports to the AZDOHS within fifteen (15) working days of the last day of the quarter in which services are provided. The subrecipient shall use the form provided by the AZDOHS to submit quarterly programmatic reports. The report shall contain such information as deemed necessary by the AZDOHS. The subrecipient shall use the Quarterly Programmatic Report Format template, which is posted at www.azdohs.gov. If the scope of the project has been fully completed and implemented, and there will be no further updates, then the quarterly programmatic report for the quarter in which the project was completed will be sufficient as the final report. The report should be marked as final and should be inclusive of all necessary and pertinent information regarding the project as deemed necessary by the AZDOHS. Quarterly programmatic reports shall be submitted to the AZDOHS until the entire scope of the project is completed

b) Quarterly reports are due:
**January 15** (period October 1– December 31)
**April 15** (period January 1 – March 31)
**July 15** (period April 1 – June 30)
**October 15** (period July 1 – September 30)

c) Financial Reimbursements
The subrecipient shall provide as frequently as monthly but not less than quarterly requests for reimbursement. Reimbursements shall be submitted with the Reimbursement Form provided by the AZDOHS staff. The subrecipient shall submit a final reimbursement for expenses received and invoiced prior to the end of the termination of this Agreement no more than forty-five (45) days after the end of the Agreement. Requests for reimbursement received later than the forty-five (45) days after the Agreement termination will not be paid. The final reimbursement request as submitted shall be marked FINAL, and include a copy of the Property Control Form.

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

## XI. ASSIGNMENT AND DELEGATION

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

## XII. AMENDMENTS

Any change in this Agreement including but not limited to the Description of Services and budget described herein, whether by modification or supplementation, must be accomplished by a formal Agreement amendment signed and approved by and between the duly authorized representative of the subrecipient and the AZDOHS.

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

## XIII. OFFSHORE PERFORMANCE OF WORK PROHIBITED

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

## XIV. AGREEMENT RENEWAL

This Agreement shall not bind nor purport to bind the AZDOHS for any contractual commitment in excess of the original Agreement period.

## XV. RIGHT TO ASSURANCE

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

## XVI. CANCELLATION FOR CONFLICT OF INTEREST

The AZDOHS may, by written notice to the subrecipient, immediately cancel this Agreement without penalty or further obligation pursuant to A.R.S. § 38-511 if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement

on behalf of the State or its subdivisions (unit of Local Government) is an employee or agent of any other party in any capacity or a consultant to any other party to the Agreement with respect to the subject matter of the Agreement. Such cancellation shall be effective when the parties to the Agreement receive written notice from the AZDOHS, unless the notice specifies a later time.

**XVII. THIRD PARTY ANTITRUST VIOLATIONS**

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

**XVIII. AVAILABILITY OF FUNDS**

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

**XIX. FORCE MAJEURE**

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

**XX. PARTIAL INVALIDITY**

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

**XXI. ARBITRATION**

In the event of any dispute arising under this Agreement, written notice of the dispute must be provided to the other party within thirty (30) days of the events giving the rise to the dispute. The subrecipient agrees to terms specified in A.R.S. § 12-1518.

**XXII. GOVERNING LAW AND CONTRACT INTERPRETATION**

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

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

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

**XXIII. ENTIRE AGREEMENT**

This Agreement and its Exhibits constitute the entire Agreement between the parties hereto pertaining to the subject matter hereof and may not be changed or added to except by a writing signed by all parties hereto in conformity with Paragraph X, REPORTING REQUIREMENTS; provided; however, that the AZDOHS shall have the right to immediately amend this Agreement so that it complies with any new legislation, laws, ordinances, or rules affecting this Agreement. The subrecipient agrees to execute any such amendment within ten (10) business days of its receipt. All prior and contemporaneous agreements, representations, and understandings of the parties, oral, written, pertaining to the subject matter hereof, are hereby superseded or merged herein.

**XXIV. RESTRICTIONS ON LOBBYING**

The subrecipient shall not use funds made available to it under this Agreement to pay for, influence, or seek to influence any officer or employee of a State or Federal government.

**XXV. LICENSING**

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

**XXVI. NON-DISCRIMINATION**

The subrecipient shall comply with all State and Federal equal opportunity and non-discrimination requirements and conditions of employment, including the Americans with Disabilities Act, in accordance with A.R.S. title 41, Chapter 9, Article 4 and Executive Order2009-09.

**XXVII. SECTARIAN REQUESTS**

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

**XXVIII. SEVERABILITY**

The provisions of this Agreement are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Agreement.

**XXIX. ADVERTISING AND PROMOTION OF AGREEMENT**

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

**XXX. OWNERSHIP OF INFORMATION, PRINTED AND PUBLISHED MATERIAL**

The AZDOHS reserves the right to review and approve any publications funded or partially funded through this Agreement. All publications funded or partially funded through this Agreement shall recognize the AZDOHS and the U.S. Department of Homeland Security. The U.S. Department of Homeland Security and the AZDOHS shall have full and complete rights to reproduce, duplicate, disclose, perform, and otherwise use all materials prepared under this Agreement.

The subrecipient agrees that any report, printed matter, or publication (written, visual, or sound, but excluding press releases, newsletters, and issue analyses) issued by the subrecipient describing programs or projects funded in whole or in part with Federal funds shall contain the following statement:

"This document was prepared under a grant from U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Homeland Security."

The subrecipient also agrees that one copy of any such publication, report, printed matter, or publication shall be submitted to the AZDOHS to be placed on file and distributed as appropriate to other potential sub-recipients or interested parties. The AZDOHS may waive the requirement for submission of any specific publication upon submission of a request providing justification from the subrecipient.

The AZDOHS and the subrecipient recognize that research resulting from this Agreement has the potential to become public information. However, prior to the termination of this Agreement, the subrecipient agrees that no research-based data resulting from this Agreement shall be published or otherwise distributed in any form without express written permission from the AZDOHS and possibly the U.S. Department of Homeland Security. It is also agreed that any report or printed matter completed as a part of this agreement is a work for hire and shall not be copyrighted by the subrecipient.

**XXXI. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS**

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

**XXXII. INDEMNIFICATION**

To the extent permitted by law, each party (as indemnitor) agrees to indemnify, defend and hold harmless the other party (as indemnitee) from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as claims) arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers.

**XXXIII. TERMINATION**

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

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

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

**XXXIV. CONTINUATION OF PERFORMANCE THROUGH TERMINATION**

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

**XXXV. PARAGRAPH HEADINGS**

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

**XXXVI. COUNTERPARTS**

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

**XXXVII. AUTHORITY TO EXECUTE THIS AGREEMENT**

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

**XXXVIII. SPECIAL CONDITIONS**

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

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

c) The subrecipient agrees that, when practicable, any equipment purchased with grant funding shall be prominently marked as follows: **"Purchased with funds provided by the U.S. Department of Homeland Security."**

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

e) The subrecipient is prohibited from transferring funds between programs (State Homeland Security Program, Urban Area Security Initiative, Citizen Corps Program, Operation Stonegarden, and Metropolitan Medical Response System).

**XXXIX. NOTICES**

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

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

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

The subrecipient shall submit reimbursement requests relative to this Agreement to the appropriate the AZDOHS staff; contact information at www.azdohs.gov

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

Lt. John Teachout
Enter Title, First & Last Name above
Town of Oro Valley Police Department
Enter Agency Name above
11000 N. La Canada Drive
Enter Street Address
Oro Valley, AZ 85737
Enter City, State, ZIP

## XXXX. IN WITNESS WHEREOF

The parties hereto agree to execute this Agreement.

**FOR AND BEHALF OF THE**

Town of Oro Valley Police Department
Enter Agency Name above

Authorized Signature above
Satish I. Hiremath
Print Name & Title above

Enter Date above

**FOR AND BEHALF OF THE**

Arizona Department of Homeland Security

Gilbert M. Orrantia
Director

Date

*(Please be sure to complete and mail two original documents to the Arizona Department of Homeland Security.)*

**Item #: 1. J.**

**TC Regular Session**

**Date: 10/20/2010**

**Requested by:** Craig Civalier, Town Engineer **Submitted By:** Lynn Garcia, Development Infrastructure Services

**Department:** Development Infrastructure Services

## Information

**SUBJECT:**

**Resolution No. (R)10-76** Declaring As A Public Record That Certain Document Entitled Chapter 10, Offenses, Article 10-6, Anti-Graffiti, Attached hereto as Exhibit "A" and filed with the Town Clerk; and declaring an emergency, immediately making the amendments a public record

**SUMMARY:**

The Town of Oro Valley is dedicated to providing Oro Valley Residents with a safe and clean environment. Graffiti vandals jeopardize the integrity of this community and its residents. Oro Valley has a direct interest in expeditiously eradicating graffiti on all property within the town limits. The Code as currently adopted requires a 10-day period to be allowed to accomplish eradication. Studies and practices have shown that immediate removal of graffiti is the most effective action to diminish proliferation. The resolution proposed includes an emergency clause so that the amendments become a public record immediately upon adoption by the Town Council.

**DISCUSSION:**

The amendments to Chapter 10, Offenses (anti-graffiti) are being declared a public record due to the size of the document. In order to save the Town on publication costs, the amendments are being declared a public record and therefore, will not have to be published with the Ordinance after its adoption. However, the amendments will be posted on-line and are available for public inspection in the Clerk's Office.

The resolution includes an emergency clause so that the amendments become a public record immediately upon adoption by the Town Council.

**FISCAL IMPACT:**

The Town will save on advertising costs by meeting the requirement of publishing the adopted ordinance by reference without including the pages of amendments.

**CONCLUSION/RECOMMENDATION:**

Staff recommends adopting the Resolution with an emergency clause so that the amendments immediately become a public record. The amendments to the Ordinance will be posted on-line and are also available for public inspection in the Clerk's Office.

**SUGGESTED MOTION:**

I move to adopt Resolution (R)10-76 Declaring as a Public Record That Certain Document Entitled Chapter 10, Offenses, Article 10-6, Anti-Graffiti; and declaring an emergency, immediately making the amendments a public record.

## Attachments

Link: Resolution 76

Link: Amended Article 10-6

**RESOLUTION NO. (R) 10-76**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT ENTITLED CHAPTER 10, OFFENSES, ARTICLE 10-6, ANTI-GRAFFITI, ATTACHED HERETO AS EXHIBIT "A" AND FILED WITH THE TOWN CLERK; AND DECLARING AN EMERGENCY TO EXIST**

**BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA**, that certain document entitled Chapter 10, Offenses, Article 10-6, Anti-Graffiti, 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 and declaring an emergency to exist, and this resolution shall be effective immediately upon its passage and adoption.

**PASSED AND ADOPTED** by the Mayor and Town Council of the Town of Oro Valley, Arizona this 20th day of October, 2010.

**TOWN OF ORO VALLEY**

_____
Satish I. Hiremath, Mayor

**ATTEST**:

_____
Kathryn E. Cuvelier, Town Clerk

Date: _____

**APPROVED AS TO FORM**:

_____
Tobin Rosen, Town Attorney

Date: _____

# EXHIBIT “A”

# Article 10-6
# ANTI-GRAFFITI

Sections:

10-6-1 Purpose Statement
10-6-2 Definitions
10-6-3 Prohibited Acts
10-6-4 Accessibility to Graffiti Implements
10-6-5 Penalties for Perpetrator
10-6-6 Removal of Graffiti by Perpetrator
10-6-7 Removal of Graffiti Property Owner or Town
10-6-8 Prevention Provisions

## 10-6-1 Purpose Statement

The Town of Oro Valley is dedicated to providing Oro Valley Residents with a safe and clean environment. Graffiti vandals jeopardize the integrity of this community and its residents. Oro Valley has a direct interest in expeditiously eradicating graffiti on all property within the town limits. Studies have shown that an immediate removal of all signs of graffiti is necessary.

## 10-6-2 Definitions

For the purposes of this Code, the following words shall have the meanings respectively ascribed to them in this Section, except where the context clearly indicates a different meaning:

A. **Aerosol paint container** means any aerosol container that is adapted or made for the purpose of applying spray paint or other substances capable of defacing property.

B. **Broad-tipped marker** means any felt tip indelible marker or similar implement with a flat or angled writing surface that, at its broadest width, is greater than one-fourth (1/4th) of an inch, containing ink or other pigmented liquid that is not water soluble.

C. **Etching equipment** means any tool, device, or substance that can be used to make permanent marks on any natural or man-made surface.

D. **Graffiti** means any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property or, despite advance authorization, is otherwise deemed a public nuisance by the Town Council.

E. **Graffiti implement** means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, or brush.

F. **Paint stick or graffiti** means any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure and leaving a mark of at least one-eighth (1/8th) of an inch in width.

G. **Person** means any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

H. **Public Property** means any asset owned by the Town of Oro Valley

I. **Residential Property** means a building, walls and structures surrounding or attached to property whose main purpose is for a place of dwelling of home.

J. **Commercial Property** means buildings, walls, structures intended to generate a profit either from capital gain or rental income

K. **Utility Company** means public or privately owned electricity, natural gas, water, sewer, and/or communications companies.

L. **Cover graffiti** means to conceal graffiti with paint in lieu of removal of graffiti.

M. **Remove graffiti** means to eradicate by means of hydro-blasting or by using a chemical component or combination of techniques to remove graffiti.

**10-6-3 Prohibited Acts**

A. Defacement. It shall be unlawful for any person to apply graffiti to any natural or man-made surface on any Town-owned property or, without the permission of the owner or occupant on any private property.

B. Possession of Graffiti Implements.

1. By Minors at or Near School Facilities. It shall be unlawful for any person under the age of eighteen (18) years to possess any graffiti implement while on any school property, grounds, facilities, buildings, or structures, or in areas immediately adjacent to those specific locations upon public property, or upon private property without the prior written consent of the owner or occupant of such private property. The provisions of this Section shall not apply to the possession of broad-tipped markers or other instruments by a minor attending or traveling to or from school at which the minor is enrolled if the minor is participating in a class at the school that formally requires the possession of broad-tipped markers or other such instruments. The burden of proof in any prosecution for violation of this Section shall be upon the minor student to establish the need to possess a broad-tipped marker.

2. In Designated Public Places. It shall be unlawful for any person to possess any graffiti implement while in or upon any public facility, park, playground, swimming pool, recreational facility, or other public building or structure owned or operated by the Town or while in or within fifty (50) feet of an underpass, bridge abutment, storm drain, or similar types of infrastructure unless otherwise authorized by the Town.

**10-6-4 Accessibility of Graffiti Implements**

A. Furnishing to Minors Prohibited. It shall be unlawful for any person, other than a parent or legal guardian to sell, exchange, give, loan, or otherwise furnish, or cause to permit to be exchanged, given, loaned, or otherwise furnished, any aerosol paint container, broad-tipped marker, or paint stick to any person under the age of eighteen (18) years without the written consent of the parents or guardian of the person.

B. Display and Storage.

1. Every person who owns, conducts, operates, or manages a retail commercial establishment selling aerosol paint containers, paint sticks, or broad-tipped markers shall store the containers, sticks, or markers in an area continuously observable, through direct visual observation of surveillance

equipment, by employees of the retail establishment during the regular course of business.

2. In the event that a commercial retail establishment is unable to store the aerosol paint containers, paint sticks, or broad-tipped markers in an area as provided above, the establishment shall store the containers, sticks, and markers in an area not accessible to the public in the regular course of business without employee assistance.

C. Signage Required.

Every person who operates a retail commercial establishment selling graffiti implements shall:

1. Place a sign in clear, public view or near the display of such products stating: “Graffiti is against the law. Any person who defaces real or personal property with paint or any other liquid or device is guilty of a crime punishable by imprisonment of up to 180 days and/or a fine up to $2,500.00”

2. Place a sign in the direct view of such persons responsible for accepting customer payment for graffiti implements stating: “Selling spray paint, paint sticks, or broad- tipped markers to persons under 18 years of age is against the law and punishable by a fine of $2,500.00.

**10-6-5 Penalties**

A. Fines and Imprisonment. Any person violating this Code shall be punished by a fine of not less than one hundred dollars ($100.00) for the first offense; five hundred dollars ($500.00) for the second offense; and one thousand dollars ($1,000.00) for each subsequent offense, or by imprisonment in jail or probation or by both fine and imprisonment and probation at the discretion of the court.

1. In the case of a minor, the parents or legal guardian shall be jointly and severably liable with the minor for payment of all fines.

2. Failure of the parents or legal guardian to make payment may result in the filing of a lien on the parent’s or legal guardian’s property that includes the fine and administrative costs.

3. Upon an application and finding of indigence, the court may decline to order fines against the minor, parents or guardian.

B. Restitution. In addition to any punishment specified in this Section, the court shall order any violator to make restitution to the victim for damages or loss caused directly or indirectly by the violator’s offense in the amount or manner determined by the court. In the case of a minor, the parents or legal guardian shall be ordered jointly and severably liable with the minor to make the restitution.

C. Forfeiture of Personal Property. All personal property, including, but not limited to, automobiles, motorcycles and bicycles, used or intended to be used in violating this Code may be forfeitable to the Town. In forfeiting such personal property, the Town may follow the procedures outlined in State statutes concerning forfeitures of personal property. In any forfeiture proceeding under this Section, the court shall not order forfeiture unless it finds that the forfeiture is commensurate with the severity of the violation to the extent required by the Arizona and United States constitutions.

D. Community Service. In lieu of, or as part of, the penalties specified in this Section, a minor or adult may be required to perform community service as described by the court based on the following minimum requirements:

1. The minor or adult shall perform as least thirty (30) hours of community service within the Town boundaries of Oro Valley.

2. At least one parent or guardian of the minor may be in attendance a minimum of fifty percent (50%) of the period of assigned community service.

3. The entire period of community service shall be performed under the supervision of a community service provider.

4. Reasonable effort shall be made to assign the minor or adult to a type of community service that is reasonably expected to have a rehabilitative effect on the minor or adult, including community service that involves graffiti removal.

5. Any minor determined to be a ward of the court under Arizona State law as a result of committing an offense in the town shall be required, at the Town's option, to perform community service, including graffiti removal service of not less than thirty (30) hours nor more than eighty (80) hours.

E. Civil Responsibility for Damages for Wrongful Sale, Display or Storage. Any person who sells, displays or stores, or permits the sale, display or storage, of graffiti implements in violation of the provisions of this Code shall be liable for all costs, including attorney's fees and court costs, incurred by any party in connection with the removal of graffiti, or such party's prosecution of a civil claim for reimbursement or damages resulting from such graffiti removal or property repair, arising from the use by any person of such wrongfully sold, displayed or stored graffiti implement in violation of the provisions of this Code, provided that such liability shall not exceed two thousand five hundred dollars ($2,500.00).

**10-6-6 Removal of Graffiti by Perpetrator**

Any person applying graffiti on public or private property shall have the duty to remove the graffiti within twenty-four (24) hours after notice by the Town or private owner of the property involved. Such removal shall be done in a manner prescribed by the Chief of Police, the Town Engineer, or any Town department head, as authorized by the Town Council. Any person applying graffiti shall be responsible for the removal or for payment of the removal. Failure of any person to remove graffiti or pay for the removal shall constitute an additional violation of this Code. Where an un-emancipated minor applies graffiti, the parents or legal guardian shall also be responsible for such removal or for the payment for the removal.

**10-6-7 Removal of Graffiti Property Owner or Town**

Once graffiti is identified, the Town will notify the owner of the defaced property that the Town will be sending a graffiti abatement team to eradicate the graffiti within five (5) business days unless it is eradicated sooner by the property owner.

**10-6-8 Prevention Provisions**

A. **Design of Potential Graffiti-Attracting Surfaces.** Any applicant for design review approval, conditional use permit, special use permit, unclassified use permit, development agreement, or other form of development or building permit shall, to the extent feasible, have designed any building structures visible from any public or quasi-public place in such a manner to consider prevention of graffiti, including, but not limited to the following:

1. Use of a protective coating to provide for the effective and expeditious removal of graffiti;

2. Use of additional lighting;

3. Use of non-solid fencing;

4. Use of landscaping designed to cover large expansive walls, such as ivy or similar clinging vegetation; or

5. Use of architectural design to break up long continuous walls or solid areas.

B. **Design of Existing Graffiti-Attracting Surfaces;**

1. **At Owner's Expense.** Any surface of a structure on a parcel of land that has been defaced with graffiti equal to or more than five (5) times in twelve (12) months shall be declared a public nuisance and required to be retrofitted, at the cost of the property owner, with features or qualities as may be established by the Town as necessary to reduce the attractiveness of the surface for graffiti, or as necessary to permit more convenient or efficient removal of graffiti. In exercising the authority hereunder, the Town may not impose a cost on the property owner of greater than two thousand five hundred dollars ($2,500.00).

2. **At Town's Cost.** The owner of property containing a surface that has been defaced with graffiti equal to or more than five (5) times in twelve (12) months shall permit the Town at the Town's discretion, to enter the property and, at the Town's cost, make modifications as necessary to reduce the attractiveness of the surface for graffiti, or as necessary to permit more convenient or efficient removal of graffiti if the Town chooses to do so.

**Item #: 1. K.**

**TC Regular Session**

**Date: 10/20/2010**

**Requested by:** Aimee Ramsey, Transit Services Administrator

**Submitted By:** Aimee Ramsey, Development Infrastructure Services

**Department:** Development Infrastructure Services

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**Information**

**SUBJECT:**

Ratification of letter confirming that Craig Civalier, Town Engineer for the Town of Oro Valley, is hereby authorized to sign on behalf of the Town of Oro Valley the ADOT 5310 contract and take possession of the awarded grant funded vehicles.

**SUMMARY:**

On March 4, 2009, the Mayor and Council approved Resolution Number (R) 09-13, authorizing the Public Works Department to apply for a grant from the Arizona Department of Transportation (ADOT) for funding of vehicles for Coyote Run. The Town was awarded two Ford Supreme vehicles to be delivered late October or early November of this year. The ADOT Section 5310 Program requires a letter from the Council authorizing a representative of Town staff to sign on behalf of the Town of Oro Valley the ADOT 5310 contract and take possession of the awarded grant funded vehicles. The completed paperwork to fulfill the program requirements to enter into a contract with ADOT and accept the vehicles was due to ADOT by October 15, 2010.

**DISCUSSION:**

As outlined in the March 4, 2009 Council Communication, these vehicles will replace two 2003 E-350 Ford vans which have in excess of 140,000 miles operating over 31,000 miles per year. The vehicle standard rating and service life is 4 years or 100,000 miles. Preventative maintenance and inspections have been completed every 5000 miles on the basis of Coyote Run's preventative maintenance schedule ensuring the safety and reliability of these vehicles. In order to prevent any unexpected transmission or engine overhaul costs associated with higher mileage vehicles, these vehicles need to be replaced.

**FISCAL IMPACT:**

The total project was valued at $110,000.00. The Town of Oro Valley will receive two maxi vans paid for by ADOT in the amount of $110,000.00.

**CONCLUSION/RECOMMENDATION:**

It is the recommendation of the Transit Services Administrator to confirm Craig Civalier, Town Engineer, as the Town of Oro Valley administrative staff authorized to sign on behalf of the Town of Oro Valley the ADOT 5310 contract and take possession of the awarded grant funded vehicles.

**SUGGESTED MOTION:**

I move to ratify the attached letter confirming that Craig Civalier, Town Engineer, for the Town of Oro Valley is hereby authorized to sign on behalf of the Town of Oro Valley the ADOT 5310 contract and take possession of the awarded grant funded vehicles.

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**Item #: 1. L.**

**TC Regular Session**

**Date: 10/20/2010**

| | | | |
|---|---|---|---|
| **Requested by:** | Kathryn Cuvelier, Town Clerk | **Submitted By:** | Kathryn Cuvelier, Town Clerk's Office |
| **Department:** | Town Clerk's Office | | |

**Information**

**SUBJECT:**

Cancellation of November 3, 2010 and December 15, 2010 Regular Town Council meetings

**SUMMARY:**

At the request of the Mayor and Council, the Regular Council meetings for November 3, 2010 and December 15, 2010 will be cancelled. In order to cancel these meetings, the Mayor and Council must formally vote to do so.

**DISCUSSION:**

If the Mayor and Council vote to cancel the regular meetings for November 3rd and December 15th, the remaining regular meetings of the Council for November and December will be November 17th and December 1st.

**FISCAL IMPACT:**

N/A

**CONCLUSION/RECOMMENDATION:**

Council's pleasure.

**SUGGESTED MOTION:**

I MOVE to cancel the November 3, 2010 and the December 15, 2010 regular council meetings.

**Item #: 2.**

**TC Regular Session**

**Date: 10/20/2010**

**Requested by:** Craig Civalier, Town Engineer **Submitted By:** Lynn Garcia, Development Infrastructure Services

**Department:** Development Infrastructure Services

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**Information**

**SUBJECT:**

**PUBLIC HEARING - ORDINANCE NO. (O)10-12** ADOPTING A NEW ORO VALLEY TOWN CODE CHAPTER 10, OFFENSES, ARTICLE 10-6, ANTI-GRAFFITI, AND REPEALING THE CURRENT ARTICLE 10-6.

**SUMMARY:**

A Task Force of Town staff was formed in December 2009 to address the increased frequency of graffiti vandalism within the Town. Oro Valley has a direct interest in eradicating graffiti on all property within the Town limits. Graffiti jeopardizes the integrity of this community and its residents. The existing Ordinance hinders eradication by delaying and restricting the response and removal. Studies have shown that an immediate removal of all signs of graffiti is necessary to deter further vandalism.

**DISCUSSION:**

By replacing the existing ordinance, the Town of Oro Valley can respond and eradicate the graffiti immediately. The current ordinance mandates written notice to be sent allowing ten (10) days for private property owners, including utility companies and commercial property owners to remove graffiti. If there is no response, a follow-up letter is sent to notify the property owner that the Town of Oro Valley may exercise the option of removing the graffiti. This causes an unacceptable delay for graffiti eradication. We have had success with utility companies which have agreed to allow us to respond immediately and provide the paint for graffiti removal. Commercial and industrial property owners have worked with us and have responded in an appropriate time frame.

**FISCAL IMPACT:**

Currently the Town of Oro Valley expends a minimum of one hundred fifty dollars ($150.00) per incident just in staff time to send letters and make contact. Implementation of revisions would reduce that amount to approximately fifty dollars ($50.00) per response and materials.

**CONCLUSION/RECOMMENDATION:**

The Task Force recommends Town Council approval of revisions to Article 10-6 Anti-Graffiti.

**SUGGESTED MOTION:**

I move to adopt Ordinance No. (O)10-12 Adopting a new Oro Valley Town Code Chapter 10, Offenses, Article 10-6, Offenses, Anti-Graffiti, and repealing the current Article 10-6.

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**Attachments**

Link: Ordinance 12

Link: Amended Article 10-6 Anti-Graffiti

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**ORDINANCE NO. (O) 10-12**

**AN ORDINANCE OF THE TOWN OF ORO VALLEY ARIZONA, ADOPTING A NEW ORO VALLEY TOWN CODE CHAPTER 10, OFFENSES, ARTICLE 10-6, ANTI-GRAFFITI, AND REPEALING THE CURRENT ARTICLE 10-6; REPEALING ALL RESOLUTIONS, ORDINANCES AND RULES OF THE TOWN OF ORO VALLEY IN CONFLICT THEREWITH; PRESERVING THE RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS THAT HAVE ALREADY BEGUN THEREUNDER**

**WHEREAS,** the Town of Oro Valley is a political subdivision of the State of Arizona vested with all associated rights, privileges and benefits and is entitled to the immunities and exemptions granted municipalities and political subdivisions under the Constitution and laws of the State of Arizona and the United States; and

**WHEREAS,** on March 20, 2002, the Mayor and Council approved Ordinance No. (O) 02-07, which adopted that certain document entitled Chapter 10, Offenses, Article 10-6, Anti-Graffiti; and

**WHEREAS**, the current Article 10-6, Anti-Graffiti, allows a response time that could take up to one month or more to abate and eradicate graffiti; and

**WHEREAS**, studies have shown that immediate removal of all graffiti tends to slow down offenders from placing graffiti in areas which subscribe to swift removal of any and all graffiti; and

**WHEREAS**, the Mayor and Council desire to adopt the new Article 10-6, Anti-Graffiti, that will allow the Town to respond without delay for swift abatement and eradication of graffiti within the Town.

**NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Oro Valley, Arizona that:**

**SECTION 1.** The existing Chapter 10, Offenses, Article 10-6, Anti-Graffiti, of the Oro Valley Town Code is hereby repealed.

**SECTION 2.** That certain document entitled Chapter 10, Offenses, Article 10-6, Anti-Graffiti, of the Oro Valley Town Code, attached hereto as Exhibit "A" and incorporated herein by this reference and declared a public record on November 17, 2010 is hereby adopted.

**SECTION 3**. All Oro Valley ordinances, resolutions, or motions and parts of ordinances, resolutions or motions of the Council in conflict with the provisions of this Ordinance are hereby repealed.

**SECTION 4.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

**PASSED AND ADOPTED** by the Mayor and Council of the Town of Oro Valley, Arizona this 20th day of October, 2010.

**TOWN OF ORO VALLEY**

_____
Satish I. Hiremath, Mayor

**ATTEST:**

_____
Kathryn E. Cuvelier, Town Clerk

Date: _____

**APPROVED AS TO FORM:**

_____
Tobin Rosen, Town Attorney

Date: _____

# EXHIBIT “A”

# Article 10-6
# ANTI-GRAFFITI

Sections:

10-6-1 Purpose Statement
10-6-2 Definitions
10-6-3 Prohibited Acts
10-6-4 Accessibility to Graffiti Implements
10-6-5 Penalties for Perpetrator
10-6-6 Removal of Graffiti by Perpetrator
10-6-7 Removal of Graffiti Property Owner or Town
10-6-8 Prevention Provisions

## 10-6-1 Purpose Statement

The Town of Oro Valley is dedicated to providing Oro Valley Residents with a safe and clean environment. Graffiti vandals jeopardize the integrity of this community and its residents. Oro Valley has a direct interest in expeditiously eradicating graffiti on all property within the town limits. Studies have shown that an immediate removal of all signs of graffiti is necessary.

## 10-6-2 Definitions

For the purposes of this Code, the following words shall have the meanings respectively ascribed to them in this Section, except where the context clearly indicates a different meaning:

A. **Aerosol paint container** means any aerosol container that is adapted or made for the purpose of applying spray paint or other substances capable of defacing property.

B. **Broad-tipped marker** means any felt tip indelible marker or similar implement with a flat or angled writing surface that, at its broadest width, is greater than one-fourth (1/4th) of an inch, containing ink or other pigmented liquid that is not water soluble.

C. **Etching equipment** means any tool, device, or substance that can be used to make permanent marks on any natural or man-made surface.

D. **Graffiti** means any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property or, despite advance authorization, is otherwise deemed a public nuisance by the Town Council.

E. **Graffiti implement** means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, or brush.

F. **Paint stick or graffiti** means any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure and leaving a mark of at least one-eighth (1/8th) of an inch in width.

G. **Person** means any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

H. **Public Property** means any asset owned by the Town of Oro Valley

I. **Residential Property** means a building, walls and structures surrounding or attached to property whose main purpose is for a place of dwelling of home.

J. **Commercial Property** means buildings, walls, structures intended to generate a profit either from capital gain or rental income

K. **Utility Company** means public or privately owned electricity, natural gas, water, sewer, and/or communications companies.

L. **Cover graffiti** means to conceal graffiti with paint in lieu of removal of graffiti.

M. **Remove graffiti** means to eradicate by means of hydro-blasting or by using a chemical component or combination of techniques to remove graffiti.

**10-6-3 Prohibited Acts**

A. Defacement. It shall be unlawful for any person to apply graffiti to any natural or man-made surface on any Town-owned property or, without the permission of the owner or occupant on any private property.

B. Possession of Graffiti Implements.

1. By Minors at or Near School Facilities. It shall be unlawful for any person under the age of eighteen (18) years to possess any graffiti implement while on any school property, grounds, facilities, buildings, or structures, or in areas immediately adjacent to those specific locations upon public property, or upon private property without the prior written consent of the owner or occupant of such private property. The provisions of this Section shall not apply to the possession of broad-tipped markers or other instruments by a minor attending or traveling to or from school at which the minor is enrolled if the minor is participating in a class at the school that formally requires the possession of broad-tipped markers or other such instruments. The burden of proof in any prosecution for violation of this Section shall be upon the minor student to establish the need to possess a broad-tipped marker.

2. In Designated Public Places. It shall be unlawful for any person to possess any graffiti implement while in or upon any public facility, park, playground, swimming pool, recreational facility, or other public building or structure owned or operated by the Town or while in or within fifty (50) feet of an underpass, bridge abutment, storm drain, or similar types of infrastructure unless otherwise authorized by the Town.

**10-6-4 Accessibility of Graffiti Implements**

A. Furnishing to Minors Prohibited. It shall be unlawful for any person, other than a parent or legal guardian to sell, exchange, give, loan, or otherwise furnish, or cause to permit to be exchanged, given, loaned, or otherwise furnished, any aerosol paint container, broad-tipped marker, or paint stick to any person under the age of eighteen (18) years without the written consent of the parents or guardian of the person.

B. Display and Storage.

1. Every person who owns, conducts, operates, or manages a retail commercial establishment selling aerosol paint containers, paint sticks, or broad-tipped markers shall store the containers, sticks, or markers in an area continuously observable, through direct visual observation of surveillance

equipment, by employees of the retail establishment during the regular course of business.

2. In the event that a commercial retail establishment is unable to store the aerosol paint containers, paint sticks, or broad-tipped markers in an area as provided above, the establishment shall store the containers, sticks, and markers in an area not accessible to the public in the regular course of business without employee assistance.

C. Signage Required.

Every person who operates a retail commercial establishment selling graffiti implements shall:

1. Place a sign in clear, public view or near the display of such products stating: “Graffiti is against the law. Any person who defaces real or personal property with paint or any other liquid or device is guilty of a crime punishable by imprisonment of up to 180 days and/or a fine up to $2,500.00”

2. Place a sign in the direct view of such persons responsible for accepting customer payment for graffiti implements stating: “Selling spray paint, paint sticks, or broad- tipped markers to persons under 18 years of age is against the law and punishable by a fine of $2,500.00.

**10-6-5 Penalties**

A. Fines and Imprisonment. Any person violating this Code shall be punished by a fine of not less than one hundred dollars ($100.00) for the first offense; five hundred dollars ($500.00) for the second offense; and one thousand dollars ($1,000.00) for each subsequent offense, or by imprisonment in jail or probation or by both fine and imprisonment and probation at the discretion of the court.

1. In the case of a minor, the parents or legal guardian shall be jointly and severably liable with the minor for payment of all fines.

2. Failure of the parents or legal guardian to make payment may result in the filing of a lien on the parent’s or legal guardian’s property that includes the fine and administrative costs.

3. Upon an application and finding of indigence, the court may decline to order fines against the minor, parents or guardian.

B. Restitution. In addition to any punishment specified in this Section, the court shall order any violator to make restitution to the victim for damages or loss caused directly or indirectly by the violator’s offense in the amount or manner determined by the court. In the case of a minor, the parents or legal guardian shall be ordered jointly and severably liable with the minor to make the restitution.

C. Forfeiture of Personal Property. All personal property, including, but not limited to, automobiles, motorcycles and bicycles, used or intended to be used in violating this Code may be forfeitable to the Town. In forfeiting such personal property, the Town may follow the procedures outlined in State statutes concerning forfeitures of personal property. In any forfeiture proceeding under this Section, the court shall not order forfeiture unless it finds that the forfeiture is commensurate with the severity of the violation to the extent required by the Arizona and United States constitutions.

D. Community Service. In lieu of, or as part of, the penalties specified in this Section, a minor or adult may be required to perform community service as described by the court based on the following minimum requirements:

1. The minor or adult shall perform as least thirty (30) hours of community service within the Town boundaries of Oro Valley.

2. At least one parent or guardian of the minor may be in attendance a minimum of fifty percent (50%) of the period of assigned community service.

3. The entire period of community service shall be performed under the supervision of a community service provider.

4. Reasonable effort shall be made to assign the minor or adult to a type of community service that is reasonably expected to have a rehabilitative effect on the minor or adult, including community service that involves graffiti removal.

5. Any minor determined to be a ward of the court under Arizona State law as a result of committing an offense in the town shall be required, at the Town's option, to perform community service, including graffiti removal service of not less than thirty (30) hours nor more than eighty (80) hours.

E. Civil Responsibility for Damages for Wrongful Sale, Display or Storage. Any person who sells, displays or stores, or permits the sale, display or storage, of graffiti implements in violation of the provisions of this Code shall be liable for all costs, including attorney's fees and court costs, incurred by any party in connection with the removal of graffiti, or such party's prosecution of a civil claim for reimbursement or damages resulting from such graffiti removal or property repair, arising from the use by any person of such wrongfully sold, displayed or stored graffiti implement in violation of the provisions of this Code, provided that such liability shall not exceed two thousand five hundred dollars ($2,500.00).

**10-6-6 Removal of Graffiti by Perpetrator**

Any person applying graffiti on public or private property shall have the duty to remove the graffiti within twenty-four (24) hours after notice by the Town or private owner of the property involved. Such removal shall be done in a manner prescribed by the Chief of Police, the Town Engineer, or any Town department head, as authorized by the Town Council. Any person applying graffiti shall be responsible for the removal or for payment of the removal. Failure of any person to remove graffiti or pay for the removal shall constitute an additional violation of this Code. Where an un-emancipated minor applies graffiti, the parents or legal guardian shall also be responsible for such removal or for the payment for the removal.

**10-6-7 Removal of Graffiti Property Owner or Town**

Once graffiti is identified, the Town will notify the owner of the defaced property that the Town will be sending a graffiti abatement team to eradicate the graffiti within five (5) business days unless it is eradicated sooner by the property owner.

**10-6-8 Prevention Provisions**

A. **Design of Potential Graffiti-Attracting Surfaces.** Any applicant for design review approval, conditional use permit, special use permit, unclassified use permit, development agreement, or other form of development or building permit shall, to the extent feasible, have designed any building structures visible from any public or quasi-public place in such a manner to consider prevention of graffiti, including, but not limited to the following:

1. Use of a protective coating to provide for the effective and expeditious removal of graffiti;

2. Use of additional lighting;

3. Use of non-solid fencing;

4. Use of landscaping designed to cover large expansive walls, such as ivy or similar clinging vegetation; or

5. Use of architectural design to break up long continuous walls or solid areas.

B. **Design of Existing Graffiti-Attracting Surfaces;**

1. **At Owner's Expense.** Any surface of a structure on a parcel of land that has been defaced with graffiti equal to or more than five (5) times in twelve (12) months shall be declared a public nuisance and required to be retrofitted, at the cost of the property owner, with features or qualities as may be established by the Town as necessary to reduce the attractiveness of the surface for graffiti, or as necessary to permit more convenient or efficient removal of graffiti. In exercising the authority hereunder, the Town may not impose a cost on the property owner of greater than two thousand five hundred dollars ($2,500.00).

2. **At Town's Cost.** The owner of property containing a surface that has been defaced with graffiti equal to or more than five (5) times in twelve (12) months shall permit the Town at the Town's discretion, to enter the property and, at the Town's cost, make modifications as necessary to reduce the attractiveness of the surface for graffiti, or as necessary to permit more convenient or efficient removal of graffiti if the Town chooses to do so.

**Item #: 3.**

**TC Regular Session**

**Date: 10/20/2010**

| | | | |
|---|---|---|---|
| **Requested by:** | Ainsley Legner, PRLCR Director | **Submitted By:** | Ainsley Legner, Parks Recreations Library CR |
| **Department:** | Parks Recreations Library CR | | |

**Information**

**SUBJECT:**

DISCUSSION AND POSSIBLE ACTION REGARDING ORO VALLEY MUNICIPAL POOL HOURS OF OPERATION

**SUMMARY:**

The 2010-2011 Aquatics Division budget was approved with a 5% reduction. The Town Council was advised throughout last year's budget process, including the Saturday budget workshop, that this reduction would involve personnel cuts (lifeguards) as that was all that was sensibly remaining to be cut from the Aquatics Division budget.

The Department analyzed usage and determined that the pool hours during the summer season (May - August) should not be cut due to high usage by the public, swim teams and other organizations. Therefore, the 5% cut was set to be implemented during the shoulder season (September - April). In September 2010, public swim time was reduced during the mid-day hours (9 a.m. - 3 p.m.) Monday through Friday each week. Pool hours remained the same on Saturday, with the facility closed on Sunday.

The current public swim hours are:

| | |
|---|---|
| Monday - Friday | 6 - 9 a.m. and 6:30 - 9 p.m. |
| Saturday | 6 a.m. - 5 p.m. |
| Sunday | Closed |

Once the hours were cut, the Council and Department began receiving complaints from public swim patrons.

**DISCUSSION:**

The Town received e-mails, calls and letters from 41 patrons. Almost all provided suggestions, including:

1) Open mid-morning (15 patrons)
2) Open during lunch hour (8 patrons)
3) Pay more for admission (7 patrons)
4) Open Sundays (5 patrons)
5) Open during the afternoon (3 patrons)

In response to these concerns, the Department utilized the Innovation Team's "Solutions Squad" to brainstorm ideas and "out of the box" solutions for this issue. Additionally, the newly created Pool Users Working Group, which meets monthly and includes swim team representatives, independent contractors, public and private school representatives, and pool patrons, provided input at their September 2010 meeting.

The Department has combined staff ideas with those of the patrons, the Pool Users Working Group and

the Solutions Squad to develop the action plan below.

Short Term Analysis and Implementation (October - December 2010):

1) Assess the need for four (4) lifeguards in the evening (reduce to 3, saving $11,000 annually)
2) Pool membership options, offering weekly passes, family passes, not just monthly and annual, to generate revenue
3) Explore event revenue options such as swim meets with a fee structure for events (we currently only charge for lanes)
4) Allow patron usage during private pool rentals when feasible at standard rates (revenue increases with multiple parties using pool)
5) Raise rates for daily admission, passes, lane rental fees and programs
6) Additional revenue if open 5 more hours per day

Mid Term Analysis and Implementation (October 2010 - March 2011)

1) Offer more revenue generating programs such as aqua boxing, water walking, etc.
2) Complete the Aquatics Feasibility Study

Long Term Analysis and Implementation (October 2010 - June 2011)

1) Bring signature aquatics events to Oro Valley (IronKids, regional competitions, etc.)
2) Corporate/community sponsorships and fundraising
3) Branding and naming rights
4) Swim-A-Thon
5) Grants
6) Explore taxing options as a dedicated funding source for Aquatics

Where possible, staff has calculated the opportunity for savings based on implementation of the items listed above. (See attached Aquatics Facility Action Plan Opportunities for Savings FY 2011.) Based on an anticipated savings of $19,500, staff recommends adding two (2) additional hours back into the public swim schedule Monday-Friday at a cost of $18,000. Should additional revenue be generated through these efforts above and beyond the $19,500 expected, the Aquatics Manager will work with the Finance Department to introduce additional hours back into the schedule as warranted.

**FISCAL IMPACT:**

Based on an anticipated savings of $19,500, staff recommends adding two (2) additional hours back into the public swim schedule Monday-Friday at a cost of $18,000. Should additional revenue be generated through these efforts above and beyond the $19,500 expected, the Aquatics Manager will work with the Finance Department to introduce additional hours back into the schedule as warranted.

**CONCLUSION/RECOMMENDATION:**

Staff recommends approval of the action plan as outlined above and the addition of two (2) hours for public swim time Monday-Friday.

**SUGGESTED MOTION:**

I move to approve the Aquatics action plan and the addition of two (2) hours for public swim time Monday-Friday.
Should additional revenue be generated, the Aquatics Manager is directed to work with the Finance Department to introduce additional hours back into the schedule as warranted.

or

I move to....

## Attachments

Link: Aquatics Matrix

**Aquatics Facility Action Plan**
**Opportunities for Savings FY 2011**

| | Opportunity for Savings for Remainder of FY 2011 | Comments |
|---|---|---|
| **SHORT TERM ANALYSIS** | | |
| Reduce # of Lifeguards during evening hours | $11,000.00 | |
| Review pool membership options including season passes | | May create increased revenue through increased interest |
| Pool event revenue | $1000.00 | |
| Patron usage during private rentals | $500.00 | |
| Rate increase (adding 2 hours per day) | $600.00 | |
| Additional revenue if open 2 more hours per day | $900.00 | |
| | | |
| **MID TERM ANALYSIS** | | |
| Offer new revenue generating programs | $3000.00 | |
| | | |
| **LONG TERM ANALYSIS** | | |
| Bring signature aquatics events to Oro Valley (IronKids, regional competitions, etc.) | | High potential for economic development dollars |
| Corporate/community sponsorships and fundraising | $2500.00 | |
| | | |
| **TOTAL** | $19500.00 | |

**Item #: 4.**

**TC Regular Session**

**Date: 10/20/2010**

| | | | |
|---|---|---|---|
| **Requested by:** | Ainsley Legner, PRLCR Director | **Submitted By:** | Ainsley Legner, Parks Recreations Library CR |
| **Department:** | Parks Recreations Library CR | | |

**Information**

**SUBJECT:**

CONSIDERATION AND POSSIBLE ACTION REGARDING NARANJA PARK (TOWN SITE) OPTIONS

**SUMMARY:**

Earlier this year, the Council explored possible uses for the $250,000 Wal-Mart donation designated for improvements to Naranja Park. The intent was to look at projects that could be completed using the available donation funding in combination with in-house staffing resources to improve the property and provide amenities for the public in the short term. In addition to the Wal-Mart donation $8,000 from other individual and business donors is also available, for a total of $258,000 in the Naranja Park Fund.

The Parks and Recreation Advisory Board discussed possible uses of the donated funds at their April 20, 2010 meeting and recommended that, if possible, the money be used for one large item rather than several small items.

Currently, Naranja Park has signage, almost two miles of trails, garbage cans, animal waste container dispensers, benches, a portable toilet, and a gravel parking area. Additionally, in the center of the property, the Sonoran Desert Flyers model airplane club utilizes a graded area as a runway and parking during their club gatherings. There are no utilities –water, sewer, electricity or gas - on the property.

At the May 12, 2010 Study Session the following options were discussed:

1) Landscaping and irrigation along the eastern ridge of the property to provide a visual buffer for homes that back up to the park, as there is a trail that runs along the top of the ridge behind their homes.
2) Waterless/composting toilets
3) Small shade structures
4) Additional site furniture
5) Frisbee/disc golf course
6) Bocce ball courts
7) Trail improvements

Council indicated an interest in items that did not require ongoing management from the Town as well as alternatives for providing the landscaping and irrigation for the eastern ridge of the park.

**DISCUSSION:**

Based on feedback from the May 14, 2010 Study Session, staff has updated information regarding potential uses of the donated funds. Staff has also worked with a number of community groups that have expressed interest in using the property. The following opportunities available to the Town would require low or no maintenance:

1) Landscaping and irrigation along the eastern ridge of the property: Staff has worked with the Water Department to look for cost effective strategies for installing and irrigating a vegetative buffer on the eastern ridge. Staff developed an estimate that includes a temporary meter, temporary water lines,

plants, and water for two years. Earlier this year, the Parks and Recreation Advisory Board provided support for a vegetative buffer. Estimated cost: $16,000

2) Frisbee/Disc Golf Course: Staff has worked with resident Ian Paulow to develop a disc golf plan for Naranja Park. An 18-hole disc golf course is proposed for the southwestern portion of the property. This sport requires minimal disruption of vegetation and is compatible with other current and proposed uses for the area. The Parks and Recreation Advisory Board provided unanimous support for this concept at their September 2010 meeting. Estimated cost: $15,000. Mr. Paulow has indicated that his group of users would be willing to make donations to help fund the course.

3) Archery Park: Staff has worked with resident Gerry Perry and representatives from the Arizona Game and Fish Department to craft a proposal for an archery facility at Naranja Park. Although this concept is in the development stage, there are opportunities to apply for dollar for dollar matching funds from the Arizona Game and Fish Department to develop all or part of an archery park at this location. Some of the items eligible for grant funding include composting toilets, site furniture, shade structures, archery targets and associated equipment. This potential partnership provides the Town with an opportunity to leverage the existing dollars available to develop a unique facility that would be compatible with other current and proposed uses for the area. Additionally, there are opportunities for shared use of the facilities with other user groups (such as the restrooms.) This concept will be considered at the October 19 Parks and Recreation Advisory Board meeting.

4) Bocce Ball Courts: Estimated cost is $2,000 per bocce court.

5) Trail Improvements: Estimated cost is $5,000 per acre.

During the last year, a number of ideas and suggestions have been received from the public for Naranja Park. Two of those concepts which fall outside the scope and context of this discussion are listed below.

• Development of a stand alone Skate Park
• Development of an American Legion Post

Only those concepts which can be adequately addressed with the use of the donated funds in the Naranja Park Fund and are compatible in a park setting have been included in the analysis and recommendations.

**FISCAL IMPACT:**

Projects selected for further development are recommended to be funded from the $258,000 Naranja Park Fund, grant funding and/or user groups or private party donations.

**CONCLUSION/RECOMMENDATION:**

Staff recommends that the Town Council direct staff to pursue the following improvements to Naranja Park during Fiscal Year 2010-2011:

1. Landscaping and irrigation along the eastern ridge of the property
2. 18-Hole Disc Golf Course
3. Archery Park

**SUGGESTED MOTION:**

I move to direct staff to pursue the installation of landscaping and irrigation along the eastern ridge of Naranja Park, using a maximum of $16,000 from the Naranja Park Fund. Staff is further directed to work with the associated user groups and organizations to pursue a plan for the development of a disc golf course and an archery park, with a final plan, budget and recommendation to be provided to the Town Council for consideration and possible action.

or

I move to ...