

SUPREME COURT OF ARIZONA

DARCIE SCHIRES; ANDREW AKERS;
and GARY WHITMAN,

Appellants/Petitioners,

v.

CATHY CARLAT, in her official capacity as Mayor of the City of Peoria; VICKI HUNT, in her official capacity as City of Peoria Councilmember for the Acacia District; CARLO LEONE, in his official capacity as City of Peoria Councilmember for the Pine District; MICHAEL FINN, in his official capacity as City of Peoria Councilmember for the Palo Verde District; JON EDWARDS, in his official capacity as City of Peoria Councilmember for the Willow District; BRIDGET BINSBACHER, in her official capacity as City of Peoria Councilmember for the Mesquite District; and BILL PATENA, in his official capacity as City of Peoria Councilmember for the Ironwood District; CITY OF PEORIA, a municipal corporation of the State of Arizona,

Appellees/Respondents.

Arizona Supreme Court
No. CV-20-0027-PR

Court of Appeals
Division One
No. 1 CA-CV 18-0379

Maricopa County Superior Court
No. CV 2016-013699

**BRIEF OF *AMICUS CURIAE* OF
THE LEAGUE OF ARIZONA CITIES AND TOWNS
(FILED WITH THE WRITTEN CONSENT OF ALL PARTIES)**

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INTEREST OF AMICI CURIAE

The League of Arizona Cities and Towns (“League”)¹ respectfully files this Brief pursuant to Rule 16, Arizona Rules of Civil Appellate Procedure, in support of the City of Peoria (“City”). The League urges the Court to affirm the Court of Appeals’ judgment that the City’s economic development agreements with Huntington University and Arrowhead Equities, LLC (“Agreements”) do not violate article IX § 7 of the Arizona Constitution (“the Gift Clause”).

The League respectfully submits this Brief to underscore that economic development is a critical component of growth in Arizona municipalities. Petitioners assert that a university providing a four-year degree program cannot serve a public purpose and the City receives zero value in consideration from providing educational opportunities to its citizens and repurposing vacant buildings in the community. Petitioners’ argument that the City’s use of A.R.S. § 9-500.11 violates the Arizona Constitution is only plausible if their new Gift Clause interpretation is accepted—a fixed definition of public purpose that requires *every* inhabitant of the jurisdiction to access a tangible necessary service; and the total exclusion of any economic development activities as any form of consideration. Petitioners’ new interpretation

¹ The League is a voluntary association of all 91 incorporated cities and towns in the State of Arizona and represents approximately 79% of Arizona’s total population. No person or entity made a monetary contribution for the preparation or submission of this Brief.

effectively invalidates the statute authorizing economic development activities with private entities – a law enacted by the Legislature with full knowledge of this Court’s interpretation of the Gift Clause. This extreme reinterpretation of the Gift Clause is flawed and will restrict lawful agreements that stimulate and sustain the economic health of Arizona communities.

I. ARGUMENT

The Petitioners’ radical reinterpretation of the Gift Clause threatens the lawful economic development activities of cities and towns by drastically limiting this Court’s interpretation of the Gift Clause. Since the seminal case in 1926, *City of Tombstone, v. Macia*, the Court has held that the Gift Clause’s function is to protect the public funds, not limit municipal ability to provide services. 30 Ariz. 218, 227 (1926) (“Municipal corporations are not limited to provide for the material necessities of their citizens. Under legislative authority they may minister to their comfort, health, pleasure, or education.”). In subsequent cases, this Court has drawn a roadmap for local governments, while expressly refusing to place barriers that would eliminate municipal discretion on what is or is not beneficial to its citizens. *See e.g., Humphrey v. City of Phoenix*, 55 Ariz. 374, 387 (1940) (finding disbursements do not have to affect all residents equally); *Wistuber v. Paradise Valley Unified Sch. Dist.*, 141 Ariz. 346, 349 (1984) (recognizing a public benefit obtained from a private entity can be valid consideration); *Kromko v. Arizona Bd. of*

Regents, 149 Ariz. 319, 322 (1986) (finding non-pecuniary public benefit may be regarded as consideration); *Turken v. Gordon*, 223 Ariz. 342, 350 ¶ 33 (2010) (explaining indirect benefit may be pertinent when determining a public purpose). Local governments rely on this precedent when spending public money. *See e.g.*, *Cheatham v. DiCiccio*, 240 Ariz. 314, 320 ¶ 21 (2016) (“This inquiry, however, must reflect appropriate deference to the governmental entity that has considered and approved the transaction.”).

Petitioners seek to interpret the Gift Clause to match their extreme viewpoint that cities and towns should not engage in any form of economic development in their communities. Pet. Suppl. Br. at 2. If the Court accepts Petitioners new interpretation of the Gift Clause, it will severely undermine the will of the citizenry to govern themselves and the government’s ability to respond to their needs.

A. Petitioners’ unsupported interpretation that adequate consideration excludes all forms of economic development will decimate economic growth in Arizona’s cities and towns.

Municipalities are responsible for providing the backbone around which healthy, secure, and sustainable communities grow. Those responsibilities include safeguarding the economic well-being of cities and towns, as the Legislature has expressly codified in statutes such as A.R.S. § 9-500.11, which authorizes municipalities with explicit power to execute this responsibility by “spend[ing] public monies for and in connection with economic development activities.” A.R.S.

§ 9-500.11(A). When elected officials negotiate contracts to create opportunity for the economic benefit of the community, the Court has held that bargained-for consideration received by a municipality must not be “grossly disproportionate” to the amounts paid to a private entity. *Turken*, 223 Ariz. at 351 ¶ 41. And the Court must “reject an overly technical view of the transaction” when assessing proportionality. *Id.* at 352 ¶ 47.

Petitioners could not demonstrate that City’s Agreements were grossly disproportionate and failed to show the City abused its discretion and violated the Gift Clause under the established precedent. Now they argue that it is unnecessary for this Court to analyze the terms of the contracts at all because any bargained-for provisions received by the City under the Agreements are automatically indirect, intangible and an unquantifiable benefit. Pet. Suppl. Br. at 3. Under this interpretation virtually all attempts at future economic development will be precluded or invalidated - it stands in clear contrast to almost a century of well-established law that requires an examination of the contract to determine if there is adequate consideration for the expenditure of public funds by analyzing the bargained-for benefits to the parties. *Cheatham v. DiCiccio*, 240 Ariz. 314, 320 ¶18 (2016) (holding that the payment to a private entity “is the beginning” of the analysis and the public body’s payment to a private entity must be examined relative to what the contract obligated the private entity to provide to the City). The trial court and

the Court of Appeals correctly identified the obligations of Huntington University and Arrowhead Equities and determined the bargained-for consideration was not grossly disproportionate under an all-encompassing view of the Agreements with the City. Ct. App. Op. at 9 ¶¶ 23, 24.

The Court should reject Petitioners' argument that anytime a private entity receives a benefit to its business or property from a public contract, there is automatically a disproportionate exchange without even examining the consideration to the public body. This distorted view of the Gift Clause will eradicate any future economic development in cities and towns because cities and towns cannot make one-sided contracts – any economic development agreement must benefit both parties and a benefit to the municipality does not become intangible or indirect because the private entity receives a benefit in the same contract. The City appropriately structured these Agreements to provide reimbursement as the entities met certain predetermined conditions and contractual thresholds where the City knew a tangible benefit would be realized. Resp't. Suppl. Br. at 7-9.

Economic development agreements like the City's Agreements catalyze diversity in the economy when diversity will not come on its own. The bargained-for consideration received in return for the City's funds consist of more than just pecuniary return. The City contracted for needed diversity in jobs, higher education, and revenue sources that Petitioners' contend are too intangible to be considered

valid expenditures because the municipality does not maintain full control of the private entity's operations. Pet. Suppl. Br. at 6. Petitioners' new prerequisite for economic development contracts disregards that both the trial court and the Court of Appeals examined the actual terms of the Agreements and found there was adequate consideration. *Turken*, 223 Ariz. at 352, ¶ 48 (2010) (explaining that indirect public benefits are examined for consideration based on the exchange that is "directly contracted" between the parties). Under Petitioners' severe new limitation to consideration, the City would not be nearly as economically diverse as it is today and the negative effect of economic downturns such as the Great Recession and COVID-19 would decimate both the citizenry and financial stability of the City.

1. The impact of the COVID-19 pandemic demonstrates the value of economic development in Arizona cities and towns.

The COVID-19 pandemic contradicts Petitioners' assertion that economic development has zero value especially when they recognize and highlight their concern for it "as the state seeks to recover from the massive economic distress of COVID-19 – which tore through the American economy, devastated small businesses, and triggered unemployment levels not seen since the Great Depression."²

² Matt Beienburg & Jim Rounds, *Good for Special Interests and Unions, Bad for Arizona: The Economic Impacts of Proposition 208* at 1 (September 15, 2020) <https://goldwaterinstitute.org/wp-content/uploads/2020/09/economic-impacts-invest-in-ed-9-15-2020-FINAL.pdf>

Many governments, especially cities and towns, faced an abrupt change in the economic landscape due to the worldwide pandemic in early 2020. Almost overnight, international and interstate travel diminished or ceased during the height of Arizona’s tourism season, which had produced 3.78 billion dollars in tax revenue in 2019.³ Municipalities rely heavily on transaction privilege taxes, which were significantly diminished when retail was forced to close due to the public health emergency just as cities and towns were required to prepare for the adoption of budgets for the next fiscal year. *See* A.R.S. § 42-17101. The budget shortfall discussions dominated council meetings, which starkly contrasted the budget surplus discussions held earlier in the year, especially in areas that rely on tourism such as those small rural municipalities with already limited resources. Some of Arizona’s most vulnerable cities and towns are projecting significant revenue loss in the millions of dollars, dipping into savings, furloughing and laying off employees, delaying purchase of aging equipment, and instituting hiring freezes.⁴

³ Arizona Office of Tourism, *Economic Impact* <https://tourism.az.gov/economic-impact/> (last visited October 18, 2020).

⁴ *Coronavirus Eats Through City of Phoenix Budget Surplus, Creates \$26M Gap*, AZ Family (April 14, 2020), https://www.azfamily.com/news/continuing_coverage/coronavirus_coverage/coronavirus-eats-through-city-of-phoenix-budget-surplus-creates-26m-gap/article_d945825c-7e56-11ea-b9e2-6f018b77e03e.html; Lorraine Longhi, *Scottsdale Cuts Millions From Its Budget As It Enters “Uncharted Territory” of Pandemic*, Arizona Republic (May 27, 2020), <https://www.azcentral.com/story/news/local/scottsdale/2020/05/27/scottsdale-adopts-tentative-budget-cuts-millions-brace-coronavirus-impact/5184230002/>; Ron

The pandemic's reach is not isolated to municipal budgets. The long-term impact of COVID-19 is unknown as it continues to affect various industries.⁵ Throughout the past seven months, business entities have faced uncertainty - opening and closing each day as staffing levels fluctuate (if fortunate enough to reopen under the State's conditions), experiencing a loss of customers, or limiting their capacity due to state-mandated executive orders to protect public health. (APP [24](#), [27](#), [29](#)). Cities and towns with a diversified tax base and revenue streams are less likely to see contraction in tax revenue during this tumultuous period than those Arizona municipalities that rely heavily on local hospitality and tourism monies, which are below levels from 2019.⁶ This revenue is necessary to fund vital and basic public services like fire and police operations.

This drastic change in economic circumstances unequivocally shows why the Court should reject Petitioners claim that economic development provides zero

Eland, *Sedona City Council Oks \$51Mil Budget*, Sedona Red Rock News (July 18, 2020), <http://www.redrocknews.com/2020/07/18/sedona-city-council-oks-51m-budget/>; John Hecht, *Cottonwood Preps For Budget Drop*, Journal AZ (June 5, 2020), <https://www.journalaz.com/news/cottonwood/58527-cottonwood-preps-for-budget-drop.html>.

⁵ Mark Muro, Robert Maxim & Jacob Whiton, *The Places a COVID-19 Recession Will Likely Hit Hardest* (March 17, 2020), <https://www.brookings.edu/blog/the-avenue/2020/03/17/the-places-a-covid-19-recession-will-likely-hit-hardest/>

⁶ Finance Advisory Committee Briefing Materials, *Economic Indicators* at 102 (September 2020). <https://www.azleg.gov/jlbc/facag100820.pdf>; See also BU Initiative on Cities, *COVID-19 and Cities: Municipal Fiscal Health*, <https://www.bu.edu/ioc/2020/05/09/covid-19-cities-municipal-fiscal-health/> (last visited October 18, 2020).

value. Petitioners acknowledge the pandemic's devastating impact on the economy while simultaneously arguing that economic development activities have no value. Petitioners fail to understand that the benefits from economic development agreements at the local level not only spur growth but sustain vital services. It is unfathomable to accept Petitioners' argument that there is zero benefit from economic development when the impact of its absence is already being widely felt by Arizona taxpayers.

2. Petitioners' interpretation will jeopardize COVID-19 assistance to small businesses and thwart efforts at economic recovery.

Municipalities have a strong desire to assist small businesses that are in danger of permanent closure due to loss of wages, higher operational costs for sanitation, reduced capacity, inability to pay rent, and other effects of the COVID-19 pandemic. Only three municipalities⁷ received direct federal monies from the Coronavirus Aid, Relief, and Economic Security (CARES) Act, while the other eighty-eight cities and towns received a portion of the State's share with the instruction that the federal dollars could only be used for public health and safety regular salary and employee-related-expenses and costs. ([APP 31](#)). The Governor's Office suggested that municipalities use their previously allocated public safety monies from the general

⁷ Due to their population exceeding 500,000, the cities of Phoenix, Tucson, and Mesa received a direct allocation of CARES Act monies from the federal government. 42 U.S.C. § 801 (2020).

fund for other purposes and encouraged municipal general fund monies to be used for assistance to small businesses to fulfill the original intent of the federal dollars.⁸

Cities and towns have responded by creating grants and assistance programs that support businesses in their communities for employee retention, reimbursement for personal protective equipment, rent relief and other measures. (APP [34](#), [37](#), [41](#), [47](#), [51](#), [62](#), [69](#), [79](#)). Under the current interpretation of the Gift Clause, certain disbursements can be authorized under A.R.S. § 9-500.11 or other statutes, while clearly meeting the current public purpose and adequate consideration tests. But the extreme narrowing of the Gift Clause advocated by the Petitioners will ban any future economic development agreements and contribute to the widespread business closures, worsening the already destructive economic havoc wreaked by the pandemic.⁹ While some businesses have survived and remain cautiously optimistic,

⁸ *The CARES Act Works for All Americans*, U.S. Dep't of the Treas., <https://home.treasury.gov/policy-issues/cares> (last visited September 13, 2020) (“The CARES Act provides fast and direct economic assistance for American workers and families, small businesses, and preserves jobs for American industries.”)

⁹ Josh Frigerio, *At Least 45 Bars and Restaurants in Phoenix have Closed Amid the COVID-19 Pandemic*, ABC15 Arizona (Oct 12, 2020), <https://www.abc15.com/entertainment/events/at-least-45-bars-and-restaurants-in-phoenix-have-closed-amid-the-covid-19-pandemic>; Howard Fischer, *3 Arizona Counties' COVID-19 Rates Remain at Levels that Keep Many Businesses Closed*, Arizona Daily Star (September 9, 2020), https://tucson.com/news/arizona_news/3-arizona-counties-covid-19-rates-remain-at-levels-that-keep-many-businesses-closed/article_719799b4-f624-582c-afe2-16485b00a18c.html.

they are concerned about the impact of “a second wave” of the pandemic descends on the country.¹⁰ As businesses close, the effects of the loss of economic development results in vacant storefronts and properties resulting in the tangible loss of revenue to the municipality, a decrease in surrounding property values, and may lead to blight, which often attracts criminal activity. Elizabeth M. Tisher, *Re-Stitching the Urban Fabric: Municipal-Driven Rehabilitation of Vacant and Abandoned Buildings in Ohio's Rust Belt*, 15 Vt. J. Envtl L. 173, 179–80 (2013). In fact, before the pandemic abruptly shortened the legislative session this year, the League and municipal representatives testified about the harmful effects of vacant and abandoned buildings and its devastating economic impact on towns like Globe and Superior.¹¹

While A.R.S. § 9-500.11 does not automatically create compliance with the Gift Clause, Petitioners’ contention that economic development has zero value will nullify the statute because of their unsupported assertion that economic development

¹⁰ MetLife & U.S. Chamber of Commerce Small Business Coronavirus Impact Poll at 2 (July 29, 2020), https://www.uschamber.com/sites/default/files/metlife_uscc_sbi_coronavirus_impact_poll_july.pdf.

¹¹ House Bill 2705 vacant; abandoned buildings; ordinances: Hearing on H.B. 2705 Before the House Committee on Government, Fifty-fourth Legislature, Second Regular Session (February 13, 2020) http://azleg.granicus.com/MediaPlayer.php?view_id=13&clip_id=23808 (Statements by Mila Besich, Mayor, Town of Superior and Al Gamos, Mayor, City of Globe).

cannot be adequate consideration if it does not provide tangible, direct or quantifiable results to every single individual in the community. To hold this would be to ignore the very clear benefits we're seeing in economic development agreements to keep small businesses afloat today – something valued by many, including Petitioners since they too sought and received federal pandemic funds to aid their own business operations. ([APP 87](#)).

The League urges the Court to maintain the current interpretation that requires an examination of the terms of the contract to determine if there is adequate consideration, which will ensure continued benefits to our community and continue judicial review for those rare instances when abuse of discretion occurs.

B. The Court of Appeals did not err in concluding that economic development is a public purpose under the Gift Clause.

Elected municipal officials are the most connected to their community and responsive to its unique geographic and cultural needs, including existing infrastructure, skills and deficiencies in the population, and the economic decisions necessary to further each distinct municipality's growth. What may be a viable economic development plan in one community may be insufficient in another municipality. The tourism plan for the Town of Jerome—a former copper mining town with a population of 500—is vastly different than the tourism plan of the City

of Scottsdale—a shopping and nightlife hub with a population of 255,000.¹² The Court recognized the importance for local representatives to determine what is a public benefit for their community based on “inventions and developments and to meet new social conditions.” *Macia*, 30 Ariz. at 226. In fact, “the primary determination of whether a specific purpose constitutes a ‘public purpose’ is assigned to the political branches of government, which are directly accountable to the public.” *Cheatham*, 240 Ariz. at 320 ¶ 21 (quoting *Turken*, 223 Ariz. at 349 ¶ 28). The League urges the Court to continue to allow municipal council members deference to determine what is a public purpose, as duly elected representatives of their communities who are answerable to the electorate.

1. City and town councils are best positioned to make public purpose determinations about economic development because they reside in the communities and are directly accountable to their citizens.

At the local level, a citizen has multiple means to check its government: regularly scheduled candidate elections provide for elections every two years and the right to attend and listen to council deliberations (where they are often invited to speak during a public comment period). A.R.S. §§ 9-232.02, 9-272, 9-821, 9-821.01, 38-431.01. This is in addition to the use of social media accounts, newspaper letters-

¹² Town of Jerome General Plan at 39-41 (June 12, 2018), https://www.jerome.az.gov/documents/76/2018_GENERAL_PLAN_FINAL_reduced.pdf Compare City of Scottsdale General Plan Annual Report at 17-21 (2018), <https://www.scottsdaleaz.gov/Assets/ScottsdaleAZ/General+Plan/General+Plan+Annual+Report+2018.pdf>.

to-the-editor, public protests, etc. that are used to communicate with local representatives.

In cities and towns across Arizona, economic development policy is publicly debated and discussed by municipal councils in multiple public hearings that involve careful review and expert testimony. A.R.S. § 38-431.01. Here, the City's leaders diligently engaged in long-term planning for their community by deliberating and voting on the Economic Development Implementation Strategy ("EDIS") and the Economic Development Incentive Investment Policy ("EDIIP") to develop the community's economic policy prior to executing the Agreements to achieve those policy objectives. Resp't. Suppl. Br. at 2,3. The City's elected council determined that having a physical university in its P83 District would benefit their community and outlined the benefits that must be received before benefits to the City would be realized which triggered any payments made under the Agreements. *Id.* The trial court and Court of Appeals correctly held that these are bargained-for assets and some measurable value exists. Ct. App. Op. at 9 ¶ 23.

Petitioners ask this Court to disregard the thoughtful policy debate by local council members who respond and tailor their decisions to the needs unique to each community. If the Court agrees to Petitioners interpretation, it will tie the hands of local policy makers who are responsible for providing for their community's development but left without the tools to support economic activity.

And accountability doesn't end after public hearings. If a person is dissatisfied with the decision by council the person may circulate petitions to refer any legislative matter for a vote by the electorate. A.R.S. § 19-101 *et seq.* A recent illustration of referendum power is the Scottsdale "Southbridge II" development agreement authorized by A.R.S. § 9-500.05.¹³ The Scottsdale City Council voted 4-3 to accept the development agreement and residents dissatisfied with the decision circulated a referendum petition pursuant to A.R.S. § 19-101 *et seq.* The residents collected 17,000 signatures to take the economic development agreement to a vote.¹⁴ The success of their petition demonstrated the widespread discontent for the council's prior decision, resulting in four council members reversing their positions, quashing the development agreement.¹⁵

Additionally, citizens can recall leaders who no longer act on behalf of the electorate. Ariz. Const. Art VIII Part 1 § 1 *et. seq.* Unlike state officers and

¹³ See City of Scottsdale Council Meeting Notice and Agenda, Item 20 at 5, (December 4, 2019) <https://www.scottsdaleaz.gov/Assets/ScottsdaleAZ/Council/archive-agendas-minutes/2019-agendas/12-04-19-regular-agenda.pdf>; Agenda Packet, Item 20, (December 4, 2019) <https://www.scottsdaleaz.gov/Asset80005.aspx>

¹⁴ Lorraine Longhi, *Southbridge II Killed After Scottsdale Council Votes to Repeal Project, Quash Public Vote*, Arizona Republic, (April 8, 2020), <https://www.azcentral.com/story/news/local/scottsdale/2020/04/08/southbridge-ii-officially-dead-after-scottsdale-council-vote-carter-unger/2969813001/>

¹⁵ *Id.*

legislators, “recall has been used most frequently at the local level.”¹⁶ For example, in 2018 four of the seven members of South Tucson’s governing body were removed by recall election, overturning the majority of its members.¹⁷ Often the mere threat of a recall has the power to keep government officials in check.¹⁸

Given these accountability measures and the fact that local officials live and work in the community they represent, the Court of Appeals has appropriately given deference to the local representatives and have “permit[ed] municipalities a wider range in undertaking to promote the public welfare.” *Turken*, 223 Ariz. at 349 ¶ 26 (quoting *City of Glendale v. White*, 67 Ariz. 231, 237 (1948)). The mayor and council of each are directly tied to their communities, are responsible for the growth and prosperity of their community, and answer to the needs of the electorate. The League urges the Court to reject Petitioners effort to overturn precedent in favor of their point of view and deliberately bypass the entire representative system, which is based on community input and oversight and keeps control with local voters.

¹⁶ Recall of State Officials – Overview, <https://www.ncsl.org/research/elections-and-campaigns/recall-of-state-officials.aspx> (last visited October 11, 2020).

¹⁷ Joe Ferguson, *South Tucson Voters Oust Mayor, 3 Councilmen in Recall Election*, Arizona Daily Star (March 14, 2018) https://tucson.com/news/local/south-tucson-voters-oust-mayor-councilmen-in-recall-election/article_3ae1ecbc-e4d2-5107-b3bc-96188924b6dc.html.

¹⁸ Justin Sayers, *Push to Recall Oro Valley Mayor, Vice Mayor is ‘Over With’*, Arizona Daily Star (February 6, 2020) https://tucson.com/news/local/push-to-recall-oro-valley-mayor-vice-mayor-is-over/article_f4530675-266d-58de-b8c3-c102d144aef5.html (quoting the original petitioner, “the recall effort has ‘achieved its goals’”).

2. Petitioners' restrictive definition of public purpose overturns decades of precedent and is unworkable for cities and towns to develop in the modern business climate.

Petitioners seek to upend this Court's prior holdings that public purpose remain flexible since the perception of public benefit changes as the times change. "[T]he term 'public purpose' is incapable of exact definition and changes to meet *new developments and conditions of times . . .*" *White*, 67 Ariz. at 236 (emphasis added). "No hard and fast rule can be formulated." *Gila Bend v. Walled Lake Door Co.*, 107 Ariz. 545, 549 (1971). Determining public purpose "is ultimately the province of the judiciary" but with "significant deference" to the elected officials. *Turken*, 223 Ariz. at 346 ¶ 14. Additionally, the stated purpose and benefit does not have to reach each member of the public to be a valid public purpose. *Humphrey*, 55 Ariz. at 387. Public purpose need not be tangible: "Municipal corporations are not limited to provide for the material necessities of their citizens." *White*, 67 Ariz. at 237.

Despite this exhaustive precedent, Petitioners ask this Court to radically narrow its interpretation and mandate that a valid public purpose must 1) primarily, 2) tangibly, and 3) directly benefit the public and 4) must be a traditional government function. Pet. Suppl. Br. at 16. This four-element test is not rooted in case law and this Court explicitly rejected a "primary/incidental benefit" analysis. *Turken*, 223 Ariz. at 348 ¶ 21.

Because public purpose is incapable of definition, *White*, 67 Ariz. at 236, only in “rare cases” will a court find a municipality abused their discretion in asserting and achieving a public purpose, *Turken*, 223 Ariz. at 349 ¶ 28, demonstrating that Petitioners’ interpretation is unnecessary. When determining if a legislative act resulted in an abuse of discretion, this Court’s test evaluates the link between the public purpose and the means chosen to achieve it. *Id.* First, the public purpose(s) must be articulated so that the means can be judged through the proper lens. *Walled Lake*, 107 Ariz. at 549 (“In determining whether a proposed expenditure of public funds is constitutionally valid . . . each such case must be decided with reference to the object sought to be accomplished...” (internal quotation marks omitted)). In every case, the Court looks to the governing body’s stated public purpose, *see e.g.*, *Macia*, 30 Ariz. at 220 (ice production and distribution); *Wistuber*, 141 Ariz. at 348 (school supervision), as the object sought and then considers the “reality of the transaction” when judging the disbursement for abuse of discretion. *Id.* at 349.

Petitioners urge the Court to substitute the City’s determination of public purpose with their own version without having to prove that the City abused its discretion. Pet. Suppl. Br. at 18. This is a nearly identical argument made by the Taxpayers in *Cheatham*. 240 Ariz. at 320 ¶ 20 (“Taxpayers argue that the release time provisions do not serve a public purpose because they ‘foster or promote the purely private or personal interests’ of [the union].” (quoting *Kromko*, 149 Ariz. at

321)). But the Court “consider[ed] the ‘reality of the transaction’ and not merely the ‘surface indicia of public purpose’” and found public purpose in the contract itself. *Id.* at ¶ 21 (quoting *Wistuber*, 141 Ariz. at 349). Relying on this analysis, the Court of Appeals correctly determined the reality of the transaction from the plain text of the City’s EDIIP and the Agreements: diversifying the local economy, expanding the economic base, promoting redevelopment of unused or underutilized properties, and providing educational and workforce training opportunities for the City’s residents. Ct. App. Op. at ¶ 17. To accept Petitioners’ argument disregards the significant deference principle in *Turken* by disregarding the public purposes established in the City’s General Plan, EDIIP, and the Agreements while simultaneously waiving Petitioners’ obligation to show there is an abuse of discretion. *Turken*, 223 Ariz. at 346 ¶ 14.

Even if the Petitioners’ belief that a private university has no public benefit or a diversified economy is not essential to public welfare, the City’s Council maintained an equally reasonable belief after examination and discussion that these concepts are a public benefit and are essential to the public welfare of the City’s residents. As two Courts have already agreed, there is no abuse of discretion by the Peoria City Council and the League urges the Court to uphold its longstanding precedent to defer to the duly elected representatives who are keenly aware of the needs of their communities and remain accountable to their constituents.

II. CONCLUSION

The Petitioners request this Court to adopt an extreme viewpoint: economic development has zero value when part of a bargained-for contract between a public body and a private entity if the private entity benefits from the contract; and the elected public body should be stripped of their ability to determine what is best for their community when negotiating economic development agreements. Not only does this interpretation invalidate A.R.S. § 9-500.11, but it ties the hands of elected policy makers from fulfilling their obligations to their constituents.

As a recession looms due to a worldwide pandemic and many businesses struggle to remain viable, it is clear that the City's efforts to diversify its economy were not an abuse of discretion warranting judicial interference. Furthermore, economic development activities do not drain the public fund; they secure it. The League urges the Court to affirm the Court of Appeals' decision and maintain its deference to elected leaders since Petitioners have failed to provide any evidence of an abuse of discretion.

RESPECTFULLY SUBMITTED this 22 day of October, 2020 by:

/s/ Christina Estes-Werther
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	Governor’s Executive Order 2020-52, Continuation of Executive Order 2020-43 (July 23, 2020)	APP029-APP030
	Press Release, Governor’s Office, <i>Nearly \$600 Million Going to Local Governments, Nonprofits</i> (May 27, 2020)	APP031 – APP033
	City of Apache Junction, Resolution 20-23, Approving a Small Business and Non-Profit Organization Assistance Grant Program, (July 15, 2020)	APP034 – APP036
	Town of Fountain Hills Small Business Grant Program Guidelines (Beginning July 1, 2020)	APP037 – APP040
	Town of Gilbert Council Meeting Agenda, Item 2 consideration of the #GilbertTogether Business Recovery Grant Program (September 29, 2020); See also Council Communication for Item 2	APP041 – APP046
	Town of Gilbert Minutes, Item 2, approved 7-0 (September 29, 2020)	APP047-APP050
	Queen Creek Town Council Agenda, Item 12.A, considering approval of Resolution 1361-20 to implement a grant program (July 1, 2020); see also Council Communication for Item 12.A with attached Resolution 1361-20 (July 1, 2020).	APP051-APP061
	Queen Creek Minutes, Item 12.A, approved 6-0 (July 1, 2020)	APP062-APP068

¹⁹ This category is included because it is required under ARCAP Rule 13.1 but the column is blank because the Brief does not reference any documents contained in the Record.

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GOVERNOR DOUGLAS A. DUCEY

STATE OF ARIZONA
★
EXECUTIVE ORDER

Executive Order 2020-43

**Pausing of Arizona's Reopening
Slowing the Spread of COVID-19**

WHEREAS, on March 11, 2020, pursuant to A.R.S. §§ 26-303 and 36-787, I, as Governor of the State of Arizona, issued a declaration of a Public Health State of Emergency due to the necessity to prepare for, prevent, respond to, and mitigate the spread of COVID-19; and

WHEREAS, on March 30, 2020, the Director of the Arizona Department of Health Services (ADHS), based on an epidemiological assessment of Arizona specific data and in alignment with the Centers for Disease Control and Prevention (CDC) guidance, recommended the State implement enhanced mitigation strategies which are continuing; and

WHEREAS, on May 12, 2020, Executive Order 2020-36, *Stay Healthy, Return Smarter, Return Stronger*, was issued outlining requirements for businesses to assist in mitigating the spread of COVID-19 as they reopened and mandated that businesses adopt policies consistent with guidance from the CDC and the ADHS; and

WHEREAS, as of June 28, 2020, there have been 73,908 diagnosed cases of COVID-19 in Arizona including 1,588 deaths, and the State is seeing an increase in the number of cases and hospitalizations; and

WHEREAS, the increased case numbers and hospitalizations also necessitate the need for an increased focus on precautionary measures by both businesses and individuals; and

WHEREAS, data has shown that community spread continues to grow at an exponential pace and is greatest among the demographic of 20-44 year olds; and

WHEREAS, there has not been sufficient time for mask mandates and limiting groups to have a demonstrable effect on containing the spread and additional measures need to be taken to ensure quicker containment; and

WHEREAS, it is necessary to impose additional measures to protect public health and safety and mitigate the strain on our health care providers by slowing the spread of COVID-19; and

WHEREAS, in taking such critical measures to protect public health there will be direct economic consequences for businesses across the State of Arizona that provide employment for many Arizonans, including bars and restaurants; and

WHEREAS, A.R.S. § 4-203, allows "[a] spirituous liquor license...[to] be issued only after satisfactory showing of the capability, qualifications and reliability of the applicant and, with the exception of

wholesaler, producer, government or club licenses, that the public convenience requires and that the best interest of the community will be substantially served by the issuance.” ; and

WHEREAS, due to community spread of COVID-19, the state will not be substantially served by the issuance of certain liquor licenses; and

WHEREAS, Arizona is committed to containing the spread of COVID-19.

NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, by virtue of the authority vested in me by the Constitution and laws of this state including A.R.S. §§ 26-303 and 36-787, hereby order as follows:

1. Effective June 29, 2020, organized public events of more than 50 people are prohibited unless the city, town or county in unincorporated areas has approved the event, and only if adequate safety precautions are implemented, including physical distancing measures. A city, town or county in unincorporated areas may deny a request for an organized event due to public health concerns related to COVID-19. Any approval may be subject to certain conditions or restrictions not inconsistent with this or any other executive order. Nothing in this order shall inhibit a person from engaging in constitutionally protected activities such as speech and religion, and any legal or court process provided that such is conducted in a manner that provides appropriate physical distancing to the extent feasible.
2. The Department of Liquor Licenses and Control shall cease issuing series 15, Special Event licenses and series 16, Festival/Fair licenses for the period of June 29, 2020 through July 27, 2020.
3. Notwithstanding any other law or executive order, effective at 8:00 pm on Monday, June 29, 2020, the following establishments shall pause operations until at least July 27, 2020, unless extended:
 - a. Bars, meaning an entity who holds a series 6 or 7 liquor license from the Department of Liquor Licenses and Control and whose primary business is the sale or dispensing of alcoholic beverages. These entities may continue serving the public through pick up, delivery, and drive-thru operations as provided for series 12 liquor licenses in Executive Order 2020-09, *Limiting The Operations Of Certain Businesses To Slow The Spread Of COVID-19*.
 - b. Indoor gyms and fitness clubs or centers.
 - c. Indoor movie theaters.
 - d. Water parks and tubing operators.
4. Pools may continue to operate as follows:
 - a. Pools operated as part of a public accommodation, such as those at hotels but not those at multi-housing complexes, shall prohibit groups larger than 10 from congregating together in or near the pool.
 - b. Privately owned pools located in public areas such as those at multi-housing complexes or other privately owned facilities may continue to be open provided that signage is included at all entrances to the pool reminding people to maintain physical distance and that groups larger than 10 should not congregate.

5. To receive authorization to reopen, entities shall complete and submit a form as prescribed by the Arizona Department of Health Services that attests the entity is in compliance with guidance issued by ADHS related to COVID-19 business operations. The form shall also be posted in an easily visible public place on the entity's premises. ADHS shall provide information to the public on those entities that have submitted such attestations on its website.
6. A local governmental jurisdiction shall have the authority to take immediate action against an entity that operates without submitting the prescribed attestation to the Arizona Department of Health Services.
7. Notwithstanding any other law or executive order, this executive order allows law enforcement and any regulatory agency, pursuant to their regulatory authority, to take immediate enforcement action against any business that fails to follow this Executive Order or any guidance issued by the Arizona Department of Health Services relating to COVID-19 for the protection of the public health, safety and welfare up to and including summary suspension for any license that the business holds.
8. If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.
9. This order shall remain in place until further notice, and shall be reconsidered for repeal or revision every two weeks after July 27, 2020.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.



Douglas R. Ducey

GOVERNOR

DONE at the Capitol in Phoenix on this twenty-ninth day of June in the year Two Thousand and Twenty and of the Independence of the United States of America the Two Hundred and Forty-Fourth.

ATTEST:

[Signature]

Secretary of State

ARIZONA DEPARTMENT OF HEALTH SERVICES
EMERGENCY MEASURE 2020-02
(Slowing the Spread of COVID-19)

WHEREAS, the World Health Organization officially declared a pandemic due to COVID-19 on March 11, 2020; and

WHEREAS, the Governor of the State of Arizona, in response to the COVID-19 pandemic issued a Declaration of Emergency on March 11, 2020, authorizing the Director of the Arizona Department of Health Services ("Director") to coordinate all matters pertaining to the public health emergency response of the State in accordance with Arizona Revised Statutes ("A.R.S.") Title 36, Chapter 6, Article 9; and

WHEREAS, as of July 6, 2020, there have been 101,441 diagnosed cases of COVID-19 in Arizona including 1,810 deaths, and the State is seeing an increase in these numbers; and

WHEREAS, data has shown that community spread continues to grow at an exponential pace and is greatest among the demographic of 20-44 year olds; and

WHEREAS, there has not been sufficient time for mask mandates and limiting of group gatherings to have a demonstrable effect on containing the spread and additional emergency measures need to be taken to ensure quicker containment, protect public health and safety and mitigate the strain on Arizona's healthcare systems; and

WHEREAS, bars, indoor gyms and fitness clubs or centers, indoor movie theaters, water parks and tubing operations, because of the nature of their function and demographics who patronize those establishments (20-44 years olds), pose a particular threat to Arizona's ability to prevent and control the spread of COVID-19;

WHEREAS, the Director, pursuant to the Declaration of Emergency and as authorized by A.R.S §§ 26-307(A) and 36-787(A), may make, amend, and rescind orders, rules, and regulations necessary for emergency functions and shall coordinate all matters pertaining to the public health emergency response of the State; and

WHEREAS, pursuant to A.R.S. § 36-787(A)(1) and (2), the Arizona Department of Health Services has primary jurisdiction, responsibility and authority for planning and executing public health emergency mitigation response for the State and coordinating public health emergency response among State, local and tribal authorities.

WHEREAS, the Director of the Arizona Department of Health Services, pursuant to A.R.S. § 36-136(H), may define and prescribe emergency measures for detecting, reporting, preventing or controlling communicable or infectious diseases or conditions if the Director has reasonable cause to believe that a serious threat to public health and welfare exists. Emergency measures are effective for no longer that eighteen months; and

WHEREAS, the Director, on July 2, 2020, pursuant to her authority, including A.R.S. §§ 36-136 and 36-787, and because of the existence of a serious threat to public health and welfare posed by COVID-19, prescribed an Emergency Measure against LifeTime Inc. and Mountainside Fitness Acquisitions, LLC by requiring all LifeTime Fitness and Moutainside Fitness locations to close and remain closed until at least July 27, 2020; and

WHEREAS, Arizona is at a pivotal stage in its battle with COVID-19; and

WHEREAS, to prevent and control the continued spread of COVID-19, it is necessary to prescribe an additional emergency measure.

NOW, THEREFORE, I, Cara Christ, M.D., M.S., by virtue of the authority vested in me as the Director of the Arizona Department of Health Services, in order to address the State of Emergency and the serious threat to public health and welfare posed by the continued spread COVID-19, hereby prescribe the following Emergency Measure:

1. All indoor gyms and fitness clubs or centers, shall immediately close and remain closed until at least July 27, 2020.
2. All bars shall immediately close and remain closed until at least July 27, 2020. For the purposes of this Emergency Measure, bars mean an entity who holds a series 6 or 7 liquor license from the Department of Liquor Licenses and Control and whose primary business is the sale or dispensing of alcoholic beverages. These entities may continue serving the public through pick up, delivery, and drive-thru operations as provided for series 12 liquor licenses in the Governor of Arizona's Executive Order 2020-09, *Limiting The Operations Of Certain Businesses To Slow the Spread Of COVID-19*.
3. All indoor movie theaters shall immediately close and remain closed until at least July 27, 2020.
4. All water parks and tubing operations shall immediately close and remain closed until at least July 27, 2020.
5. To receive authorization to reopen after at least July 27, 2020, entities shall complete and submit a form as prescribed by the Arizona Department of Health Services that attests that the entity is in compliance with guidance issued by ADHS related to COVID-19 business operations. Upon submission, ADHS shall post an entity's completed form on its website for public access. Upon reopening, the entity shall post its completed form in an easily visible public place on the entity's premises.
6. Pools may continue to operate as specified in the Governor of Arizona's Executive Order 2020-43, *Pausing of Arizona's Reopening, Slowing the Spread of COVID-19*.
7. Notwithstanding any other law or Executive Order, for the purposes of executing this Emergency Measure and in order to ensure coordination between the State and local authorities related to this Emergency Measure, law enforcement, any regulatory agency, pursuant to their regulatory authority, the Arizona Department of Health Services and local health departments may take immediate action against any entity that operates in violation of this Emergency Measure.
8. Notwithstanding any other law, if the Arizona Department of Health Services becomes aware of continued actions taken by the entities covered by this Emergency Measure that jeopardize the health, safety and welfare of the public, the Arizona Department of Health Services will take additional action as necessary to protect the health, safety and welfare of the public.
9. If any provision of this Emergency Measure or its application to any person, entity or circumstance is held invalid by a court of competent jurisdiction, this invalidity does not affect any other provision or application of this Emergency Measure, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Emergency Measure are declared to be severable.
10. This Emergency Measure shall remain in effect until at least July 27, 2020, but for no longer than eighteen months.

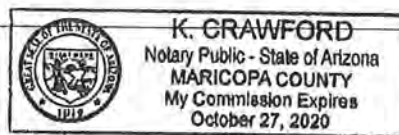
Having authority to do so under Arizona law, I have executed this Emergency Measure on this day 6th of July, 2020.

Cara Christ M.D.

Cara Christ, M.D., M.S., Director, Arizona Department of Health Services

ON this 6th day of July, 2020,
 Cara Christ, M.D., M.S., Director of the Arizona Department of
 Health Services, signed and acknowledged this document
 in my presence.

K. Crawford
 Notary Public



GOVERNOR DOUGLAS A. DUCEY

STATE OF ARIZONA
★
EXECUTIVE ORDER

Executive Order 2020-52

Continuation of Executive Order 2020-43
Slowing the Spread of COVID-19

WHEREAS, on June 29, 2020, Executive Order 2020-43 was issued providing measures to protect public health and safety and mitigate the strain on our health care providers by slowing the spread of COVID-19; and

WHEREAS, at the time of issuance, Arizona had 73,908 diagnosed cases of COVID-19 including 1,588 deaths, and the State was seeing an increase in the number of cases and hospitalizations; and

WHEREAS, the increased case numbers and hospitalizations necessitated the need for an increased focus on precautionary measures by both businesses and individuals; and

WHEREAS, since the issuance of that Order, action was taken to limit restaurant capacity to 50% and other mitigation measures such as eliminating standing at restaurants; and

WHEREAS, as of July 23, 2020, there have been 152,944 diagnosed cases of COVID-19 in Arizona including 3,063 deaths; and

WHEREAS, the weekly Arizona State Report issued by the White House Coronavirus Task Force on July 19, 2020, identifies that all but two Arizona counties are in the “red zone” which indicates there were new cases above 100 per 100,000 population and a diagnostic test positivity result above 10%; and

WHEREAS, the policy recommendations in the State Report, include that gyms and bars should be closed, that outdoor dining opportunities should be provided as possible and that groups should be limited to 10 people or fewer; and

WHEREAS, Executive Order 2020-43, outlined that certain businesses should be closed until at least July 27, 2020 to respond to and mitigate the spread of COVID-19; and

WHEREAS, Executive Order 2020-43 stated it “shall remain in place until further notice and reviewed for repeal or revision every two weeks after July 27, 2020;” and

WHEREAS, mask mandates, limitations on groups and closure of certain businesses have resulted in slight improvements to the growth of cases, these measures need to continue due to continued high rates of hospitalizations and high numbers of cases; and

WHEREAS, Arizona is committed to containing the spread of COVID-19.

NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, by virtue of the authority vested in me by the Constitution and laws of this state including A.R.S. §§ 26-303 and 36-787, hereby order as follows:

1. The provisions of Executive Order 2020-43, ordered through July 27, 2020, including those pausing business operations for certain businesses, shall be extended, remain in place and continue to be reviewed for repeal or revision every two weeks.
2. The Governor's Office will issue a notice of review and current status of this and Executive Order 2020-43 which shall be published on the Governor's Office website at www.azgovernor.gov.
3. If any provision of this Executive Order, and Executive Order 2020-43 which is incorporated herein, or their application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order or any other Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.



Douglas A. Ducey

GOVERNOR

DONE at the Capitol in Phoenix on this twenty- third day of July in the year Two Thousand and Twenty and of the Independence of the United States of America the Two Hundred and Forty- Fifth.

ATTEST:

[Signature]

Secretary of State

Nearly \$600 Million Going To Local Governments, Nonprofits

News Release

May 27, 2020

Governor Ducey Announces Nearly \$600 Million Going To Local Governments, Nonprofits



Local Governments To Receive \$441 Million In Flexible Funding; \$150 Million Available For Fast-Tracked FEMA Reimbursements

PHOENIX — The Governor's Office is providing nearly \$600 million in coronavirus relief and recovery dollars for local Arizona governments and nonprofits as part of a funding plan announced today by Governor Doug Ducey. The plan includes \$441 million in direct, flexible funding to local cities, towns and counties that did not receive direct funding earlier this year from the federal government. In addition, local governments, tribal communities, schools and more will be eligible for expedited reimbursements from the Federal Emergency Management Administration (FEMA) for coronavirus-related expenses, including purchases of testing supplies, PPE and more.

"Our office has met with mayors and county leaders to hear directly how COVID-19 is impacting their communities, and this plan delivers for them," said Governor Ducey. "It maximizes flexibility and prioritizes getting dollars quickly to where they're needed most. From our cities and towns, to our hospitals, schools, tribal communities, nonprofits and more, we are all in this fight together. My thanks to all the local leaders stepping up to protect local health, restart our economy and make sure that Arizona returns stronger."

"This funding from the AZCares Fund will help Peoria get dollars where they are needed most," said Peoria Mayor Cathy Carlat. "My thanks to Governor Ducey for his work to streamline this funding so we can put it to use quickly and efficiently."

APP031

"Whether it's protecting public health or getting assistance to families in need, Yuma County is taking on greater responsibilities than ever before to respond to this pandemic," said Yuma County Supervisor Russell McCloud. "These dollars will help us continue that critical work, and we thank Governor Ducey for prioritizing flexibility in the allocation of these resources."

"The Governor met with us. We told him about the importance of flexibility when allocating these dollars and he delivered," said Town of Sahuarita Mayor Tom Murphy. "With these dollars, Sahuarita and communities around the state will be better equipped to protect public health and get our businesses up and running more quickly."

"As leaders of rural communities, we often face unique challenges in the administration of healthcare and government services," said City of Maricopa Mayor Christian Price. "The COVID-19 pandemic has exacerbated these challenges. I'm grateful for the Governor's thoughtful approach in allocating these resources and for giving us the maximum flexibility in how we can use these dollars to meet the needs of our citizens."

"Kingman has worked to protect residents and ensure businesses can continue serving their customers," said Kingman Mayor Jen Miles. "As we work to reenergize our economy and keep people safe, these dollars will go a long way. Thank you to Governor Ducey for his leadership and for incorporating the input of local mayors and county leaders."

"The Town of Gilbert is working hard for our community as we face personal and financial hardship in these uncertain times," said Gilbert Mayor Jenn Daniels. "My thanks to Governor Ducey for ensuring that AZCares Funds lift all Arizona communities directly and with a focus on a safe and strong Arizona future."

"Families, individuals and businesses throughout Chandler are in need of support amid this pandemic. Governor Ducey has worked with our communities to ensure they get the help they need to overcome these difficulties," said Chandler Mayor Kevin Hartke. "Thank you to the Governor for your support to Chandler communities and businesses, and for your work to make these dollars readily available."

"Throughout the COVID-19 public health crisis, Governor Ducey has acted with steady leadership and great concern for the people of Prescott and all of rural Arizona," said Prescott Mayor Greg Mengarelli. "I want to thank Governor Ducey for prioritizing the health and safety of everyone in our community. I also want to thank him for acting quickly to get these significant funds to our city with as much flexibility as possible."

AZCares Fund

As part of the plan, cities, towns and counties that did not receive direct funding from the U.S. Treasury as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act will receive a direct allocation from the state. The resources will come from a new fund established by the Governor's Office, the AZCares Fund, and will be allocated based on 2019 census data, the same methodology used by the U.S. Treasury when distributing federal CARES Act funding. Local governments may use their allocation to cover regular payroll costs of public health and public safety personnel, freeing up existing local budget capacity to be deployed elsewhere. The fund is designed to provide maximum flexibility, while minimizing red tape, so municipalities can determine how best to use the funds to meet their needs.

A full list of distributions from the AZCares Fund can be found **HERE**

(https://azgovernor.gov/sites/default/files/azcares_fund_allocations_-_for_website_-_final_allocations_1.pdf).

Arizona Express Pay Program

In addition, Governor Ducey today launched the Arizona Express Pay Program, streamlining the application process for accessing public assistance from FEMA. Eligible entities include local governments, tribal communities, state agencies, nonprofit hospitals, nonprofit long-term care, skilled nursing and assisted living providers, school districts, charter school organizations, and fire districts. The program expedites delivery of resources for eligible projects related to COVID-19 response efforts and will be managed by the Arizona Department of Emergency and Military Affairs (DEMA).


As part of the program, the Governor's Office will provide \$150 million to expedite FEMA reimbursement requests, helping get needed relief dollars to local entities faster.

APP032

For more information about the public assistance initiative and grant opportunities for Arizona local governments, tribal communities and nonprofit organizations, including a step-by-step application process, visit **ArizonaTogether.org** (<http://arizonatogether.org/>).

###

RELATED DOCUMENTS:

 [azcares_fund_allocations_-_for_website_-_final_allocations_1.pdf](https://azgovernor.gov/sites/default/files/azcares_fund_allocations_-_for_website_-_final_allocations_1.pdf) (https://azgovernor.gov/sites/default/files/azcares_fund_allocations_-_for_website_-_final_allocations_1.pdf)

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 ([HTTPS://WWW.LINKEDIN.COM/IN/DOUGDUCEY](https://www.linkedin.com/in/dougducey))

APP033

RESOLUTION NO. 20-23

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, APPROVING A SMALL BUSINESS AND NON-PROFIT ORGANIZATION ASSISTANCE GRANT PROGRAM IN THE CITY OF APACHE JUNCTION; ALLOCATING THE UNUSED BALANCE FOR PUBLIC SAFETY; AND DECLARING AN EMERGENCY.

WHEREAS, local businesses and non-profit organizations are an essential component of a vibrant community and will play an integral role in the recovery from Coronavirus Disease 2019 ("COVID-19"); and

WHEREAS, disruptions to the business community are serious, as businesses are the backbone of the city's economy and provide the foundation of employment, services for the community and revenue for the city to provide essential public services; and

WHEREAS, assistance is necessary to help businesses and non-profit organizations recover and restart; and

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services declared a Public Health Emergency related to the COVID-19 outbreak; and

WHEREAS, on March 11, 2020, Arizona Governor Doug Ducey declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State of Arizona prepare for broader spread of COVID-19; and

WHEREAS, on March 20, 2020, the Mayor ratified a Proclamation of Emergency relative to the Covid-19 pandemic issued pursuant to A.R.S. § 26-307, A.R.S. § 26-311, and § 2-2-4(D) of the Apache Junction City Code Vol. I; and

WHEREAS, on March 27, 2020, President Trump signed the Coronavirus Aid, Relief and Economic Security ("CARES") Act, Pub. L. 116-136 (2020); and

WHEREAS, on May 29, 2020, Governor Ducey informed the city that the state would be offering the city a grant from the AZ Cares Fund which reimburses city public safety costs in the

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amount of \$4,887,430.00 made available through the federal government from the U.S. Department of Treasury's Coronavirus Relief Fund ("CRF") Catalog of Federal Domestic Assistance ("CFDA"), Number 21.019, as part of the CARES Act; and

WHEREAS, on June 30, 2020, the city submitted the grant application for accepting the available funds (grant number ERMT-20-012) which was approved on July 6, 2020; and

WHEREAS, these funds were placed in the city's general fund as a contingency line item in the FY 2020-2021 budget; and

WHEREAS, on June 2, 2020, June 15, 2020 and July 6, 2020, the mayor and city council discussed the potential uses of the funds; and

WHEREAS, on July 14, 2020, the mayor and city council discussed a grant assistance program that would benefit local businesses and non-profit organizations and stipulated up to a total of 25% or \$1,221,857.50 of the \$4,887,430.00 would fund the program; and

WHEREAS, the mayor and city council have unanimously determined that it is in the best interest of the city to assist the city's business and non-profit organization community with economic relief during the COVID-19 health emergency and enhance the general economic welfare of the community and of the residents and others who frequent businesses in the city.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, AS FOLLOWS:

Section 1: City staff shall establish and implement a small business and non-profit organization assistance grant program for economic relief during the COVID-19 health emergency and to enhance the health, safety and welfare of the residents and others who frequent businesses in the city as more fully set forth in Exhibit A, and incorporated herein by this reference.

Section 2: City staff is hereby authorized to negotiate and execute any and all documents and approve all actions necessary to establish and implement the direction and intent of this resolution, and for city staff to effectively administer the grant program set forth in Exhibit A.

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Section 3: The mayor and city council have determined the implementation of the city's grant program enhances the public welfare and its terms and conditions for its recipients are compatible with the restrictions under the AZ Constitution Article 9, § 7.

Section 4: The remaining balance of unused funds from the program will be allocated to public safety expenses as later determined to be appropriate by the council.

Section 5: It is necessary for the preservation of the peace, health and safety of the City of Apache Junction, Arizona, and consistent with the declarations and proclamation of emergency set forth above, an emergency is declared to exist, and this resolution shall become immediately operative and in force from and after the date of posting hereof.

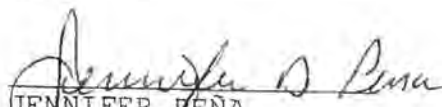
PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, THIS 15 DAY OF July, 2020.

SIGNED AND ATTESTED TO THIS 15 DAY OF July, 2020.




JEFF STEADY
Mayor

ATTEST:



JENNIFER PENA
City Clerk

APPROVED AS TO FORM:

 7-15-20

RICHARD J. STERN
City Attorney

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Fountain Hills Small Business Grant Program Guidelines

Intent:

The intent of the Fountain Hills Small Business Grant Program (the Program) is to provide grants from funding made available from the State of Arizona's AZCares Fund to Town businesses impacted by COVID-19.

Timing:

Grant funding will be available during the Town of Fountain Hills' 2020-2021 fiscal year, which begins on July 1, 2020.

Grant applications will be available on the Town's website on July 1, 2020 at 12:00 p.m., and will be accepted starting on that date. Initial funding distributions will likely be awarded in late July 2020. Applications will be reviewed in the order received and will be accepted until all grant funds have been awarded or December 1, 2020.

Process/Structure for Application of Grant Awards:

- Businesses must meet the Essential Requirements listed below to be eligible for the Program.
- Businesses must apply for grant funding as directed on the application. Preferences will be given to businesses that undertake projects that have a demonstrated public benefit and that are consistent with the Eligible Business Expenses as described below.
- After Town approval of the application and its associated Eligible Business Expenses, the Town will process disbursement of the grant funding to the business. The business will undertake completion of the Eligible Business Expenses and pay the vendor/contractor for the goods and services.
- Documentation, including invoices and proof of payment, must then be submitted to the Town's Economic Development Division in order to ensure completion of the Eligible Business Expense.

Note: The Program makes provisions for businesses to submit an application for reimbursement of Eligible Business Expenses that have been previously undertaken. If applying for reimbursement of previous Eligible Business Expenses, application must include invoices and proof of payment.

Anticipated Amount of Grant Awards:

The amount of each grant will be based on the number of approved applications with Eligible Business Expenses.

It is not likely that any individual grant award will exceed \$5,000, and the total funding for the grant program will not exceed \$300,000.

Anticipated Benefits from Award of Grant Funding:

The Town believes that the community at large stands to benefit from awarding grants through the collection of taxes, public health enhancements, and marketing of the Town and its businesses.

Essential Requirements to Apply for the FH Small Business Grant Program

To apply for a grant, the applicant must:

- Be located within the municipal boundaries of the Town of Fountain Hills
- Operate as a for-profit business, not as a non-profit, not-for-profit, 501(c)(3) or 501(c)(6), etc.
- Have an active Town of Fountain Hills Business License
- Have begun conducting business operations within the Town of Fountain Hills on or before January 1, 2020 and is still operating as of the date funding is awarded
- Employ twenty-five (25) or fewer Full-Time Equivalent (FTEs) employees as of February 15, 2020
- Have had gross sales/revenues of less than \$3 million in Calendar Year 2019.
- Not be affiliated with another business under common ownership/management that has applied or will apply for grant funds
- Agree to provide the Town with adequate documentation regarding the use of the grant funds, including but not limited to, jobs retained/created, increased ability to operate at capacity, corresponding increase in sales/revenues, and documentation of expenditures related to the Eligible Business Expenses, etc.

Preference in Award of Grant Funding

If the number of applications with Eligible Business Expenses exceeds the total amount to be awarded by the Town, the following guidelines will be utilized to prioritize the award of funds to businesses. The business:

- Was conducting business on or before August 15, 2019
- Employed three (3) or more Full-Time Equivalent (FTEs) employees as of February 15, 2020
- Certifies that as a result of the impacts of COVID-19, its total gross sales/revenues declined by at least 25% in March and April 2020 as compared to March and April 2019, and provides supporting documentation.

Eligible Business Expenses – Examples of Anticipated Grant Approvals:

Below are four illustrations of categories of projects that are anticipated to be approved. However, the Town does not want to limit our businesses in terms of creatively looking for solutions to survive the pandemic. Therefore, if a business has a unique need not addressed in this section, they are still encouraged to apply for grant funding.

Business Operations Changes:

The Town anticipates providing funding for expenses that have been completed or will be completed that make changes to business operations that were in place before the pandemic. Two examples of projects that are likely to be approved are:

- The purchase of furniture and fixtures, such as tables, chairs, umbrellas, lighting, misting systems, etc. that have the effect of enabling an establishment to enhance their facility's capacity in order to overcome reductions caused by social distancing regulations. This is consistent with the Fountain Hills Small Business Recovery Program's provisions for Temporary Use Permits for the extension of premises.
- The costs related to changes to a restaurant's business model that were necessary to accommodate a focus on take-out services, particularly those during Stay-at-Home orders.

The Town will realize a public benefit through the continued collection of commercial property lease taxes and sales taxes that may have otherwise been reduced if these businesses were no longer operating. In addition, projects that help the business respond to the pandemic by offsetting the reduction in seating capacity or occupancy will enhance the ability of restaurants to serve customers, which should result in additional sales tax collections.

These types of projects, which have a demonstrable impact on the business reopening, overcoming challenges related to the pandemic and/or being sustainable for the long-term will be given priority in the awarding of funds.

Public Health Benefits:

The Town anticipates that it will provide funding for Eligible Business Expenses for projects that involve the purchase and/or installation of:

- Equipment and devices, including partitions, dividers, personal protective equipment (PPE), etc., that help to protect employees and customers by limiting the spread of COVID-19 or ensuring social distancing.

The Town will receive public benefit from keeping its citizens safe and healthy, limiting the spread of COVID-19. This will also help maintain the public's confidence that they can safely patronize the Town's businesses. These Eligible Business Expenses will not only help keep our residents safe, but also have the effect of stabilizing sales tax revenues.

Marketing and Outreach Benefits:

The Town anticipates that it will provide reimbursement for or approve future Eligible Business Expenses related to marketing and outreach efforts. These could include campaigns to attract additional customers throughout the Valley to come to Fountain Hills and/or advertising to make customers aware of the current operational status of the business (such as changes to the business' days/hours; changes to types of service, including take-out service only; face coverings required; etc.)

The approval of grants related to marketing and outreach efforts are anticipated to bring additional visitors and economic activity to the Town, which will have the effect of providing enhanced tax collections.

Commercial Property Occupancy Benefits:

The Town anticipates providing funding for Eligible Business Expenses related to lease/mortgage payment assistance. Governor Ducey issued an Executive Order that halted the eviction of small businesses that were unable to pay rent through May 31, 2020. Approval of grant funding from the Town is expected to help businesses stay in their commercial properties by providing up to one month's lease/mortgage payment. This provision only applies to businesses occupying a commercial property.

The approval of grants related to assistance with lease/mortgage payments is anticipated to help businesses to continue operating, prevent evictions and increased vacancy rates, and ensure that the Town will continue to collect lease taxes.



COUNCIL MEETING AGENDA September 29, 2020

Scott Anderson, *Mayor* • Yung Koprowski, *Vice Mayor*
Scott September • Bill Spence • Jared Taylor • Kathy Tilque • Aimee Yentes

**Special Meeting
9/29/2020 5:00:00 PM**

**Virtual meeting
50 E Civic Center Drive
Gilbert, Arizona**

**AGENDA ITEMS MAY BE DISCUSSED IN A DIFFERENT SEQUENCE.
ITEMS WILL NOT BE DISCUSSED PRIOR TO POSTED MEETING TIME.**

MEETING ACCESS

Listening Via Conference Line

A conference line will be available in order to listen to the Town Council meeting. The conference line number and access code for this meeting are:

+1-415-655-0001 Access code: 133 022 4661

WebEx Online Meeting Platform

Members of the public and Town staff will also have the availability to participate in the Town Council meeting via WebEx.

The WebEx registration link is:

<https://gilbertaz.webex.com/gilbertaz/onstage/g.php?MTID=ebd47773566ed31f3e0b2f6e983f1f19b>

Pre-registration is encouraged. If you are not able to pre-register on WebEx, you may still have the opportunity to view the meeting via WebEx.

If you have any issues accessing the WebEx platform, the link to WebEx technical support is below.

- WebEx Technical Support (1-866-229-3239)

AGENDA ITEM

CALL TO ORDER

ROLL CALL

CONSENT CALENDAR

All items listed below are considered consent calendar items and may be approved by a single motion unless removed at the request of Council for further discussion/action. Other items on the agenda may be added to the consent calendar and approved under a single motion.

- 1 CONTRACT – consider approval of AZ CARES General Funds for human services contracts and authorize the Mayor to execute the required documents of:**
 - a) Allocation of \$2,000,000 in AZ CARES General Funds to the priority areas as recommended by staff to provide non-profit support in the community;**
 - b) Contract No. 321000100 with Jewish Family and Children Services (JFCS) in the amount of \$50,000 for providing emergency financial assistance to JFCS East Valley Healthcare Center;**
 - c) Contract No. 321000099 with Jewish Family and Children Services (JFCS) in the amount of \$50,000 for providing Telehealth Services for individuals with mental health and substance abuse treatment needs;**
 - d) Contract No. 321000104 with notMYkid, Inc. in the amount of \$267,000 for providing Youth Mental Health Collective Services;**
 - e) Amendment No. 1 to Contract No. 320000394 with AZCEND increasing the amount by \$200,000 for additional financial assistance to Gilbert residents;**
 - f) Amendment No. 1 to Contract No. 320000449 with Central Arizona Shelter Services increasing the amount by \$100,000 for additional assistance and services for Gilbert residents and families;**
 - g) Amendment No. 1 to Contract No. 320000444 with Salvation Army increasing the amount by \$108,000 for increasing the minimum amount of rent or utility assistance; and**
 - h) Amendment No. 1 to Contract No. 320000456 with Midwest Food Bank**

AZCEND increasing the amount by \$219,648 for providing meals and procurement, transportation and distribution of food and supplies to non-profit agencies.

i) Contingency Transfer in the amount of \$2,000,000 from the CIP Contingency fund with AZ Cares Act Funds as the designated funding source.

2 CONTRACT – consider approval and authorize the Mayor to execute the required documents of:

a) The #GilbertTogether Business Recovery Grant Program;

b) Allocation of \$11,000,000 in AZ CARES funds to the Business Recovery Grant Program as recommended by staff to provide; and

c) Cooperative Purchase Agreement No. 321000121 with Arizona Community Foundation, Inc. utilizing City of Chandler Cooperative Purchasing Contract No. ED0-961-4222 for Small Business Grant Administration for CARES Act Funds Services.

d) Contingency Transfer in the amount of \$11,000,000 with AZ Cares Act funds as the designated funding source.

3 CONTRACT – consider:

a) Waiving formal purchase procedures per the Code of Gilbert, Chapter 2 Administration, Article IV Procurement, Division 2 Purchasing, Section 2-360 (15); and

b) Approval of Professional Consulting Services Contract No. 321000124 with Maricopa County Community College District (MCCCD) in an amount not to exceed \$150,000 for the purpose of providing professional consulting services for the Town of Gilbert on the AZ CARES Technical Assistance Project, and authorize the Mayor to execute the required documents.

c) Contingency Transfer of \$150,000 with the AZ Cares Act funds as the designated funding source.

4 GRANT – consider adoption of a resolution accepting the 12% Gaming Contribution Grant, Contract No. 320000275, from Gila River Indian Nation (GRIC) on behalf of One Small Step dba Clothes Cabin in the amount of \$15,000 for the Back-To-Work and Work Preparedness Program and authorize the Mayor to execute the required documents.

5 BUDGET – consider approval of the allocation of \$400,000 in General funds to the Parks and Recreation Department as recommended by staff to provide Parks and Recreation support in the community due to the impacts of COVID-19, with

AZ Cares Act Funds as the designated funding source.

RECESS SPECIAL MEETING AND RECONVENE IN EXECUTIVE SESSION

• Pursuant to A.R.S. § 38-431.03(A)(3), legal advice from the Town Attorney concerning litigation entitled Hendrix v. Town of Gilbert, Maricopa County Superior Court Case No. CV2020-009892

ADJOURN EXECUTIVE SESSION AND RECONVENE IN SPECIAL MEETING

ADJOURN

NOTICE TO PARENTS: Parents and legal guardians have the right to consent before the Town of Gilbert makes a video or voice recording of a minor child. A.R.S. 1-602.A.9. Gilbert Council Meetings are recorded and maybe viewed on Channel 11 and the Gilbert website. If you permit your child to participate in the Council Meeting, a recording will be made. If your child is seated in the audience your child may be recorded, but you may request that your child be seated in a designated area to avoid recording. Please submit your request to the Town Clerk.

CENTENNIAL GILBERT-ARIZONA



Council Communication

TO: Honorable Mayor and Councilmembers

FROM: Dan Henderson, Economic Development Director, 503-6891

MEETING DATE: September 29, 2020

SUBJECT: #GilbertTogether Business Relief Grant Program and Contract with Arizona Community Foundation for Administrative Grant Services

STRATEGIC INITIATIVE: Strong Economy

RECOMMENDED MOTION

A motion to approve the #GilbertTogether Business Recovery Grant program, fund the Business Recovery Grant program with an \$11 million allocation, approve Cooperative Purchasing Contract No. 321000121 with Arizona Community Foundation, and authorize the Mayor to execute the required documents.

BACKGROUND/DISCUSSION

The Town of Gilbert was allocated \$29.2 million out of the \$441 million in CARES ACT funds given to the State of Arizona by the federal government. The \$29.2 million was restricted to covering public health and safety expenses. On August 11, 2020, the Gilbert Town Council voted to formally accept the Town of Gilbert allocation from AZ Cares Act Funds. As stipulated in the Council Communication, this revenue allocation offset public safety expenses in the General Fund, which created a like amount, approximately \$29.2M, that may be utilized as directed by Town Council. The Gilbert Town Council AZCARES Subcommittee has recommended an \$18 million allocation of the \$29.2M to support businesses experiencing financial hardship due to the ongoing COVID-19 pandemic.

Through this \$18 million allocation, the #GilbertTogether Business Recovery Program is proposed to strengthen the economic health of the community by supporting the retention and creation of jobs, stimulating new capital investment, strengthening organizational

effectiveness, and improving operational efficiency through innovation. The #GilbertTogether Business Recovery Program is a three-phase effort that addresses the immediate, mid-term, and long-term needs and concerns of business by providing:

1. Phase one - \$11 million in business relief grants to triage immediate needs
2. Phase two - \$5 million in low interest loans to address mid-term recovery
3. Phase three - \$2 million in technical assistance programming to support long-term resiliency

The #GilbertTogether Business Recovery Grant provides qualifying Gilbert based for-profit businesses and 501(c)(3) nonprofit organizations that experienced revenue declines of at least 15% because of COVID-19 from March 2020 - August 2020 as compared to March 2019 - August 2019, with a grant of up to \$35,000 based on demonstrated positive financial impact to the Town of Gilbert.

The Arizona Community Foundation (ACF) has been selected to provide Gilbert with administration services for the #GilbertTogether Business Relief Grant. ACF has provided administration services related to AZ CARES grant programs for Maricopa County, City of Phoenix, City of Chandler, City of Peoria, and the City of Surprise. This contract is based on a cooperative purchasing agreement, which was established based on formal public competition. Per 2-357 (b) (2) of the Gilbert Purchasing Code, cooperative contracts may be used where the Purchasing Officer has determined in writing that a separate bidding process is not likely to result in lower prices for these parts and services.

The contract was reviewed for form by John Baird, Deputy Town Attorney.

The contract was reviewed by Jim Campion, Purchasing Manager.

FINANCIAL IMPACT

The Gilbert Town Council AZ CARES Subcommittee has recommended that the #GilbertTogether Business Relief Grant be funded with an \$11 million allocation. The ACF contract fee is 1.3 % of the distributed amount with a guaranteed minimum of \$55,000.

The source of funds is General Fund monies offset by funding from the Town of Gilbert AZ CARES Act allocation.

The financial impact was reviewed by Carlos A. Lamkin, Management & Budget Analyst II

STAFF RECOMMENDATION

Staff recommends that Council approve the #GilbertTogether Business Recovery Grant program, fund the Business Recovery Grant program with an \$11 million allocation, approve Cooperative Purchasing Contract No. 321000121 with Arizona Community Foundation, and authorize the Mayor to execute the required documents.

Respectfully submitted,
Dan Henderson, Economic Development Director

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[Minutes](#)
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(/GilbertAgendaOnline/Documents/Downloadfile/Special_Meeting_776_Agenda_Packet_9_29_2020_5_00_00_PM.pdf?documentType=5&meetingId=776&isAttachment=True)

MINUTES OF THE GILBERT TOWN COUNCIL, IN REGULAR MEETING OF TUESDAY, SEPTEMBER 29, 2020 AT 5:00 PM, VIRTUAL MEETING, 50 E CIVIC CENTER DRIVE, GILBERT, ARIZONA

COUNCIL PRESENT: Mayor Scott Anderson, Vice Mayor Yung Koprowski, Councilmembers Scott September, Bill Spence, Jared Taylor, Kathy Tilque, and Almee Yentes

COUNCIL ABSENT: None

STAFF PRESENT: Town Manager Patrick Banger, Deputy Clerk Chaveli Herrera, Town Attorney Christopher Payne, Economic Development Director Dan Henderson, and Parks and Recreation Director Robert Carmona

AGENDA ITEM

CALL TO ORDER

Mayor Anderson called the meeting to order at 5:01 p.m.

ROLL CALL

Deputy Clerk Herrera called roll and declared a quorum present.

CONSENT CALENDAR

Vice Mayor Koprowski stated each Consent Item would be heard and voted on separately.

1. CONTRACT – consider approval of AZ CARES General Funds for human services contracts and authorize the Mayor to execute the required documents of:

- a) Allocation of \$2,000,000 in AZ CARES General Funds to the priority areas as recommended by staff to provide non-profit support in the community;
- b) Contract No. 321000100 with Jewish Family and Children Services (JFCS) in the amount of \$50,000 for providing emergency financial assistance to JFCS East Valley Healthcare Center;
- c) Contract No. 321000099 with Jewish Family and Children Services (JFCS) in the amount of \$50,000 for providing Telehealth Services for individuals with mental health and substance abuse treatment needs;
- d) Contract No. 321000104 with notMYkid, Inc. in the amount of \$267,000 for providing Youth Mental Health Collective Services;
- e) Amendment No. 1 to Contract No. 320000394 with AZCEND increasing the amount by \$200,000 for additional financial assistance to Gilbert residents;
- f) Amendment No. 1 to Contract No. 320000449 with Central Arizona Shelter Services increasing the amount by \$100,000 for additional assistance and services for Gilbert residents and families;
- g) Amendment No. 1 to Contract No. 320000444 with Salvation Army increasing the amount by \$108,000 for increasing the minimum amount of rent or utility assistance; and
- h) Amendment No. 1 to Contract No. 320000456 with Midwest Food Bank AZCEND increasing the amount by \$219,648 for providing meals and procurement, transportation and distribution of food and supplies to non-profit agencies.
- i) Contingency Transfer in the amount of \$2,000,000 from the CIP Contingency fund with AZ Cares Act Funds as the designated funding source.

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Councilmember Yentes discussed the process for determining the needs of non-profits and provided information on the contracts, stating many needs had been exacerbated because of the pandemic.

Vice Mayor Koprowski thanked Councilmember Yentes for her leadership as Chair of the Subcommittee on the AZ CARES Act Funds and thanked staff for their work on the item.

A MOTION was made by Councilmember Spence, seconded by Councilmember Tilque, to approve Item 1. *Motion carried 7-0.*

2. CONTRACT – consider approval and authorize the Mayor to execute the required documents of:

a) The #GilbertTogether Business Recovery Grant Program;

b) Allocation of \$11,000,000 in AZ CARES funds to the Business Recovery Grant Program as recommended by staff to provide; and

c) Cooperative Purchase Agreement No. 321000121 with Arizona Community Foundation, Inc. utilizing City of Chandler Cooperative Purchasing Contract No. EDO-961-4222 for Small Business Grant Administration for CARES Act Funds Services.

d) Contingency Transfer in the amount of \$11,000,000 with AZ Cares Act funds as the designated funding source.

Councilmember Yentes thanked Economic Development Director Henderson, his team, and President and Chief Executive Officer of the Gilbert Chamber of Commerce Sarah Watts for their work on the endeavor.

Economic Development Director Henderson provided a summary of the three-phase program focusing on short-term and immediate relief, mid-term recovery, and long-term resiliency. He thanked Sarah Watts from the Gilbert Chamber of Commerce for her assistance. He provided details on the qualifications for businesses under Phase 1: Business Relief Grant with up to \$35,000 available for qualifying businesses. He said the item was recommended by the Subcommittee on the AZ CARES Act for an allocation of \$11,000,000 to the Relief Grant component. He stated the Arizona Community Foundation would serve as the grant administrator and discussed the scope of their work.

A MOTION was made by Councilmember September, seconded by Councilmember Spence, to approve Item 2. *Motion carried 7-0.*

3. CONTRACT – consider:

a) Waiving formal purchase procedures per the Code of Gilbert, Chapter 2 Administration, Article IV Procurement, Division 2 Purchasing, Section 2-360 (15); and

b) Approval of Professional Consulting Services Contract No. 321000124 with Maricopa County Community College District (MCCCD) in an amount not to exceed \$150,000 for the purpose of providing professional consulting services for the Town of Gilbert on the AZ CARES Technical Assistance Project, and authorize the Mayor to execute the required documents.

c) Contingency Transfer of \$150,000 with the AZ Cares Act funds as the designated funding source.

Economic Development Director Henderson gave a brief presentation on Phase 3: Business Resiliency Assistance, which would include career and "up-skill" training and technical assistance provided through Maricopa County Community College District. He highlighted some of the professions that would be included in the program.

Councilmember Taylor asked for clarification on the source of funding being the AZ CARES Act, not General Funds. Director Henderson provided clarification, stating it would come out of the General Fund with an allocation of the AZ CARES Act as the funding source.

A MOTION was made by Councilmember Yentes, seconded by Councilmember Spence, to approve Item 3. *Motion carried 7-0.*

4. GRANT – consider adoption of a resolution accepting the 12% Gaming Contribution Grant, Contract No. 320000275, from Gila River Indian Nation (GRIC) on behalf of One Small Step dba Clothes Cabln in the amount of \$15,000 for the Back-To-Work and Work Preparedness Program and authorize the Mayor to execute the required documents.

A MOTION was made by Councilmember Taylor, seconded by Councilmember Spence, to approve Item 4. *Motion carried 7-0. Resolution No. 4160 was adopted.*

5. BUDGET – consider approval of the allocation of \$400,000 in General funds to the Parks and Recreation Department as recommended by staff to provide Parks and Recreation support in the community due to the impacts of COVID-19, with AZ Cares Act Funds as the designated funding source.

Parks and Recreation Director Carmona provided a presentation on the impacts of COVID-19 on the Parks and Recreation Department including a timeline of the closures and the events, programs, and classes that were impacted. He spoke of discussions with the Subcommittee on the AZ CARES Act about how funds could be reapplied to assist Gilbert residents and families, including the use of a coupon code to be used by residents.

APP048

Councilmember Yentes thanked Director Carmona and his team. She discussed the item's importance to tax payers who continued to pay for amenities they were not able to access during the closures. She said it was a way to reimburse the public for the programs and amenities that were not available during that time.

Councilmember September thanked Director Carmona and his team. He spoke of the idea that everyone could benefit from the money. He asked if Director Carmona foresaw the funds being used during Fall programming or extending beyond that and if some would potentially be used for new memberships and participation.

Director Carmona talked about spacing out the funding across seasons to make programs available for different people, such as swimming lessons and drowning prevention. He said he believed the funding could help with new clientele as well and may lead to an increase of people wanting to try new facilities or activities.

Councilmember Tilque talked about the total funding being allocated, stating there would be about \$9,200,000 left. She discussed the potential \$8,000,000 request from the Gilbert Police Department, leaving about \$1,200,000. She discussed the Parks Foundation's Grant Program for low income residents, stating she would prefer to wait on allocating the \$1,200,000 until it could be determined what the needs of the other programs were. She stated she would be opposing the item, noting she would consider supporting it in the future but preferred to see what the best needs were.

Mayor Anderson stated he would caution on how much funding was held back, as the Town would be subject to a lot of public criticism. He said he understood Councilmember Tilque's reasoning but did not want to be criticized for holding back money.

Councilmember Tilque said she believed the Town would be receiving updates on the requests and needs of Public Safety soon and did not believe the money would be held for long. She stated she preferred to consider the Public Safety priorities.

A MOTION was made by Councilmember Tilque to table Item 5 until the first Council meeting in December. *Motion died for lack of second.*

A MOTION was made by Councilmember Yentes, seconded by Councilmember Taylor, to approve Item 5. *Motion carried 6-1, with Councilmember Tilque casting the dissenting vote.*

RECESS SPECIAL MEETING AND RECONVENE IN EXECUTIVE SESSION

A MOTION was made by Councilmember September, seconded by Councilmember Yentes, to recess the Special Meeting and reconvene in Executive Session pursuant to A.R.S. § 38-431.03(A)(3), legal advice from the Town Attorney concerning litigation entitled Hendrix v. Town of Gilbert, Maricopa County Superior Court Case No. CV2020-009892. *Motion carried 7-0.*

The Special Meeting was recessed at 5:32 p.m.

ADJOURN EXECUTIVE SESSION AND RECONVENE IN SPECIAL MEETING

A MOTION was made by Councilmember September, seconded by Vice Mayor Koprowski, to reconvene the Special meeting at 6:52 p.m. *Motion carried 7-0.*

ADJOURN

Mayor Anderson adjourned meeting at 6:52 p.m.

ATTEST:

Scott Anderson, Mayor

Lisa Maxwell, MMC, Town Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the Town Council of the Town of Gilbert held on the 29th day of September, 2020. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____, 2020.

Lisa Maxwell, MMC, Town Clerk

Please
Note

Meetings will be held in the Council Chambers located at 50 E Civic Center Drive, Municipal Building 1, Gilbert, Arizona 85296 unless otherwise

noted on the Agenda.

Click here for a Map or to Find Directions (<https://goo.gl/maps/ouPs95USd9w>)

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The minutes provided above are draft minutes.

You may search final approved Minutes here: **Minutes** (<http://www.gilbertdocs.com/pa3/>)

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(<https://www.youtube.com/playlist?list=PL515803692F942503>)

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AMENDED AGENDA

Regular Session
Queen Creek Town Council
Community Chambers, 20727 E. Civic Parkway
July 1, 2020
6:30 PM

Following the recommendations from the CDC to help slow the spread of COVID-19, attendance at Town meetings is currently limited to 25 people, including members of the Town Council and staff, to maintain physical distancing. Some members of the Town Council and staff may attend electronically.

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

Public comment: in addition to attending in-person, there are two options for residents to submit public comment for the July 1 Town Council meeting:

- Email: submit a comment to PublicComment@QueenCreek.org. Every email received will be entered into the official record. Please include your name, address, comment and note if your comment is for call to the public.*
- WebEx Online Meeting: Using a computer, tablet or smartphone, log into the meeting through WebEx (LINK) and provide a public comment. To participate, register with your name, address and comment. View detailed at [QueenCreek.org/Watch Meetings](https://www.queen-creek.org/WatchMeetings).*

Comments without identifying name and address will not be read or submitted as part of the written record.

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

The Mayor or other presiding officer at the meeting may change the order of Agenda Items and/or take items on the Agenda in an order they determine is appropriate.

- 1. Call to Order:**
- 2. Roll Call:** (Members of the Town Council may attend electronically and/or telephonically)

3. Pledge of Allegiance:
4. Invocation/Moment of Silence:
5. Ceremonial Matters (Presentations, Proclamations, Awards, Guest Introductions and Announcements):
 - A. None.
6. Committee Reports:
 - A. Council summary reports on meetings and/or conferences attended. This may include but is not limited to Phoenix-Mesa Gateway Airport; MAG; East Valley Partnership; CAG. The Council will not propose, discuss, deliberate or take legal action on any matter in the summary unless the specific matter is properly noticed for legal action.
 - B. Committee and outside agency reports (only as scheduled)
 1. None.
7. **Public Comments:** *Members of the public may address the Town Council on items not on the printed agenda and during Public Hearings. Please address the Town Council by completing a Request to Speak Card and turn it into the Town Clerk, sending an email to PublicComment@queencreek.org by 6:30 p.m. on July 1, 2020 (limited to 500 words – identify your name, address and whether you wish your comment to be read at the meeting or just submitted as part of the written record). The Town Council may not discuss or take action on any issue raised during public comment until a later meeting. Speakers are limited to three (3) minutes each. Only one comment (either by email or by WebEx) per person per Agenda Item will be allowed and comments without identifying name and address will not be read or submitted as part of the written record.*
8. **Consent Agenda:** *Matters listed under the Consent Agenda are considered to be routine and will be enacted by one motion and one vote. Members of the Town Council and or staff may comment on any item without removing it from the Consent Agenda or remove any item for separate discussion and consideration.*
9. **Items for Discussion:** *These items are for Town Council discussion only and no action will be taken. In general, no public comment will be taken.*
 - A. Rittenhouse Road Project Update
10. **Public Hearing Consent Agenda:** *Matters listed under the Public Hearing Consent Agenda are considered to be routine and will be enacted by one motion and one vote. Please address the Town Council on any items on the Public Hearing Consent Agenda by completing a Request to*

Queen Creek Town Council

Regular Session

July 1, 2020

Page 3 of 4

Speak Card and turn it into the Town Clerk, sending an email to PublicComment@queencreek.org (limited to 500 words – identify your name, address and whether you wish your comment to be read at the meeting or just submitted as part of the written record) or by WebEx (instructions at QueenCreek.org/WatchMeetings). Speakers are limited to three (3) minutes each. Only one comment (either by email or by WebEx) per person per Agenda Item will be allowed and comments without identifying name and address will not be read or submitted as part of the written record.

A. None.

11. Public Hearings: *If you wish to speak to the Town Council on any of the items listed as a Public Hearing, please address the Town Council by sending an email to PublicComment@queencreek.org (limited to 500 words – identify your name, address and whether you wish your comment to be read at the meeting or just submitted as part of the written record) or by WebEx (instructions at QueenCreek.org/WatchMeetings). Speakers are limited to three (3) minutes each. Only one comment (either by email or by WebEx) per person per Agenda Item will be allowed and comments without identifying name and address will not be read or submitted as part of the written record.*

A. None.

12. Final Action *If you wish to speak to the Town Council on any of the items listed under Final Action Please address the Town Council by completing a Request to Speak Card and turn it into the Town Clerk, sending an email to PublicComment@queencreek.org (limited to 500 words – identify your name, address and whether you wish your comment to be read at the meeting or just submitted as part of the written record) or by WebEx (instructions at QueenCreek.org/WatchMeetings). Speakers are limited to three (3) minutes each. Only one comment (either by email or by WebEx) per person per Agenda Item will be allowed and comments without identifying name and address will not be read or submitted as part of the written record..*

A. Consideration and possible approval of Resolution 1361-20 directing staff to implement a grant program and related budget adjustments based on the direction of the Town Council, and declaring an emergency.

B. Consideration and possible approval of Ordinance 735-20 directing staff to waive new business license and business license renewal fees beginning July 1, 2020 through June 30, 2021, and declaring an emergency.

13. Adjournment

Pursuant to ARS 38-431.02 notice is hereby given to the members of the Queen Creek Town Council and to general public that the Queen Creek Town Council will hold a meeting open to the public as set forth above.

I, Maria Gonzalez, do hereby certify that I caused to be posted this 30th day of June the Agenda for the July 1, 2020 Regular and Possible Executive Session of the Queen Creek Town Council in the following places: 1) Queen Creek Town Hall; 2) Queen Creek Library; 3) Queen Creek Community Center bulletin board.

Maria E. Gonzalez, CMC

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



Requesting Department

Economic Development

TO: HONORABLE MAYOR AND TOWN COUNCIL
THROUGH: JOHN KROSS, TOWN MANAGER, ICMA-CM
FROM: DOREEN COTT, ECONOMIC DEVELOPMENT DIRECTOR
RE: CONSIDERATION AND POSSIBLE APPROVAL OF RESOLUTION 1361-20 DIRECTING STAFF TO IMPLEMENT A GRANT PROGRAM AND RELATED BUDGET ADJUSTMENTS BASED ON THE DIRECTION OF THE TOWN COUNCIL, AND DECLARING AN EMERGENCY.
DATE: July 1, 2020

Staff Recommendation:

Staff recommends approval of Resolution 1361-20 directing staff to implement a grant program and related budget adjustments based on the direction of the Town Council.

Proposed Motion:

Move to approve Resolution 1361-20 directing staff to implement a grant program and related budget adjustments based on the direction of the Town Council.

Discussion:

In an effort to assist the Town's business community with economic relief and enhance the health safety and welfare of the Town's residents and others utilizing and working in businesses within the Town limits during COVID-19 health emergency, staff has outlined a grant program that will assist for-profit, brick and mortar businesses located at a physical, commercial address in Town and hold a valid Queen Creek business license. The grant program will be implemented by the Town to reimburse businesses for costs incurred in connection with enhanced sanitization, employee safety, and customer safety, which may include, but is not limited to:

- Disinfection of interior spaces and other high touch areas of small businesses;
- Provision of personal protective equipment (including respirator masks, general face masks and gloves) for employees and customers, and the implementation of policies and practices that require employees and customers to wear respirator and/or general face masks;
- Enhancing social distancing by limiting the number of customers that may be in any location at any time, creating special hours for at-risk populations, and by spacing customer areas within the interior space of businesses to maintain six feet of space between customers, and six feet of space between employees and customers;
- The installation and maintenance of any physical barriers, such as Plexiglas shields, booths, or other barriers designed to limit the exposure of customers and employees to

- droplets and/or aerosols;
- Creation of signage and programs designed to allow for delivery of goods, or curbside pickup of goods, along with the dedication of parking areas for such purposes;
- Installation and maintenance of additional hand sanitizer stations;
- Installation and/or maintenance of HVAC systems to include MERV 13 or higher air filters; and
- Employment expenses related to the above activities.

To qualify for funds, an agent of the small business must certify under penalty of perjury, as a condition to the receipt of such funds, that they are a “small business” as defined by the Small Business Act, and that such small business has implemented a program designed to undertake activities and will incur concomitant expenses in connection with enhanced sanitization, employee safety, and customer safety, such as those identified above. Depending on the industry, a small business could be defined as business with a maximum of 250 employees or a maximum of 1,500 employees.

Grant money will be distributed based on the number of Full-Time Equivalent Employees (FTE) the business employed on 3/1/2020. Businesses may have to provide the Town additional documentation to verify FTEs. For each FTE, the grant program will provide \$500 per employee to be used to offset the expenses in connection with enhanced sanitization, employee safety, and customer safety. Maximum eligible award per business is recommended to be \$12,500.

Staff recognizes that while businesses may have received federal funding through the Paycheck Protection Program (PPP) and/or Economic Injury Disaster Loan (EIDL) programs, these programs were primarily structured to keep employees on payroll. Businesses are still facing challenges covering operating costs and new costs associated with increased sanitization and safety protocols, which is the focus of the Town’s grant program.

Grant money will be distributed on a first come, first served basis. Staff will report back to Council 30-days after the grant program is launched to provide an update on the number of applications and the total requested grant assistance. Council may decide to change the allocation amount for the grant program at that time, based on need.

Based on Council’s direction, staff will be prepared to launch the program on Monday, July 20, 2020 and will work with Communications and Marketing on a promotion plan and Frequently Asked Questions (FAQs) document.

An emergency clause is included in Resolution 1361-20 in order to make the program effective immediately.

Fiscal Impact:

Staff recommends allocating \$500,000 for the initial launch of this program. As this program was not included in the FY2020-21 adopted budget, a budget adjustment for \$500,000 from CIP Contingency will be necessary to accommodate the expenses of this program. Actual expenses

will depend on the number and size of businesses that apply and are found eligible for the program.

Alternatives:

The Town Council could choose to change aspects of the proposed program including:

- Applying to home-based businesses;
- Applying to non-profits;
- Adjusting the maximum award from \$12,500 to another amount;
- Adjusting the amount allocated for this program from \$500,000 to another amount;
- Adjusting the program to exclude businesses that have received PPP or EIDL funding; and
- Adjusting the program to allow for businesses to apply based on a demonstrated need that they suffered negative financial impacts or business interruptions due to required business closures or limited service, mandated by the State of Arizona Governor's Executive Orders regarding COVID-19.

Attachment(s):

1. Resolution 1361-20

RESOLUTION 1361-20

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF QUEEN CREEK, ARIZONA, APPROVING A HEALTH AND SAFETY GRANT PROGRAM FOR SMALL BUSINESSES LOCATED IN THE TOWN OF QUEEN CREEK AND DECLARING AN EMERGENCY.

WHEREAS, local businesses are an essential component of a vibrant community and will play an integral role in the recovery from COVID-19; and

WHEREAS, disruptions to the business community are serious, as businesses are the backbone of our economy, and provide the foundation of employment, services for the community and revenue for the Town to provide essential services for the public welfare and benefit; and

WHEREAS, businesses play a vital role in the overall health of the Town of Queen Creek; and

WHEREAS, assistance is necessary to help businesses recover and restart; and

WHEREAS, the United States Department of Health and Human Services declared a Public Health Emergency related to the COVID-19 outbreak on January 31, 2020; and

WHEREAS, on March 11, 2020, the Governor of the State of Arizona declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State of Arizona prepare for broader spread of COVID-19; and

WHEREAS, on March 18, 2020, the Queen Creek Town Council ratified a Proclamation of Emergency relative to the Covid-19 pandemic issued pursuant to A.R.S. § 26-307, A.R.S. § 26-311, and Section 2.2.4(F) of the Queen Creek Town Code;

WHEREAS, the Mayor and Town Council have determined that it is in the best interest of the Town to provide to assist the Town’s business community with economic relief during the COVID-19 health emergency and enhance the health, safety and welfare of the residents and others who frequent businesses in the Town of Queen Creek by reimburse businesses for expenses incurred in connection with enhanced sanitization, employee safety, and customer safety.

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

Section 1: The Town shall establish and implement a small business grant program to assist the Town’s business community with economic relief during the COVID-19 health emergency and enhance the health, safety and welfare of the residents and others who frequent businesses in the Town of Queen Creek by reimburse businesses for expenses incurred in connection with enhanced sanitization, employee safety, and customer safety, as set forth in Exhibit A hereto, and incorporated herein by this reference.

Attachment: Resolution 1361-20 (Grant Program)

Section 2: The Town Manager and Town Attorney are hereby authorized to negotiate and execute any and all documents and approve all actions necessary to establish and implement the direction and intent of this Resolution, and for Town Staff to effectively administer the grant program set forth in Exhibit A.

Section 3: Whereas, it is necessary for the preservation of the peace, health and safety of the Town of Queen Creek, Arizona, and consistent with the declarations and proclamation of emergency set forth above, an emergency is declared to exist, and this resolution shall become immediately operative and in force from and after the date of posting hereof.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Queen Creek, Arizona, this 1st day of July 2020.

FOR THE TOWN OF QUEEN CREEK:

ATTEST TO:

Gail Barney, Mayor

Maria Gonzalez, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:

John Kross, Town Manager

Scott Holcomb
Dickinson Wright PLLC
Town Attorneys

Attachment: Resolution 1361-20 (Grant Program)

RESOLUTION 1361-20

Exhibit A

In an effort to assist the Town’s business community with economic relief during COVID-19 health emergency, the Town of Queen Creek establishes and implements a grant program that will assist for-profit, brick and mortar businesses located at a physical, commercial address in Town and hold a valid Queen Creek business license by providing reimbursement for costs incurred in connection with enhanced sanitization, employee safety, and customer safety, which may include, but is not limited to:

- Disinfection of interior spaces and other high touch areas of small businesses;
- Provision of personal protective equipment (including respirator masks, general face masks and gloves) for employees and customers, and the implementation of policies and practices that require employees and customers to wear respirator and/or general face masks;
- Enhancing social distancing by limiting the number of customers that may be in any location at any time, creating special hours for at-risk populations, and by spacing customer areas within the interior space of businesses to maintain six feet of space between customers, and six feet of space between employees and customers;
- The installation and maintenance of any physical barriers, such as Plexiglas shields, booths, or other barriers designed to limit the exposure of customers and employees to droplets and/or aerosols;
- Creation of signage and programs designed to allow for delivery of goods, or curbside pickup of goods, along with the dedication of parking areas for such purposes;
- Installation and maintenance of additional hand sanitizer stations;
- Installation and/or maintenance of HVAC systems to include MERV 13 or higher air filters; and
- Employment expenses related to the above activities.

Businesses in Maricopa or Pinal County islands or unincorporated areas of Queen Creek will not be eligible. To qualify for funds, an agent of the small business must certify under penalty of perjury, as a condition to the receipt of such funds, that they are a “small business” as defined by the Small Business Act, and that such small business has implemented a program designed to undertake activities and will incur concomitant expenses in connection with enhanced sanitation, employee safety, and customer safety, such as those identified above.

Grant money will be distributed based on the number of Full-Time Equivalent Employees (FTE) the business employed on 3/1/2020. Businesses may have to provide the Town additional documentation to verify FTEs. For each FTE, the grant program will provide \$500 per employee to be used to offset the expenses in connection with enhanced sanitization, employee safety, and customer safety. Maximum eligible award per business is recommended to be \$12,500.

While businesses may have received federal funding through the Paycheck Protection Program (PPP) and/or Economic Injury Disaster Loan (EIDL) programs, these programs were primarily structured to keep employees on payroll. Businesses are still facing challenges covering operating costs and new costs associated with increased sanitization and safety protocols, which is the focus of the Town’s grant program.

Attachment: Resolution 1361-20 (Grant Program)

Grant money will be distributed on a first come, first served basis. Staff will report back to Council 30 days after the grant program is launched to provide an update on the number of applications and the total requested grant assistance. Council may decide to change the allocation amount for the grant program at that time, based on need.

Staff will be prepared to launch the program on Monday, July 20, 2020 and will work with Communications and Marketing on a promotion plan and Frequently Asked Questions (FAQs) document.

4817-4197-4465 v1 [53749-1]

Attachment: Resolution 1361-20 (Grant Program)



Regular Session
Queen Creek Town Council
Community Chambers, 20727 E. Civic Parkway
July 1, 2020
6:30 PM

1. Call to Order:

The meeting was called to order at 6:54 p.m.

2. Roll Call: (Members of the Town Council may attend electronically and/or telephonically)

Gail Barney	Mayor	Present
Julia Wheatley	Vice Mayor	Present via WebEx
Robin Benning	Council Member	Present
Jeff Brown	Council Member	Present via WebEx
Jake Hoffman	Council Member	Present
Dawn Oliphant	Council Member	Present via WebEx
Emilena Turley	Council Member	Absent

3. Pledge of Allegiance:

4. Invocation/Moment of Silence:

A moment of silence was observed for our communities across the nation that are hurting with a reflection on the importance of supporting one another.

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

A. None.

6. Committee Reports:

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

See attached.

B. Committee and outside agency reports (only as scheduled)

1. None.

7. **Public Comments:** *Members of the public may address the Town Council on items not on the printed agenda and during Public Hearings. Please address the Town Council by sending an email to PublicComment@queencreek.org by 6:30 p.m. on July 1, 2020 (limited to 500 words – identify your name, address and whether you wish your comment to be read at the meeting or just submitted as part of the written record). The Town Council may not discuss or take action on any issue raised during public comment until a later meeting. Speakers are limited to three (3) minutes each. Only one comment (either by email or by WebEx) per person per Agenda Item will be allowed and comments without identifying name and address will not be read or submitted as part of the written record.*

None.

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

A. None.

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

A. Rittenhouse Road Project Update

Public Works Director Troy discussed the Rittenhouse Road project timeline and the opportunity to complete the project ahead of schedule by extending the duration of the Rittenhouse Road closure.

Due to changes in United Pacific Railroad (UPRR) Spur-Track schedule, the Town's timeline has been moved up with a substantial completion date in November vs. December. Mr. White outlined the benefits of keeping the road closure in place so the Town can complete work prior to the UPRR work in August. He said that by consolidating the road closure, rather than having three additional future closings, it will reduce motorist's frustration; align with school openings; and take advantage of reduced vehicular traffic on Rittenhouse Road.

Mr. White said that Schnepf Farms, The Olive Mill and Pinal County fully support this revised schedule. The Town will provide public outreach on the road closure and project timeline.

Queen Creek Town Council

Regular Session

July 1, 2020

Page 3 of 6

10. Public Hearing Consent Agenda: *Matters listed under the Public Hearing Consent Agenda are considered to be routine and will be enacted by one motion and one vote. Please address the Town Council on any of the items on the Public Hearing Consent Agenda by sending an email to PublicComment@queencreek.org (limited to 500 words – identify your name, address and whether you wish your comment to be read at the meeting or just submitted as part of the written record) or by WebEx (instructions at QueenCreek.org/WatchMeetings). Speakers are limited to three (3) minutes each. Only one comment (either by email or by WebEx) per person per Agenda Item will be allowed and comments without identifying name and address will not be read or submitted as part of the written record.*

A. None.

11. Public Hearings: *If you wish to speak to the Town Council on any of the items listed as a Public Hearing, please address the Town Council by sending an email to PublicComment@queencreek.org (limited to 500 words – identify your name, address and whether you wish your comment to be read at the meeting or just submitted as part of the written record) or by WebEx (instructions at QueenCreek.org/WatchMeetings). Speakers are limited to three (3) minutes each. Only one comment (either by email or by WebEx) per person per Agenda Item will be allowed and comments without identifying name and address will not be read or submitted as part of the written record.*

A. None.

12. Final Action: *If you wish to speak to the Town Council on any of the items listed under Final Action, please address the Town Council by sending an email to PublicComment@queencreek.org (limited to 500 words – identify your name, address and whether you wish your comment to be read at the meeting or just submitted as part of the written record) or by WebEx (instructions at QueenCreek.org/WatchMeetings). Speakers are limited to three (3) minutes each. Only one comment (either by email or by WebEx) per person per Agenda Item will be allowed and comments without identifying name and address will not be read or submitted as part of the written record.*

A. Consideration and possible approval of Resolution 1361-20 directing staff to implement a grant program and related budget adjustments based on the direction of the Town Council, and declaring an emergency.

Intergovernmental Relations Manager Heather Wilkey provided an overview of the Coronavirus Aid, Relief & Economic Security (CARES) Act signed by President Trump on March 27, 2020. Governor Ducey announced a \$441M distribution to counties, cities, and towns that did not receive a direct appropriation. She said Queen Creek's share of these funds is \$5,842,506.

Economic Development Director Doreen Cott presented a grant program and its goals to assist the business community with economic relief and enhance the public safety of our residents using a simple application process that avoids duplication of other county or federal assistance programs.

Ms. Cott said grants will be given to for-profit, brick and mortar small businesses located in town limits in the form of reimbursement costs related to enhanced sanitation and employee and customer safety. Ms. Cott said this may include disinfection efforts; personal protective equipment; physical distancing techniques; installation of physical barriers (plexi-glass shields); signage; hand sanitizers and other expenses related to these activities.

Ms. Cott outlined how grant money will be distributed and how businesses will qualify for funding. The maximum award per business is \$12,500 and grant money will be distributed on a first come first serve basis until dedicated funds are exhausted. Staff recommends setting aside \$500,000 for the small business assistance program.

Town Attorney Scott Holcomb discussed the Emergency Clause that is included with both items 12(A) and 12(B) so they can be effective immediately, which requires an affirmative vote of all 6 council members (3/4 of 7).

Council Member Hoffman would like to see the inclusion of home-based businesses.

Council Member Brown is interested to hear more about home-based businesses and how they were negatively impacted in regards to mandated closures and enhanced sanitation requirements and how to apply awards in those instances.

The Council had discussion on the requirements that were tied to State funding, particularly the gift clause. Council asked the Town Attorney for direction and discussed the option to move into Executive Session for legal advice.

MOTION:	To adjourn into Executive Session at 7:38 p.m.
RESULT:	Approved. (5-1)
MOVER:	Robin Benning, Council Member
SECONDER:	Jeff Brown, Council Member
AYES:	Barney, Wheatley, Benning, Brown, Oliphant
NAYES:	Hoffman
ABSENT:	Turley

The Regular Session reconvened at 8:07 p.m.

Attorney Holcomb explained the gift clause parameters in the Arizona Constitution, prohibiting towns, counties and government entities from providing a credit or gift funding to any corporation, person or entity. Public funds expended must have a public

benefit. He further explained that the parameter did not apply to entities that receive funds directly from the Federal Government such as instances in Phoenix or Tucson. He said our funds were received at the state level first and then went to the Town, therefore the gift clause applies. He said the funds cannot be used to offset income loss and must be expended for a public purpose.

Council Member Hoffman proposed an amendment to remove brick & mortar language from the grant program enabling home based businesses to apply. He also suggested amending the distribution requirement based on the number of full time employees (FTE) to include contract or 1099 employees.

MOTION:	To approve Resolution 1361-20 directing staff to implement a grant program and related budget adjustments based on the direction of the Town Council; amend language in Exhibit A to remove brick and mortar businesses to allow home based businesses to apply; amend distribution requirements to include contract or 1099 employees; and declaring an emergency.
RESULT:	Approved unanimously (6-0)
MOVER:	Jake Hoffman, Council Member
SECONDER:	Jeff Brown, Council Member
AYES:	Barney, Wheatley, Benning, Brown, Hoffman, Oliphant
ABSENT:	Turley

- B. Consideration and possible approval of Ordinance 735-20 directing staff to waive new business license and business license renewal fees beginning July 1, 2020 through June 30, 2021, and declaring an emergency.

Director Cott presented the business license waiver program which would include all new and existing business that have physical location in town limits. This would affect approximately 865 businesses. Business license fees would be waived beginning July 1, 2020 through June 30, 2021, and would eliminate any reimbursement challenges for business who have already paid. Ms. Cott said those business that have recently paid their license fee will benefit when their license is up for renewal next year. Information on the program will be shared via news releases; social media; the Town website; and by email or mail when their license is up for renewal.

The Council discussed their support for the program and the importance of supporting our business community during COVID -19.

MOTION:	To approve Ordinance 735-20 directing staff to waive new business license and business license renewal fees beginning July 1, 2020 through June 30, 2020 and declaring an emergency.
RESULT:	Approved unanimously (6-0)
MOVER:	Robin Benning, Council Member
SECONDER:	Dawn Oliphant, Council Member
AYES:	Barney, Wheatley, Benning, Brown, Hoffman, Oliphant
ABSENT:	Turley

13. Adjournment

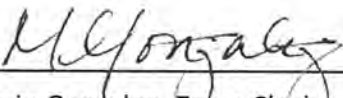
The meeting adjourned at 8:26 p.m.

TOWN OF QUEEN CREEK



Gail Barney, Mayor

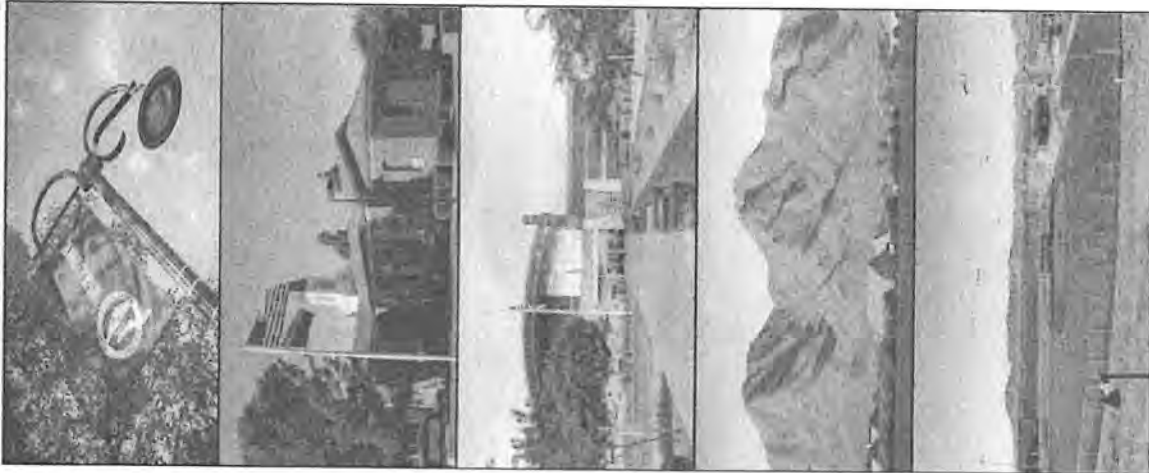
ATTEST:



Maria Gonzalez, Town Clerk

I, Maria Gonzalez, do hereby certify that to the best of my knowledge and belief, the foregoing Minutes are a true and correct copy of the Minutes of the July 1, 2020 Regular Session of the Queen Creek Town Council. I further certify that the meeting was duly called and that a quorum was present.

Passed and approved on July 15, 2020.



Council Committee Reports

- 06/18 – Valley Metro Board Meeting (Benning)
- 06/19 – Pinal County Mayors Update (Wheatley)
- 06/22 – MAG Regional Council Executive Committee Meeting (Barney)
- 06/24 – White House COVID-19 Briefing Call with State, Local, and Tribal Officials (Barney)
- 06/24 – MAG Regional Council Meeting (Barney)
- 06/24 – CAG Regional Council Meeting (Benning)
- 06/27 – Racism Relationships Solutions at the Queen Creek Library (Benning)
- 07/01 – NLC Conversation on Addressing COVID and Inequity In Your Community (Oliphant)



**City of Yuma
City Council Meeting
REVISED Agenda**

Wednesday, July 15, 2020

5:30 PM

Yuma City Hall Council Chambers
One City Plaza, Yuma

Notice is hereby given, pursuant to Resolution R2015-047 that one or more members of the Yuma City Council may participate in person or by telephonic, video or internet conferencing. Voting procedures will remain as required by the Yuma City Charter and other applicable laws.

Consistent with the March 13, 2020 Arizona Attorney General opinion Relating to Arizona's Open Meeting Law and COVID-19, in order to protect the public and reduce the chance of COVID-19 transmission, the July 15, 2020 Regular City Council meeting will be conducted remotely through technological means along with limited public, in-person access, consistent with social distancing requirements.

City Council Chambers will be open with limited public access in addition to participation through Zoom.

Those wishing to speak at the Public Hearing or on any agenda item that will be participating via Zoom must submit an email request to publiccomment@yumaaz.gov no later than 60 minutes prior to the start of the scheduled meeting. Further instructions will be given at that time.

Members of the public are encouraged to view the meeting through either of the following two venues:

- 1) Zoom: Residents will need to connect through the following website:
<https://cityofyuma.zoom.us/>. Click on "Calendar" then select the City meeting and click "Join".
- 2) City of Yuma live stream: Use the Video and TV Stream quick link at www.yumaaz.gov and search for Yuma Live Playlist 73. Watch live on TV cable channel 73.

A recording of the meeting will be available on the City's website after the meeting.

The Worksession and Citizen's Forum previously scheduled for July 14, 2020 are cancelled.

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

ROLL CALL**FINAL CALL**

Final call for submission of Speaker Request Forms for agenda related items.

PRESENTATIONS

REVISED

- Humane Society of Yuma: Overview of current structure and fees of the organization and potential changes
- Department of Community Development: Briefing on the subdivision process and potential changes

I. MOTION CONSENT AGENDA

All items listed on the Motion Consent Agenda will be considered and enacted with one motion. There will be no separate discussion of these items unless a Councilmember so requests. In which event, the item will be removed from the Motion Consent Agenda and the vote or action will be taken separately.

A. Approval of minutes of the following City Council meeting(s):

1. MC 2020-134 **Special Worksession Draft Minutes March 11, 2020**
Attachments: 2020 03 11 SWS Legislative Days
2. MC 2020-135 **Regular Council Meeting Draft Minutes June 17, 2020**
Attachments: 2020 06 17 RCM Minutes

B. Approval of staff recommendations:

1. MC 2015-000 **Executive Sessions**

Executive Sessions may be held at the next regularly scheduled Special Worksession, Regular Worksession and City Council Meeting for personnel, legal, litigation and real estate matters pursuant to A.R.S. § 38-431.03 Section A (1), (3), (4), and (7). (City Attorney)

2. MC 2020-126 **Liquor License: Safeway #3931 Sampling Privileges**

Approve an application to add sampling privileges to an active Series #9 Liquor Store Liquor License submitted by Nicholas Carl Guttilla, agent for Safeway #3931 (Albertsons) located at 2378 W. 24th Street (LL20-01S) (City Administration/City Clerk) (Lynda L. Bushong)

Attachments:

1. RFCCA Liquor License: Safeway #3931

3. MC 2020-127 **Grant Award: U.S. Department of Justice-Coronavirus Emergency Supplemental Funding Program**

Authorize the City Administrator to execute the necessary paperwork with the U.S. Department of Justice-Coronavirus Emergency Supplemental Funding Program and accept the awarded grant funds for the reimbursement of employee salaries related to law enforcement training during the COVID-19 pandemic.(Police/Admin) (Susan Smith)

Attachments:

1. RFCCA DOJ Coronavirus Emergency Funding Program

2. AGMT DOJ Coronavirus Emergency Funding Program

3. SUPPLEMENTAL DOJ Coronavirus Emergency Funding Program

4. MC 2020-128 **Intergovernmental Agreement: Arizona Western College**

Authorize an Intergovernmental Agreement with Arizona Western College for the use of the City's Public Safety Training Facility. (Police/Support Services) (Susan Smith)

Attachments:

1. RFCCA IGA with AWC- Public Safety Training Facility

2. AGR IGA with AWC- Public Safety Training Facility

5. MC 2020-129 **Contract Increase: Fire Station 4 Design Remodel**

Authorize a contract increase of \$19,306.00 to DFDG Architecture for the additional services requested by the City to complete the remodel for a total cost of \$118,723.00 to Dick & Fristche Design Group (DFDG), Phoenix, Arizona. (Bid #2018-20000177 Engineering) (Jeff Kramer/Robin R. Wilson)

Attachments:

1. RFCCA Fire Station 4 Design Remodel

6. MC 2020-132**Bid Award: Pavement Preservation Services**

Award to the lowest responsive/responsible bidders, a one year contract for Pavement Preservation Services with the option to renew for four additional one year periods, depending on the appropriation of funds and satisfactory performance, for an estimated annual expenditure of \$1,725,000.00 to the following vendors: American Pavement Preservation; Las Vegas, NV; Cactus Asphalt; Phoenix, AZ; VSS International Sacramento, CA. (Bid #2020-20000153) (Joel Olea / Robin R. Wilson)

Attachments:

1. RFCCA Pavement Preservation Svc.
2. SPRDSHEET Pavement Preservation Svc.

7. MC 2020-131**Bid Award: Asphalt Sealants and Services**

Award Asphalt Sealants and Services to the lowest responsive/responsible bidders, a one-year contract with the option to renew for four additional one-year periods, one period at a time, depending on the appropriation of funds and satisfactory performance, for an estimated annual expenditure of \$275,000.00 to the following contractors: Ace Asphalt of AZ, Inc., Phoenix, AZ, Holbrook Asphalt, St. George, UT; Sunland Asphalt & Construction, Inc., Phoenix, AZ; VSS International, Sacramento, CA. (Public Works/Streets Bid #2020-20000158) (Joel Olea / Robin R. Wilson)

Attachments:

1. RFCCA Asphalt Sealant and Services
2. SPRDSHEET Asphalt Sealant and Services

8. MC 2020-133**Second Amended and Restated Operation of the Patio Restaurant Concession Agreement**

Amend and Restate the Concession Agreement for operation of the restaurant at Desert Hills Golf Course. (City Attorney) (Richard Files)

Attachments:

1. RFCCA Second Amended and Restated Contract The Patio Restaurant
2. AGR Second Amended and Restated Contract The Patio Restaurant

9. MC 2020-139 **City of Yuma Small Business Relief Grants**

Establish a Covid-19 related small business relief grant program utilizing up to \$320,000 of the CARES Act (AZCares) allocation to the City of Yuma (Administration) (Philip Rodriguez)

Attachments: 1. RFCCA COY Small Business Relief Grants

ADDITION

III. ADOPTION OF ORDINANCES CONSENT AGENDA

All items listed on the Ordinances Consent Agenda will be considered and enacted with one motion. There will be no separate discussion of these items unless a City Councilmember so requests or a Speaker Request Form has been submitted. In which event, the item will be removed from the Ordinance Consent Agenda and the vote or action will be taken separately.

1. O2020-015 **Vacate Alleyway: 13th Street between 2nd and 3rd Avenues**

Authorize the vacating of the unused alley located north of 13th Street between 2nd and 3rd avenues to allow for the construction of the Thomas F. Allt Utilities Complex. (Engineering) (Jeffrey Kramer)

Attachments:
 1. RFCCA Vacate Alleyway - 13th Street
 2. MAP Vacate Alleyway - 13th Street
 3. ORD Vacate Alleyway - 13th Street

2. O2020-016 **Adopt the Fiscal Year 2021 Primary Property Tax Levy and Mall Maintenance District Property Tax Levy**

Adopt the Fiscal Year 2021 Primary Property Tax Levy and Mall Maintenance District Property Tax Levy. (Administration/Finance) (Philip Rodriguez/Lisa Marlin)

Attachments:
 1. RFCCA FY20-21 Primary Property Tax Levy and Mall Maintenance District Property Tax Levy
 2. ORD FY20-21 Primary Property Tax Levy and Mall Maintenance District Property Tax Levy

FINAL CALL

Final call for submission of Speaker Request Forms for Call to the Public.

VI. APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING

Discussion and possible action on the following items:

1. Appointments: There are no appointments scheduled at this time.

2. Announcements:

City Council report on meetings/events attended – City Council report on issues discussed in meetings/events attended by a City Council representative in their official capacity as the City's representative during the period of June 18, 2020 through July 15, 2020 City Council questions regarding the update must be limited solely for clarification purposes. If further discussion is warranted, the issue will be added to a future agenda for a detailed briefing.

City Council report of upcoming meetings.

City Council request for agenda items to be placed on future agendas.

3. Scheduling:

Motion to schedule future City Council meetings pursuant to Arizona Revised Statutes Section 38-431.02 and the Yuma City Code, Chapter 30.

VII. SUMMARY OF CURRENT EVENTS

This is the City Administrator's opportunity to give notice to the City Council of current events impacting the City. Comments are intended to be informational only and no discussion, deliberation or decision will occur on this item.

VIII. CALL TO THE PUBLIC

Members of the public may address the City Council on matters that are not listed on the City Council agenda. The City Council cannot discuss or take legal action on any matter raised unless it is properly noticed for discussion and legal action. At the conclusion of the Call to the Public, individual members of the City Council may respond to criticism made by those who have addressed the City Council, may ask staff to review a matter or may ask that a matter be placed on a future agenda. All City Council meetings are recorded and videotaped.

IX. EXECUTIVE SESSION

An Executive Session may be called during the public meeting for the purpose of receiving legal advice for items on this agenda pursuant to A.R.S. Section 38-431.03 A (1, 3, 4 and/or 7) and the following items:

A. Discussion, consultation with and/or instruction to legal counsel regarding Spectrum lawsuit. (A.R.S. 38-431.03 A3 & A4)

B. Discussion, consultation with and/or instruction to legal counsel regarding potential sale of real property. (A.R.S. 38-431.03 A3, A4 & A7)

C. Discussion, consultation with and/or instruction to legal counsel regarding the Marine Corps Air Station Yuma proposed Air Installation Compatible Use Zone map. (A.R.S. 38-431.03 A3, A4 & A7)

D. Discussion, consultation with and/or instruction to legal counsel regarding considerations of City of Yuma Small Business Assistance. (A.R.S. 38-431.03 A3 & A4)

ADDITION

E. Discussion, consultation with and/or instruction to legal counsel regarding Second Amended and Restated Operation of the Patio Restaurant Concession Agreement. (A.R.S. 38-431.03 A3, A4 & A7)

ADDITION

ADJOURNMENT

In accordance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, the City of Yuma does not discriminate on the basis of disability in the admission of or access to, or treatment or employment in, its programs, activities, or services. For information regarding rights and provisions of the ADA or Section 504, or to request reasonable accommodations for participation in City programs, activities, or services contact: ADA/Section 504 Coordinator, City of Yuma Human Resources Department, One City Plaza, Yuma, AZ 85364-1436; (928) 373-5125 or TTY (928) 373-5149.



REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: July 15, 2020

DEPARTMENT: Administration

DIVISION:

- Motion
- Resolution
- Ordinance - Introduction
- Ordinance - Adoption
- Public Hearing

TITLE:
City of Yuma Small Business Relief Grants

SUMMARY RECOMMENDATION:

Establish a Covid-19 related small business relief grant program utilizing up to \$320,000 of the CARES Act (AZCares) allocation to the City of Yuma (Administration) (Philip Rodriguez)

REPORT:

In some way or another, Covid-19 has affected nearly every person and business entity in the world. In Arizona, businesses have experienced sharp declines due to emergency closures and other Covid-19 related impacts.

A number of Arizona cities and counties have initiated programs, or contemplate programs, to assist with the economic impacts of Covid-19 on businesses. The first cities to initiate these programs were cities like Phoenix and Mesa who received direct funding from the U.S. Treasury. The qualifying criteria for eligibility in these programs vary from number of years in business, maximum or minimum numbers of employees, but all of these programs are geographically tied to City boundaries and serve a public purpose recognized by Congress and the US Treasury Department.

Restrictions on the use of CARES Act funds are spelled out in Sec. 601(d) of the Social Security Act (42 U.S.C. 301 *et seq*) The Act requires that expenditures:

1. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
2. were not accounted for in the budget most recently approved as of the date of enactment of this section for the State or government; and

3. were incurred during the period that begins on March 1, 2020 and ends on December 30, 2020.

In guidance dated June 30, 2020, the U.S. Treasury issued an interpretation of the necessary requirement (number 1 in the list above) as "These may include expenditures incurred to allow the State, territorial, local or Tribal government to respond directly to the emergency, such as by addressing medical or public health needs, as well as expenditures incurred to respond to second-order effects of the emergency, such as by *providing economic support to those suffering from employment or business interruptions due to COVID-19 related business closures.*" (emphasis added).

In additional guidance dated July 8, 2020, the U.S. Treasury Department stated, "Governments have discretion to determine what payments are necessary. A program that is aimed at assisting small businesses with the costs of business interruption caused by required closures should be tailored to assist those businesses in need of such assistance. The amount of a grant to a small business to reimburse the costs of business interruption caused by required closures would also be an eligible expenditure under section 601(d) of the Social Security Act, as outlined in the Guidance."

The intent of this Request for City Council Action is to facilitate City Council discussion and seek approval of a motion authorizing the City Administrator to proceed with development of a business aid program within the municipal boundaries. It is suggested that City Council authorize up to \$320,000 from the Cares Act (AZCares) funding in order to provide for such a program. Eligibility criteria such as City of Yuma business license, length of business licensed operations in the City of Yuma, small business definitions and amounts will be finalized by City Administration and communicated to City Council prior to initiation of the public application process.

FISCAL REQUIREMENTS	CITY FUNDS:	\$0.00	BUDGETED:	\$0.00
	STATE FUNDS:	\$0.00	AVAILABLE TO TRANSFER:	\$0.00
	FEDERAL FUNDS:	\$0.00	IN CONTINGENCY:	\$0.00
	OTHER SOURCES:	\$320,000.00	FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP:	
		\$0.00		
		\$0.00		
TOTAL:	\$320,000.00			
FISCAL IMPACT STATEMENT: City Council authorization would allow use of funding from the Cares Act (AZCares).				
ADDITIONAL INFORMATION	SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK:			
	1. 2. 3. 4. 5.			
ADDITIONAL INFORMATION	IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?			
	<input type="radio"/> Department <input checked="" type="radio"/> City Clerk's Office <input type="checkbox"/> Document to be recorded			
SIGNATURES	CITY ADMINISTRATOR:	Philip Rodriguez	DATE:	7/14/2020
	REVIEWED BY CITY ATTORNEY:	Richard Files	DATE:	7/14/2020
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
	WRITTEN/SUBMITTED BY:		DATE:	

MINUTES
REGULAR CITY COUNCIL MEETING
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS, YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
JULY 15, 2020
5:30 p.m.

CALL TO ORDER

Mayor Nicholls called the City Council meeting to order at 5:32 p.m.

INVOCATION/PLEDGE

Pastor Tom Renard, Imagine Nations Church, gave the invocation. **Alyssa Linville**, Assistant Director/Zoning Administrator for the Department of Community Development, led the City Council in the Pledge of Allegiance.

ROLL CALL

Councilmembers Present: Shelton, Morris, Watts, Knight, McClendon, Shoop, and Mayor Nicholls
Councilmembers Absent: None
Staffmembers Present: City Administrator, Philip A. Rodriguez
Director of Community Development, Randall Crist
Asst. Director of DCD/Zoning Admin., Alyssa Linville
Director of Public Works, Joel Olea
Various Department Heads or their representative
City Attorney, Richard W. Files
Deputy City Clerk, Janet L. Pierson

FINAL CALL

Mayor Nicholls made a final call for the submission of Speaker Request Forms for agenda related items from members of the audience.

PRESENTATIONS

Humane Society of Yuma Overview

Annette Lagunas, Executive Director of the Humane Society of Yuma (HSOY), provided an overview of the current structure of the organization and potential changes as follows:

- HSOY's mission is to reduce the number of homeless pets through adoption, rescue, and spay and neuter programs
 - Today's objective is to identify ways to decrease personnel and overall expenses while managing the number of animals entering the shelter and assisting the community in keeping their pets
- City of Yuma Animals in 2019
 - 3,372 animals entered the shelter from City contracted services
 - This equates to 45% of all animals, 36% of all dogs, and 53% of all cats that entered the shelter
 - So far for 2020, 864 animals have entered the shelter from City contracted services
- Goals for the Future
 - Reduce the number of animals entering the shelter

- Limit the animals entering the shelter to only those who are sick, injured or a danger to the community
- Decrease Animal Control calls by becoming more of a service to the community
 - Animal Control works with the community to keep their pets at home; this may include campaigns in neighborhoods to distribute food, dog houses, or even spay/neuter vouchers
- Increase positive outcomes for pets in the City of Yuma
 - Reunite animals with their owners with the help of citizens, and proactive approaches to animal welfare
- How can this be done?
 - Involve the community - the Yuma community is very active on Facebook when it comes to lost or found pets
 - Place microchip scanners at fire stations, the Yuma Police Department (YPD), and other locations throughout the community
 - Create a Geographical Information System (GIS) that allows the public to post lost and found animals
 - Animal Control Officers (ACOs) can focus their help where it is needed most rather than chasing stray animals
 - Utilize the Trap Neuter Return (TNR) program for cats rather than putting them into the shelter
 - Work towards microchipping all animals in Yuma through large community clinics

Discussion

- Grant funding is being sought both for the purchase of microchip scanners to place throughout the City as well to help those in the community microchip their animals (**McClendon/Lagunas**)
- Community education, implementation of a GIS, and shifting the focus of ACOs from chasing strays to prevention can all help reduce calls to Animal Control (**Shelton/Lagunas**)
- The best way to control feral cats is through the TNR program; cages are available for a \$65.00 deposit, and the surgeries are completely grant funded (**Watts/Lagunas**)

Department of Community Development Briefing

Crist and Linville presented an overview of the subdivision process and proposed changes to streamline that process as follows:

- Basic Overview
 - Subdivision is the division of land into four or more parcels
 - Public hearing process is required
 - A lot split is the division of land into three or fewer parcels
 - Administrative review process
- Current Subdivision Process – 20 weeks total
 - Preliminary Plat
 - Reviewed and approved by the Planning and Zoning Commission
 - 8-week process
 - Final Plat
 - Reviewed by Planning and Zoning Commission
 - Approved by City Council
 - 12-week process

- Current Permitting Process
 - Preliminary Plat
 - Submittal of preliminary paving, grading, drainage, water, sewer, landscaping plans and boundary and topography maps
 - 1-2 review cycles
 - Final Plat
 - Submittal of final paving, grading, drainage, water, sewer, landscaping plans and boundary and topography maps
 - 1-2 review cycles
- Public Outreach
 - Meet with local engineers to discuss the current process and suggestions for improvement
 - Comments received included:
 - Shorten the process
 - Combine the review processes/eliminating the preliminary review
 - Increase the number of lots that can be created with the lot split process
 - Clarify language within the subdivision code
- Proposed Subdivision Process – 15 weeks total
 - Preliminary Plat
 - Reviewed and approved by the Planning and Zoning Commission
 - 8-week process
 - Final Plat
 - Reviewed and approved by City Council
 - 7-week process
 - A decrease of the current process by 5 weeks
- Proposed Permitting Process
 - Preliminary/Final Plat
 - Upon submittal of preliminary plat to the Planning and Zoning Commission, schedule in-person or virtual review meeting to discuss full construction package
 - Submittal of final paving, grading, drainage, water, sewer, landscaping plans and boundary and topography maps
 - 1-2 review cycles
 - 10-Lot Subdivision Process
 - Creating a subdivision process for lots containing 10 or fewer lots
 - Waive submittal for preliminary plat
 - Final plat reviewed and approved by City Council
 - 7-week process
 - Moving Forward
 - Update subdivision code
 - Text amendment
 - Public outreach
 - Update permitting process
 - Inform community of changes

Discussion

- For the permitting process, construction drawings are for the subdivision itself and include all of the infrastructure such as roads, sewer, water, etc. (Morris/Crist)

- The notification area for a subdivision is a 300-foot radius; the City provides notice beyond what is required by state law including postings and neighborhood meetings (**Shelton/Linville**)
- In the case of rental properties the tenant may not receive notification as the mailer is sent to the address that is listed for the owner of the property (**Shelton/Linville**)
- The proposed changes should help staff move more quickly through these processes and utilize fewer staff hours because they remove redundancies in the current processes (**Shoop/Crist**)
- These changes do not look at the overlap between the subdivision and rezoning processes, but the City will continue to look at potential improvements (**Knight/Crist**)

I. MOTION CONSENT AGENDA

Motion (Mayor Nicholls/McClendon): To recess to Executive Session to consult with legal counsel on Executive Session Items D and E, pursuant to A.R.S. §38-431.03 Sections A (3) and A (4). Voice vote: **approved** 7-0. The meeting recessed at 6:09 p.m.

The meeting reconvened at 6:45 p.m. with the above-noted parties present.

Motion Consent Agenda Item B.9 – City of Yuma Small Business Relief Grants (establish a COVID-19 related small business relief grant program utilizing up to \$320,000 of the CARES Act allocation to the City of Yuma) (City Admin)

Mayor Nicholls expressed frustration with the lack of ability for the City to take action locally with regard to the impact of COVID-19 on the community due to authority being held at the State level. The Small Business Relief Grant program will allow for small businesses such as salons and gyms who have had to close or have their operations severely limited to receive grants of up to \$10,000.00 to help with the resulting economic hardship.

Motion Consent Agenda B.6 – Bid Award: Pavement Preservation Services (award a one-year contract with the option to renew for four additional one-year periods for an estimated annual expenditure of \$1,725,000.00) (Public Works)

Motion Consent Agenda B.7 – Bid Award: Asphalt Sealants and Services (award a one-year contract with the option to renew for four additional one-year periods for an estimated annual expenditure of \$275,000.00) (Public Works)

Discussion

- These contracts will specifically address maintenance work associated with both major arterial roadways and local roads, with about 75% of the work projected for residential roads and 25% for major arterial roadways (**Shoop/Olea**)
- The preliminary area that will be addressed will be the southeast area of Yuma (south of 24th Street) which will be targeted during the fall, and in the spring maintenance will progress to the neighborhoods north of 16th Street (**Shoop/Olea**)
- Upcoming road work will be included in the Road Report and will be featured on maps on the City's website to notify citizens when construction may be in their area (**Shoop/Olea**)

- No local contractors bid on either of these items (**Knigh/Olea**)
- The prices in these two contracts are specifically per square yard or per ton respectively, so contractors from outside of Yuma cannot add on additional costs associated with housing out-of-town workers or similar travel-related expenses (**Shoop/Olea**)
- The aggregate used for the road maintenance projects will most likely be purchased locally (**Shoop/Olea**)

Motion (Knigh/Watts): To approve the Motion Consent Agenda as recommended. Voice vote: **approved**
7-0.

A. Approval of minutes of the following City Council meetings:

Special Council Worksession	March 11, 2020
Regular Council Meeting	June 17, 2020

B. Approval of Staff Recommendations:

1. Executive Sessions may be held at the next regularly scheduled Special Worksession, Regular Worksession and City Council Meeting for personnel, legal, litigation and real estate matters pursuant to A.R.S. § 38-431.03 Section A (1), (3), (4), and (7). (City Atty)
2. Approve an application to add sampling privileges to an active Series #9 Liquor Store Liquor License submitted by Nicholas Carl Guttilla, agent for Safeway #3931 (Albertsons) located at 2378 W. 24th Street. (LL20-01S) (City Admin/Clerk)
3. Authorize the City Administrator to execute the necessary paperwork with the U.S. Department of Justice-Coronavirus Emergency Supplemental Funding Program and accept the awarded grant funds for the reimbursement of employee salaries related to law enforcement training during the COVID-19 pandemic. (Police/Admin)
4. Authorize an Intergovernmental Agreement with Arizona Western College for the use of the City's Public Safety Training Facility. (Police/Support Svcs)
5. Authorize a contract increase of \$19,306.00 to DFDG Architecture for the additional services requested by the City to complete the remodel for a total cost of \$118,723.00 to Dick & Fristche Design Group (DFDG), Phoenix, Arizona. (Bid #2018-20000177) (Eng)
6. Award to the lowest responsive/responsible bidders, a one year contract for Pavement Preservation Services with the option to renew for four additional one year periods, depending on the appropriation of funds and satisfactory performance, for an estimated annual expenditure of \$1,725,000.00 to the following vendors: American Pavement Preservation; Las Vegas, NV; Cactus Asphalt, Phoenix, AZ; VSS International Sacramento, CA. (Bid #2020-20000153) (Public Works)
7. Award Asphalt Sealants and Services to the lowest responsive/responsible bidders, a one-year contract with the option to renew for four additional one-year periods, one period at a time,

depending on the appropriation of funds and satisfactory performance, for an estimated annual expenditure of \$275,000.00 to the following contractors: Ace Asphalt of AZ, Inc., Phoenix, AZ, Holbrook Asphalt, St. George, UT; Sunland Asphalt & Construction, Inc., Phoenix, AZ; VSS International, Sacramento, CA. (Bid #2020-20000158) (Public Works)

8. Amend and Restate the Concession Agreement for operation of the restaurant at Desert Hills Golf Course. (City Atty)
9. Establish a Covid-19 related small business relief grant program utilizing up to \$320,000 of the CARES Act (AZCares) allocation to the City of Yuma. (City Admin)

II. ADOPTION OF ORDINANCES CONSENT AGENDA

Adoption of Ordinance O2020-015 – Vacate Alleyway: 13th Street between 2nd and 3rd Avenues (vacate approximately 8,615 square feet of unused alleyway to allow for the construction of the Thomas F. Allt Utilities Complex) (Engineering)

Motion (Knight/Shoop): To adopt Ordinance O2020-015 as recommended.

Pierson displayed the following title:

Ordinance O2020-015

An ordinance of the City Council of the City of Yuma, Arizona, declaring that certain alley north of 13th Street between 2nd and 3rd Avenues vacated (vacate approximately 8,615 square feet of unused alleyway to allow for the construction of the Thomas F. Allt Utilities Complex) (Engineering)

Roll call vote: **adopted** 7-0.

Adoption of Ordinance O2020-016 – Adopt the Fiscal Year 2021 Primary Property Tax Levy and Mall Maintenance District Property Tax Levy (assess a primary property tax of \$2.3185 for each \$100.00 of assessed valuation and a Mall Maintenance District tax of \$3,4152 on each \$100.00 of assessed valuation) (Administration/Finance)

Motion (Knight/Watts): To adopt Ordinance O2020-016 as recommended.

Pierson displayed the following title:

Ordinance O2020-016

An ordinance of the City Council of the City of Yuma, Arizona, fixing, levying, and assessing primary property taxes upon property within the City of Yuma subject to taxation, each in a certain sum upon each one hundred dollars of valuation sufficient to raise the amount estimated to be required in the annual budget for the fiscal year 2021 less the amounts estimated to be received from other sources of revenue and the unencumbered balances from the previous fiscal year, providing a General Fund; and fixing, levying, and assessing upon property within the boundaries of the Main Street Mall and Offstreet Parking Maintenance District No. 1 subject to taxation, each in a certain sum upon each one hundred dollars of valuation, sufficient to raise the amount estimated to be required for the operation, maintenance, repair and improvement of the facilities of said district, all for the fiscal year

beginning July 1, 2020 and ending June 30, 2021 (primary property tax rate of \$2.3185 for each \$100.00 of assessed valuation and Mall Maintenance District tax rate of \$3.4152 on each \$100.00 of assessed valuation) (Administration/Finance)

Roll call vote: **adopted** 7-0.

FINAL CALL

Mayor Nicholls made a final call for the submission of Speaker Request Forms from members of the audience interested in speaking at the Call to the Public.

III. APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING

Appointments

There were no appointments scheduled at this time.

Announcements

Knight, Watts, and Mayor Nicholls reported on events and meetings they have attended during the last two weeks and upcoming events of note.

Scheduling

Watts requested a presentation and discussion with public health officials regarding COVID-19 testing.

IV. SUMMARY OF CURRENT EVENTS

Rodriguez reported the following events:

- July 1st-31st – National Parks and Recreation Month
- July 18th – Back to School Rodeo at the Yuma Civic Center
- July 18th – Drive-In Movie Night screening of Anchorman at Desert Sun Stadium

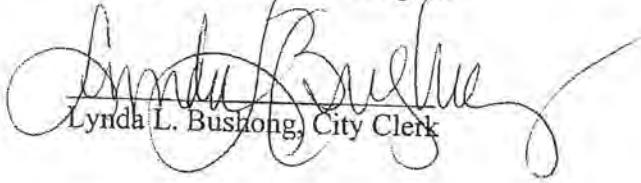
V. CALL TO THE PUBLIC

Gary Wright, City resident, spoke regarding the City's recycling program and requested that the City provide an update to residents about whether items being collected are actually being recycled as well as any revenue the City is collecting from the program. **Rodriguez** stated that this topic is scheduled to be on agenda in September of this year.

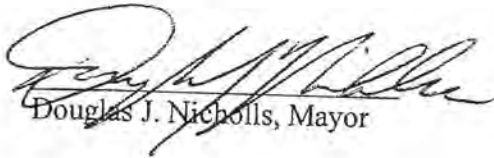
Colleen Langewisch, City resident, spoke about current national events involving law enforcement and demands to defund or terminate police departments and expressed concern regarding Yuma Police Department's response to incidents within the City.

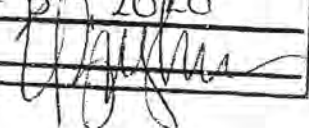
VI. EXECUTIVE SESSION/ADJOURNMENT

Motion (Knight/Watts): To adjourn the meeting to Executive Session. Voice vote: **adopted** 7-0. The meeting adjourned at 7:16 p.m.


Lynda L. Bushong, City Clerk

APPROVED:


Douglas J. Nicholls, Mayor

Approved at the City Council Meeting of:
August 5th 2020
City Clerk: 

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Government & Regulations

Goldwater Institute among those that received PPP funds



The U.S. Small Business Administration released a glimpse at which companies received the most PPP funding.

HYNCI



By Brandon Brown – Reporter, Phoenix Business Journal
Jul 8, 2020, 7:00am EDT

COMPANIES IN THIS ARTICLE

Barry Goldwater Institute
Tempe, AZ

[See full profile](#)

Some company names stood out more than others when scrolling through the list of thousands of businesses and nonprofit organizations that received hundreds of thousands, if not millions of dollars from the Paycheck Protection Program.

One noticeable one was the Barry Goldwater Institute for Public Policy Research.

The Valley-based Goldwater Institute has spoken out repeatedly and filed numerous lawsuits when public funds were used to help private businesses. The organization has opposed everything from from the city of Phoenix paying \$150 million to renovate the Phoenix Suns' arena to developers getting tax incentives.

PPP funds were meant to help small businesses stay afloat and keep workers on the payroll during the Covid-19 pandemic. While it starts in the form of a loan, if recipient follow government regulations, it turns into free money.

But Goldwater President and CEO Victor Riches looks at it differently.

“The Goldwater Institute is strongly opposed to the government picking winners and losers,” Riches said. “As free marketeers, however, we will never be opposed to individuals and businesses getting their hard-earned money back from Washington. Therefore, like other businesses and nonprofits, the Institute accepted a Paycheck Protection loan for the purpose of offsetting employee payroll costs during the global pandemic.”

The Goldwater Institute received between \$350,000 and \$1 million in PPP funds, according to data released Monday by the Small Business Administration. Records show that with its PPP funds, Goldwater saved 26 jobs.

The way Riches sees it, PPP was passed in lieu of a tax cut, which is something Goldwater is all about.

APP087

"Just like a tax cut, the PPP loan was made available to everyone to recover losses created, in large part, by government actions," Riches said. "As with a tax cut, the PPP loans return money to the private sector that should never have been taken from the American people in the first place."

Goldwater has helped some businesses in their legal defense against citations they received for opening during Arizona's stay at home order, or not following reopening guidelines.

SEARCH: Payroll Protection Program loans of \$150,000 or more

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