

**CITY OF KINGMAN
MEETING OF THE COMMON COUNCIL
Council Chambers
310 N. 4th Street**

5:30 P.M.

AMENDED AGENDA

Tuesday, April 21, 2015

REGULAR MEETING

CALL TO ORDER & ROLL CALL

INVOCATION will be given by Tracie Padilla of Praise Chapel

PLEDGE OF ALLEGIANCE

THE COUNCIL MAY GO INTO EXECUTIVE SESSION FOR LEGAL COUNSEL IN ACCORDANCE WITH A.R.S.38-431.03(A) 3 TO DISCUSS ANY AGENDA ITEM. THE FOLLOWING ITEMS MAY BE DISCUSSED, CONSIDERED AND DECISIONS MADE RELATING THERETO:

1. Proclamations

a. PowerTalk 21® Day

b. 2015 Arbor Day

c. KABAM Festival Day

Literacy is the foundation of the economic, educational and cultural wellbeing of a community. The Mohave Library Alliance seeks to promote literacy, the love of books and the joy of reading and has received the support of various local organizations and groups. The Mohave Library Alliance and City of Kingman Parks and Recreation Department are sponsoring the KABAM! (Kingman Area Books Are Magic) Festival to promote literacy in the Kingman area.

2. CALL TO THE PUBLIC - COMMENTS FROM THE PUBLIC

Those wishing to address the Council should fill out request forms in advance. Action taken as a result of public comments will be limited to directing staff to study the matter or rescheduling the matter for consideration and decision at a later time. Comments from the Public will be restricted to items not on the agenda with the exception of those on the Consent Agenda. There will be no comments allowed that advertise for a particular person or group. Comments should be limited to no longer than 3 minutes.

3. CONSENT AGENDA

All matters listed here are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the CONSENT AGENDA and will be considered separately.

a. High Intensity Drug Trafficking Area (H.I.D.T.A.) Grant Award

The Kingman Police Department has been awarded \$52,000 in grant funding from the High Intensity Drug Trafficking Area (H.I.D.T.A.). The grant funds are for implementation of a patrol K-9 program for the department. Funding will provide for the purchase and training of two K-9s, equipment and the retrofitting of two patrol units. **Staff recommends approval.**

b. 2015 Governor's Office of Highway Safety Grant Award

The Kingman Police Department has been awarded \$1,000 from the Governor's Office of Highway Safety (G.O.H.S.). The funding will support continued enforcement programs focused on safety belt and child passenger safety laws during the "Buckle Up Arizona...It's the Law!" campaign. **Staff recommends approval.**

c. Special Event Liquor License Application

Applicant Fawson Zane of Kingman Route 66 Rotaract Trailblazers has applied for a Series 15 Special Event Liquor License for an event to take place Saturday, May 2, 2015 from 4:00 P.M. to 11 P.M. at Beale Celebrations, 201 N 4th Street in Kingman. **Staff recommends approval.**

d. Special Event Liquor License Application

Applicant Carlos Cella of Cella Winery LLC has applied for a Series 16W Wine Fest/Wine Fair Liquor License for an event to take place Saturday, May 16, 2015 from 11 A.M. to 6 P.M. at Firefighter's Park, 2001 Detroit Ave. in Kingman. **Staff recommends approval.**

e. Special Event Liquor License Application

Applicant Cory Whalin of Su Vino Winery has applied for a Series 16W Wine Fest/Wine Fair Liquor License for an event to take place Saturday, May 16, 2015 from 11 A.M. to 6 P.M. at Firefighter's Park, 2001 Detroit Ave. in Kingman. **Staff recommends approval.**

f. Proposed Resolution No. 4946 naming two private streets located within the city limits of Kingman as "Hotel Way" and "Bonelli Avenue."

Stockton Airway Center, Tract 6007 is a commercial subdivision located west of Stockton Hill Road between Airway Avenue and Sycamore Avenue. The subdivision includes two private streets which provide the sole access to six internal lots. In 2010, these lots were given Stockton Hill Road addresses even though they did not have direct frontage on that street. In the original development concept, these streets were intended to function like driveways that would access common parking areas associated with a possible shopping center. However, several lots have been sold in recent years and are being developed separately by different property owners. A building permit has been submitted for La Quinta Inn on Lot 10-A. The sole access to this lot is via the private street that connects between Airway and Sycamore. The Fire Department determined that the hotel should be addressed off of the private street for public safety purposes in compliance with our 9-1-1 system. Planning staff sent letters to the two property owners who own the lots directly affected by the possible street name change. The owner for the La Quinta Inn suggested the name "Hotel Circle" for the street abutting this property and Lot 9 which is also owned by him. The other owner, who is the original subdivision developer, did not directly respond. However, his broker indicated that "Stockton Hill" needed to be part of any new street names. Sections 4-1(b) and (c) of the Streets and Sidewalks Development Rules and Regulations would appear to disallow that option as this particular street does not have direct access to and from Stockton Hill Road. The other street connects to Stockton Hill Road but is not a terminating street and, therefore, would also not be eligible for a Stockton Hill name. "Hotel Way" is recommended by staff for the street that extends from Airway to Sycamore because it is a

through- street. “Bonelli Avenue” is recommended by staff for the other street in honor of a pioneering family in Kingman and because 2015 marks the 100th anniversary of the construction of the Bonelli House, which is on the National Register of Historic Places. It is intended that these streets will remain private as they do not meet all city street improvement standards. **Staff recommends approval.**

g. Authorization for purchase and scrub application of 120 tons of PASS Emulsion for the 2014-2015 fiscal year chip seal project.

The City of Kingman Street Department requested quotes for supply and scrub application of PASS CR Emulsion per City of Kingman Municipal Code 2-160f. Upon receipt of quotes it was found that two of the three bidders had not submitted their offer as required in the Request for Quotes. The price provided on the “Per Ton” line was for only the emulsion and did not include any labor, transportation or incidental costs related to application of the emulsion as required. The only contractor to correctly submit a bid was Hawker and Evans Asphalt Company. **Staff recommends approval.**

h. Authorization for purchase and application of 515 Tons of CRS-2P Emulsion for the 2014-2015 fiscal year chip seal project.

The City of Kingman Street Department requested quotes for supply and application of CRS-2P Emulsion per City of Kingman Municipal Code 2-160f. Upon receipt of quotes it was found that two of the three bidders had not submitted their offer as required in the Request for Quotes. The price provided on the “Per Ton” line was for only the emulsion and did not include any labor, transportation or incidental costs related to application of the emulsion as required. The only contractor to correctly submit a bid was Hawker and Evans Asphalt Company. **Staff recommends approval.**

4. OLD BUSINESS

None.

5. NEW BUSINESS

a. Discussion on a proposed smoking ban in vehicles

The Kingman Youth Coalition Beating Up Teen Tobacco (KYC – BUTT) has approached staff and members of the City Council in an effort to adopt a city ordinance that would ban an individual from smoking in a vehicle occupied by a minor. Currently 9 states have adopted similar legislation with an additional 5 states working through the legislative process. The KYC – BUTT Coalition has also located 3 counties and 6 cities that have adopted ordinances. The KYC – Butt Coalition is requesting that the City of Kingman consider adopting the ordinance, including electronic smoking devices, in order to enhance child endangerment laws. **Council discretion.**

b. Discussion and possible action on a City funded 4th of July fireworks display.

Over the past few years the Boomers have raised money for City fireworks. The Boomers have disbanded and are being sued by the family of the injured worker and there has been no interest expressed by any other group to fundraise. Money has been included in the next fiscal year budget to have fireworks if Council wants to fund the display. A decision needs to be made now or the two bidders may not be available. **Council discretion.**

c. Consideration and possible action on Resolution No. 4945 authorizing the Mayor to sign any and all documents to submit applications for funding of the Kingman Crossing Traffic Interchange and Rancho Santa Fe Parkway Traffic Interchange projects through the FY2015 TIGER Discretionary Grant Program.

The President signed the Consolidated and Further Continuing Appropriations Act, 2015 which appropriated \$500 million dollars to be awarded by the Department of Transportation (DOT) for National Infrastructure Investments. This appropriation is similar, but not identical to the appropriation for the Transportation Investment Generating Economic Recovery (TIGER) Discretionary Grant program. Because of the similarity in program structure, DOT is referring to the grants for National Infrastructure Investments under the FY 2015 Consolidated and Further Continuing Appropriations Act simply as "TIGER Discretionary Grants." As with the previous TIGER programs, funds for the FY 2015 Tiger Discretionary Grant program are to be awarded on a competitive basis for projects that will have a significant impact on the nation, a metropolitan area or a region. DOT is soliciting applications for TIGER Discretionary Grants. The City submitted applications for funding for capital improvement projects of the Kingman Crossing Traffic Interchange and Rancho Santa Fe Parkway Traffic Interchange through the TIGER, TIGER II, TIGER III, TIGER IV, TIGER V, and VI Discretionary Grant programs. None of these projects were funded in any of the previous TIGER grant programs. If the City desires to submit applications for funding of the Kingman Crossing Traffic Interchange and Rancho Santa Fe Parkway Traffic Interchange projects through the FY 2015 TIGER Discretionary Grant program, Council will need to authorize the Mayor to sign any and all documents and certifications necessary to submit these applications, including the Federal Wage Certification stating that the City of Kingman will comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code (Federal wage rate requirements), as required by the FY 2015 Consolidated and Further Continuing Appropriations Act. Applications are to be submitted by 5:00 p.m. EDT on June 5th, 2015. **Staff recommends approval.**

6. REPORTS

Board, Commission and Committee Reports by Council Liaisons

7. ANNOUNCEMENTS BY MAYOR, COUNCIL MEMBERS, CITY MANAGER

Limited to announcements, availability/attendance at conferences and seminars, requests for agenda items for future meetings.

If needed.

ADJOURNMENT

Posted _____ by _____

Proclamation

Whereas; the City of Kingman recognizes the importance of parents talking with their teens about alcohol in order to reduce the risks and dangers posed to teens and communities; and

Whereas; high school students who use alcohol or other substances are five times more likely to drop out of school or believe good grades are not important; and

Whereas; 27 percent of middle school students try alcohol before graduating from 8th grade, significantly increasing the risk that they will develop alcohol problems later in life; and

Whereas; teen alcohol use kills 4,700 people each year, more than all other illegal drugs combined; and

Whereas; *PowerTalk 21*® day, started by Mothers Against Drunk Driving® (MADD) in 2011, is established on April 21, 2015, to encourage parents and caregivers to embrace their important role in influencing America's youth and their decisions about drinking alcohol; and

Whereas; in 2015, MADD will kick off "21 Days in Support of 21," beginning on April 1st and culminating on *PowerTalk 21* on April 21st, as part of *Power of Parents*® program to create a sustained and prolonged conversation about underage drinking among middle school and high school students; and

Whereas; to equip parents to talk with their teens about alcohol, MADD Arizona during April 2015, will activate to give parents the tools to effectively talk to their children about alcohol to protect them; and

NOW, THEREFORE, I, Richard Anderson, Mayor of the City of Kingman, do hereby proclaim Tuesday, April 21st to be

PowerTalk 21 Day

in the City of Kingman and urge all citizens to join in the local and national efforts to raise awareness of the importance of parents and teens talking together about alcohol to reduce the risks and dangers posed to teens and communities.

IN WITNESS WHEREOF, I, have hereunto set my hand and caused to be affixed the Seal of the City of Kingman, Arizona this 21st day of April, 2015.

Richard Anderson, Mayor

ATTEST:

Sydney Muhle, City Clerk

PROCLAMATION

WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and

WHEREAS, Arbor Day is now observed throughout the nation and the world, and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife, and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

WHEREAS, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community, and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal, and

NOW, THEREFORE, I, Richard Anderson, Mayor of the City of Kingman, Arizona, do hereby proclaim:

April 25, 2015, as “**2015 Arbor Day**” in the City of Kingman,
and I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and

FURTHER, I urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

IN WITNESS THEREOF, I, have here unto set my hand and caused to be affixed the Seal of the City of Kingman, Arizona this _____ day of April, 2015.

Richard Anderson, Mayor

ATTEST:

Sydney Muhle, City Clerk

CITY OF KINGMAN COMMUNICATION TO COUNCIL



TO: Honorable Mayor and Council Members

FROM: Chief Robert J. DeVries

MEETING DATE: April 7, 2015

AGENDA SUBJECT: High Intensity Drug Trafficking Area (H.I.D.T.A.) Grant Award

SUMMARY:

The Kingman Police Department has been awarded \$52,000.00 in grant funding from the High Intensity Drug Trafficking Area (H.I.D.T.A.).

The grant funds are for implementation of a patrol K-9 program for the department. Funding will provide for the purchase and training of two K-9's, equipment and the retrofitting of two patrol units.

ATTACHMENT:

City of Tucson Grant Agreement HT-14-2319 Adjustment Notice #1

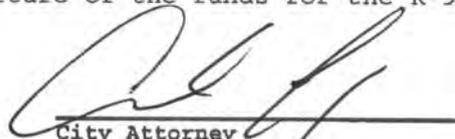
FISCAL IMPACT:

None, matching funds are not required

STAFF RECOMMENDATION:

Accept the H.I.D.T.A. grant award and authorize expenditure of the funds for the K-9 program.


Signature of Dept. Head


City Attorney
Approved as to form


City Manager's Review

AGENDA ITEM: 3a

**CITY OF TUCSON
GRANT AGREEMENT
ADJUSTMENT NOTICE**

| | | | |
|--|---------------|--|---------------|
| Grantee Name and Address: Kingman Police Department 2730 E. Andy Devine Ave. Kingman, AZ 86401 | | Grant Number: HT-14-2319 | |
| | | Initiative Name : Mohave Area Narcotics Enforcement Team (MAGNET), MAGNET | |
| Date: 3/31/2015 | | Prepared By: Minnette Powell | |
| Project Title: High Intensity Drug Trafficking Area - Cycle 24 | | Adjustment Number: GAN #1 | |
| Adjusted Grant Award Amount | | | |
| Original Grant Award Amount: | | \$ | 34,987.00 |
| Grant Award Adjustment: | | | 52,000.00 |
| Adjusted Grant Award Amount: | | \$ | 86,987.00 |
| Adjusted Grant Period | | | |
| FROM Original Grant Period Ending Date: 1/1/2014 | | TO Grant Period Ending Date: 12/31/2015 | |
| Budget Adjustment | | | |
| FROM Original Budget: | | TO Adjusted Budget: | |
| | Amount | | Amount |
| Personnel | - | Personnel | \$ - |
| ERE | - | ERE | \$ - |
| Overtime | - | Overtime | \$ - |
| Travel | - | Travel | \$ 10,790.00 |
| Facilities | - | Facilities | \$ - |
| Services | 34,987.00 | Services | \$ 60,587.00 |
| Equipment | - | Equipment | \$ 15,610.00 |
| Supplies | - | Supplies | \$ - |
| Other | - | Other | \$ - |
| Total: \$ 34,987.00 | | Total: \$ 86,987.00 | |
| Other Adjustments and Information | | | |
| ID 44210: Moving funds to Kingman PD for the purchase of two canines, and the related training and other expenses. (GAN #1) Corrected Grant Number added | | | |
| Prepared By: Name and Title Minnette Powell Lead Management Analyst/HIDTA | | Approved By: Name and Title Richard Prater Management Coordinator | |

Reprogramming ID 44210

FY 2014

HIDTA Transcript ID

Status Posted

Create By pgill

Date Modified

Posted By bkempshall

Date Posted 3/10/2015 6:43:55 PM

Justification SA (HIDTA) - Moving funds to Kingman PD for the purchase of two canines, and the related training and other expenses.

| Initiative | Award Recipient | Resource Recipient | Account | Increase | Decrease | Remarks |
|------------------------|-----------------|--------------------------|---------------------|--------------------|--------------------|---------|
| Arizona Region Support | City of Tucson | Tucson Police Department | Services (Services) | | \$52,000.00 | |
| Mohave Area General | City of Tucson | Kingman Police | Travel (Travel) | \$10,790.00 | | |
| Mohave Area General | City of Tucson | Kingman Police | Services (Services) | \$25,600.00 | | |
| Mohave Area General | City of Tucson | Kingman Police | Equipment | \$15,610.00 | | |
| | | | Total | \$52,000.00 | \$52,000.00 | |

| Approvals | By | Date |
|-----------------------------|------------|---------|
| HIDTA Financial Manager | pgill | 3/5/15 |
| HIDTA Director | bkempshall | 3/10/15 |
| ONDCP (Programmatic Review) | | |
| National Director | | |
| ONDCP (Fiscal Review) | | |

Grant Summary

| Grant | Increase | Decrease |
|------------|-------------|-------------|
| G14SA0007A | \$52,000.00 | \$52,000.00 |

ARIZONA HIDTA REPROGRAMMING REQUEST FORM

INITIATIVE: MAGNET
 GRANT #: HIDTA 24

AGENCY: KINGMAN P. D.
 HIDTA YEAR: 2014 JOURNAL ID: 44210

Required Level of Approval: Need HIDTA Director approval

| CATEGORIES | CURRENT AWARD | AMOUNT DECREASED | AMOUNT INCREASED | MODIFIED AWARD |
|---------------|--------------------|------------------|--------------------|--------------------|
| PERSONNEL | | | | \$0.00 |
| FRINGE (ERE) | | | | \$0.00 |
| OVERTIME | 0.00 | | | \$0.00 |
| TRAVEL | 0.00 | | 10,790.00 | \$10,790.00 |
| FACILITIES | 0.00 | | | \$0.00 |
| SERVICES | 34,987.00 | | 25,600.00 | \$60,587.00 |
| EQUIPMENT | 0.00 | | 15,610.00 | \$15,610.00 |
| SUPPLIES | 0.00 | | | \$0.00 |
| OTHER COSTS | | | | \$0.00 |
| TOTAL: | \$34,987.00 | \$0.00 | \$52,000.00 | \$86,987.00 |

Please use only the listed categories for all HIDTA funded reprogramming requests as defined.

| | |
|------------------------|--|
| PERSONNEL: | Regular salary paid to HIDTA funded employees. |
| FRINGE BENEFITS (ERE): | Fica, retirement, health, life, dental, other benefits paid to employees. |
| OVERTIME: | Overtime paid to employees. |
| TRAVEL: | Operational, seminars, conferences, travel costs, lodging meals & incidentals. |
| FACILITIES: | Lease of office space, utilities, janitorial & alarm, maintenance & repairs. |
| SERVICES: | All leasing & rental of equipment, (phones, pagers, copiers, vehicles, audio/visual etc. Contractual services, consultants, photo processing, insurance, service maintenance agreements (except for facilities) and training/tuition for fees, course supplies, books & supplies. Postage. |
| EQUIPMENT: | Purchase of equipment. Any and all technical equipment (no tactical gear), furniture, computers, vehicles. |
| SUPPLIES: | Books, directories, subscription to journals. Computer software/updates, paper, vehicle fuel, uniforms, safety glasses, film, video tape, office and analytical supplies. |
| OTHER: | Purchase of evidence and information & Items not covered elsewhere. |

NOTE: REIMBURSEMENTS ARE NOT AUTHORIZED FOR BULLETS, WEAPONS, AGENCY MEMORABILIA, PLAQUES & OTHER GIFT ITEMS IE. LOGOS ETC.

Description (Please provide a explanation on the need of this transfer):

Funds awarded for Kingman PD patrol K-9 unit to include Services, Travel, Equipment & Supplies per HIDTA HINTS request approved by Director Kempshall on 2/25/2015.

Approval Signatures:

| | | | |
|--|--------------|-----------------------|--|
| Resource Recipient | | | |
| REQUESTED BY: <u>Jennifer Sochocki</u> | 928-753-8163 | DATE: <u>3/5/2015</u> | |
| | Phone # | | |
| APPROVED BY: <u>mark B. Chasta</u> | 928-753-8151 | DATE: <u>3/5/2015</u> | |
| | Phone # | | |
| Initiative/Task Force Commander | | | |
| APPROVED BY: <u>mark B. Chasta</u> | 928-753-8151 | DATE: <u>3/5/2015</u> | |
| | Phone # | | |

SIGNATURE OF AZ FINANCIAL MANAGER: Pamela Bie 3-12-15

SIGNATURE OF AZ HIDTA DIRECTOR: Cynthia Kempshall

ONDCP Required Level of Approval only:

3-12-15

Finance Sub Committee Approval Date: _____

Executive Committee Approval (for Level A only): _____

Budget Detail

2014 - SWB - Arizona

Initiative - Mohave Area General Narcotics Enforcement Team
(MAGNET)

Investigation

Award Recipient - City of Tucson (G14SA0007A)

Resource Recipient - Kingman Police Department

Current Budget (net of reprogrammed funds) \$34,987.00

| Services | Quantity | Amount | Comments |
|---|----------|--------------------|----------|
| Communications - data lines | 0 | \$6,300.00 | |
| Communications - mobile phones & pagers | 0 | \$9,667.00 | |
| Communications - office phones | 0 | \$12,420.00 | |
| Vehicle lease - passenger | 1 | \$6,600.00 | |
| Total Services | 1 | \$34,987.00 | |
| Total | | \$34,987.00 | |

ARIZONA HIDTA REPROGRAMMING REQUEST FORM

INITIATIVE: ARIZONA REGIONAL SUPPORT
 GRANT #: G14SA0007A

AGENCY: Tucson Police Department
 HIDTA YEAR: 24 JOURNAL ID: 44210

| CATEGORIES | CURRENT AWARD | AMOUNT DECREASED | AMOUNT INCREASED | MODIFIED AWARD |
|---------------|---------------------|--------------------|------------------|---------------------|
| PERSONNEL | 0.00 | | | \$0.00 |
| FRINGE (ERE) | 0.00 | | | \$0.00 |
| OVERTIME | 0.00 | | | \$0.00 |
| TRAVEL | 0.00 | | | \$0.00 |
| FACILITIES | 0.00 | | | \$0.00 |
| SERVICES | 731,404.98 | 52,000.00 | | \$679,404.98 |
| EQUIPMENT | 0.00 | | | \$0.00 |
| SUPPLIES | 0.00 | | | \$0.00 |
| OTHER COSTS | 0.00 | | | \$0.00 |
| TOTAL: | \$731,404.98 | \$52,000.00 | \$0.00 | \$679,404.98 |

Please use only the listed categories for all HIDTA funded reprogramming requests as defined.

| | |
|------------------------|--|
| PERSONNEL: | Regular salary paid to HIDTA funded employees. |
| FRINGE BENEFITS (ERE): | Fica, retirement, health, life, dental, other benefits paid to employees. |
| OVERTIME: | Overtime paid to employees. |
| TRAVEL: | Operational, seminars, conferences, travel costs, lodging meals & incidentals. |
| FACILITIES: | Lease of office space, utilities, janitorial & alarm, maintenance & repairs. |
| SERVICES: | All leasing & rental of equipment, (phones, pagers, copiers, vehicles, audio/visual etc. Contractual services, consultants, photo processing, insurance, service maintenance agreements (except for facilities) and training/tuition for fees, course supplies, books & supplies. Postage. |
| EQUIPMENT: | Purchase of equipment. Any and all technical equipment (no tactical gear), furniture, computers, |
| SUPPLIES: | Books, directories, subscription to journals. Computer software/updates, paper, vehicle fuel, uniforms, safety glasses, film, video tape, office and analytical supplies. |
| OTHER: | Purchase of evidence and information & items not covered elsewhere. |

NOTE: REIMBURSEMENTS ARE NOT AUTHORIZED FOR BULLETS, WEAPONS, AGENCY MEMORABILIA & OTHER GIFT ITEMS

Description (Please provide a explanation on the need of this transfer):

Moving funds to Kingman PD for the purchase of two canines, and the related training and other ezipenses.

Approval Signatures:

Resource Recipient

REQUESTED BY: _____ DATE: _____
 Phone # _____

APPROVED BY: _____ DATE: _____
 Phone # _____

Initiative/Task Force Commander

APPROVED BY: _____ DATE: _____
 Phone # _____

SIGNATURE OF AZ FINANCIAL MANAGER: P. Melabell 3-9-15

SIGNATURE OF AZ HIDTA DIRECTOR: Cynthia K. Koppell
 3-12-15

CITY OF KINGMAN COMMUNICATION TO COUNCIL



TO: Honorable Mayor and Council Members

FROM: Chief Robert J. DeVries

MEETING DATE: April 21, 2015

AGENDA SUBJECT: 2015 Governor's Office of Highway Safety Grant Award

SUMMARY:

The Kingman Police Department has been awarded \$1,000.00 from the Governor's Office of Highway Safety (G.O.H.S.). The funding will support continued enforcement programs focused on safety belt and child passenger safety laws during the "Buckle Up Arizona...It's the Law!" campaign.

ATTACHMENT:

Governor's Office of Highway Safety Contract 2015-CIOT-08

FISCAL IMPACT:

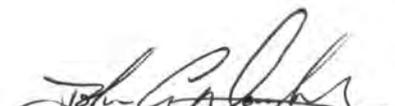
None, matching funds are not required

STAFF RECOMMENDATION:

Accept the Governor's Office of Highway Safety grant and authorize the City Manager and Chief of Police to sign the attached contract.


Signature of Dept. Head


City Attorney
Approved as to form


City Manager's Review

AGENDA ITEM: 3b

HIGHWAY SAFETY CONTRACT

This page, the Project Directors Manual and attached hereto and incorporated herein by reference, constitute the entire contract between the parties hereto unless the Governor's Highway Safety Representative authorizes deviation in writing.

CFDA: 20.600

| | | |
|---|--|--|
| 1. APPLICANT AGENCY Kingman Police Department (KPD) | | GOHS CONTRACT NUMBER 2015-CIOT-008 |
| ADDRESS 2730 East Andy Devine Avenue, Kingman, Arizona 86401 | | PROGRAM AREA 402-OP |
| 2. GOVERNMENTAL UNIT City of Kingman | | AGENCY CONTACT Jennifer Sochocki |
| ADDRESS 410 North Fourth Street, Kingman, Arizona 86401 | | 3. PROJECT TITLE Buckle Up Arizona Enforcement Campaign (CIOT) |
| 4. GUIDELINES 402 – Occupant Protection (OP) | | |
| 5. BRIEFLY STATE PURPOSE OF PROJECT: Federal 402 funds will support Personnel Services (Overtime) and Employee Related Expenses to participate in the two-week Buckle Up Arizona Enforcement Campaign from May 18, 2015 through May 31, 2015 to enhance seat belt and child safety seat usage throughout the City of Kingman. | | |
| 6. BUDGET | | Project Period |
| COST CATEGORY | | FY 2015 |
| I. Personnel Services | | \$794.00 |
| II. Employee Related Expenses | | \$206.00 |
| III. Professional and Outside Services | | \$0.00 |
| IV. Travel In-State | | \$0.00 |
| V. Travel Out-of-State | | \$0.00 |
| VI. Materials and Supplies | | \$0.00 |
| VII. Capital Outlay | | \$0.00 |
| TOTAL ESTIMATED COSTS | | \$1000.00 |

PROJECT PERIOD FROM: Effective Date (*Date of GOHS Director Signature*) TO: 05-31-15

CURRENT GRANT PERIOD FROM: 05-18-15 TO: 05-31-15

TOTAL FEDERAL FUNDS OBLIGATED THIS FY: \$1,000.00

A political subdivision or state agency that is mandated to provide a certified resolution or ordinance authorizing entry into this contract must do so prior to incurring any expenditures. Failure to do so may result in termination of the awarded contract.

PROBLEM IDENTIFICATION AND RESOLUTION:

Motor vehicle collisions continue to be the leading cause of death, injury and property damage in Arizona and the United States. A number of factors contribute to the risk of collision including; vehicle design, speed of operation, road design, road environment, driver skill and/or impairment and driver behavior. The human factor that has been consistently identified in reducing collisions and minimizing their effects is consistent usage of seat belts and child safety seats.

According to the Arizona Motor Vehicle Crash Facts, there were 656 vehicle occupant (driver/passenger) fatalities in 2013, of which 299 (46%) were unrestrained. Children under the age of five accounted for 11 passenger fatalities in 2013, of which 7 (64%) were unrestrained.

In 2014, seat belt usage in Arizona reached **87.2%**, an increase of **2.5%** since 2013. The noted increase is attributed partly to the Arizona Governor's Office of Highway Safety (GOHS) funded statewide enforcement campaigns, enhanced earned media, and extensive outreach support of educational and public awareness activities.

The summary of the 2010 through 2014 Arizona Seat Belt Use Survey results are presented in the following table:

| GROUPS OBSERVED | 2010 | 2011 | 2012 | 2013 | 2014 |
|--|-------------|-------------|-------------|-------------|-------------|
| Total Front Seat Occupants Seat Belt Use | 81.8% | 82.9% | 82.2% | 84.7% | 87.2% |
| All Drivers Seat Belt Use | 82.3% | 83.5% | 82.6% | 84.7% | 87.1% |
| Front Seat Passenger Seat Belt Use | 79.9% | 80.6% | 80.2% | 84.0% | 87.7% |
| Children Safety Restraint Use | 78.0% | 79.1% | 75.0% | n/a | n/a |

Seat belts and child safety seats have proven to significantly reduce the chance of death and injuries of passengers in vehicles. According to the Center for Disease Control and Prevention, seat belt use reduces serious crash-related injuries and deaths by about **50%**. The proper and consistent use of Child Safety Seats has been found to reduce the risk of fatal injury by **71%** for infants (younger than 1 year old) and by **54%** for toddlers (1 to 4 years old) in passenger cars. Properly installed booster seats reduce the risk for serious injury by **45%** among children ages 4 to 8 year old.

Numerous factors affect the occupant protection enforcement program in Arizona:

- Arizona presently conducts enforcement under a secondary seat belt law and a primary child safety seat law
- Arizona currently exceeded the national average seat belt usage rate of 87% in 2014
- Arizona continues to develop and expand a highly visible Occupant Protection Enforcement Program

Selective Traffic Enforcement Programs (STEP) is a proven approach that can be used to quickly change motorists' behavior in a short period of time. This particular STEP is a widely publicized enforcement campaign focused on changing a particular behavior among motorists.

As part of the National Click It or Ticket Campaign, Arizona has developed and promoted the **"Buckle Up Arizona... It's the Law!"** program, which has been an effective enforcement message in a secondary law state.

This program unites state-wide law enforcement agencies to engage in aggressive traffic enforcement with a **"zero tolerance"** approach to seat belt and child safety seat violations. The goal is to sustain and increase seatbelt usage rates in the designated geographical areas of the participating agencies.

The mobilizations begin with earned media generated at the State and local level followed by a high visibility enforcement campaign lasting two weeks. Paid media phases in approximately one week later followed by high-visibility enforcement lasting for two weeks. Additional earned media conducted through the GOHS has been paramount in enhancing occupant protection message.

OVERVIEW OF PROGRAM:

Federal 402 funding will support Personnel Services (Overtime) and Employee Related Expenses to participate in the national two-week **"Buckle Up Arizona"** enforcement campaign from **May 18, 2015 through May 31, 2015**.

The purpose of the campaign is for the Kingman Police Department (KPD) to engage in aggressive traffic enforcement with a **"zero tolerance"** approach to seat belt and child safety seat violations. The goal is to sustain seatbelt usage rates in the designated geographical areas of the participating agencies.

The campaign will be supported by earned media to reinforce the occupant protection message. The Kingman Police Department (KPD) will participate in other educational and public awareness activities to support the enforcement component.

Occupant protection usage surveys will be conducted subsequent to the enforcement campaign by an independent research organization to analyze the effectiveness of the program. Results will be provided to the respective law enforcement agency upon receipt of the completed study.

GOALS/OBJECTIVES:

The Kingman Police Department (KPD) is required to complete the following goals and objectives under the guidelines of the contract:

- Provide intensive traffic enforcement during designated period with zero tolerance for safety belt/child restraint laws
- Heighten enforcement visibility through news media contacts, safety belt/child seat inspections, and other public awareness and educational activities
- KPD shall provide a written press release announcing the enforcement program to the local media affecting their respective areas (a copy of this press release shall be sent to the GOHS Director prior to the initiation of the enforcement campaign)

- KPD is additionally encouraged to invite media representatives for live interviews and ride-a-longs during the enforcement activities
- KPD shall develop and participate in some form of enforcement activity, such as saturation patrols, multi-agency enforcement task forces etc. related to respective areas with low restraint usage.
- KPD shall submit a Final Enforcement Summary Report to GOHS no later than **June 3, 2015**
- KPD shall a Final Statement of Accomplishments Report including press releases, news stories, educational/public awareness activities, enforcement statistics and quality photographs by **June 10, 2015**
- **KPD shall provide the names of top enforcement performers for possible future recognition by GOHS and their respective agency**

To prepare complete press release information for media (television, radio, print and on-line) during each campaign period including a main press release, schedule of events, departmental plans and relevant data. **The material will emphasize the campaign's purpose, aggressive enforcement and the high cost of Occupant Protection in terms of money, criminal and human consequences.**

The Kingman Police Department (KPD) will maintain responsibility for **reporting sustained enforcement** activity in a timely manner. Additionally, it is the responsibility of the KPD to report all holiday task force enforcement statistics to GOHS on-line at the GOHS website **no later than 10:00a.m. the morning following each day of the event.**

PURSUIT POLICY:

All law enforcement agencies receiving federal funds are encouraged to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police (IACP) that are currently in effect.

METHOD OF PROCEDURE:

The Kingman Police Department (KPD) will make expenditures as follows to meet the outlined Program Goals/Objectives:

Personnel Services – To support Overtime for two-week Buckle Up Arizona Enforcement Campaign from May 18, 2015 through May 31, 2015

Employee Related Expenses – To support Employee Related Expenses for Agency Overtime

PRESS RELEASE:

Agencies are required to develop and distribute a press release announcing this grant award (a copy of this press release shall be sent to the GOHS Director at the same time it is sent to the media). This press release shall include the objective and specify that the funding is from the Governor's Office of Highway Safety. A sample press release for the Buckle Up Arizona Campaign will be provided to the agency.

PROFESSIONAL AND TECHNICAL PERSONNEL:

Robert Devries, Chief, Kingman Police Department, shall serve as Project Director.

Jennifer Sochocki, Kingman Police Department, shall serve as Project Administrator.

Lizette Vasquez, Occupant Protection Coordinator, Governor's Office of Highway Safety, shall serve as Project Coordinator.

REPORT OF COSTS INCURRED (RCI):

The Project Director shall submit a Report of Costs Incurred (RCI) with supporting documentation attached, to the Governor's Office of Highway Safety within thirty (30) days of the enforcement period in correlation with the required report.

RCIs shall be typed and delivered via mail or hand delivered with appropriate supporting documentation, to the Governor's Office of Highway Safety. **Electronically submitted RCIs will not be accepted.** Expenditures submitted after the expiration date will not be reimbursed and the agency will accept fiscal responsibility.

The RCI template and instructions are available on the Governor's Office of Highway Safety website at <http://www.azgohs.gov/grant-opportunities/>. Failure to meet the reporting requirements may be cause to terminate the project.

FINAL ENFORCMENT SUMMARY REPORT:

All participating agencies shall complete and submit total enforcement statistical data implementing the attached form no later than **June 3, 2015**, to the Governor's Office of Highway Safety.

FINAL STATEMENT OF ACCOMPLISHMENTS:

The Project Director shall complete and submit the attached Final Statement of Accomplishments Report no later than **June 10, 2015**, to the Governor's Office of Highway Safety. All agencies receiving funding are required to submit a Final Statement of Accomplishments Report. The report is a summary overview of the contracted project and is reviewed by the Governor's Office of Highway Safety project coordinator to determine the effectiveness of the project.

PROJECT MONITORING:

Highway safety grant project monitoring is used by GOHS project coordinators to track the progress of project objectives, performance measures and compliance with applicable procedures, laws, and regulations.

The process is used throughout the duration of the contracted project and serves as a continuous management tool. Project monitoring also presents an opportunity to develop partnerships, share information and provide assistance to contracted agencies. Additionally, project monitoring outlines a set of procedures for project review and documentation.

Project monitoring also serves as a management tool for:

- Detecting and preventing problems

- Helping to identify needed changes
- Identifying training or assistance needed
- Obtaining data necessary for planning, and evaluation
- Identifying exemplary projects

Types of Monitoring

Monitoring is formal and informal, financial and operational. The most common types of monitoring are:

- Ongoing contact with the contracted grantee through phone calls, e-mails, correspondence, and meetings
- On-Site and/or In-House monitoring reviews of project operations, management, and financial records and systems
- Review of project Quarterly Reports
- Review and approval of Report of Costs Incurred (RCIs)
- Desk review of other documents in the project-grant files for timely submission and completeness

| Monitoring Schedule | |
|---|---|
| Total Awarded Amount: | Type of Monitoring: |
| Under \$50,000 | Desk Review/Phone Conference |
| \$50,000 and over | May have an In-House GOHS Review |
| \$100,000+ | May have an On-Site Review |
| Capital Outlay Greater than \$25,000 (combined) | May have an On-Site Review |
| Desk Review and Phone Conference | Internal Review of all written documentation related to contractual project including but not limited to contract, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. A phone conference call conducted during the course of the project which includes the date and time of the call, the person(s) contacted and the results. It serves as an informational review to determine progress of programmatic/financial activities. Both the designated project administrator and fiscal contact should be present, if possible, during the phone conference. If identified financial or operational problems are present, GOHS reserves the right to bring the grantee in for an in-house meeting at GOHS. Monitoring form written by Project Coordinator, any findings or areas of improvement, concern or recognition will be provided to the grantee. |
| In-House Review | Documents performance review results including project activities, reimbursement claims review, equipment purchases, approvals, and other information. Reviews applicable information related to the project(s) including but not limited to contract, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. Completed at GOHS in a meeting with appropriate operational and financial personnel. Monitoring form written by Project Coordinator, any findings or areas of improvement, concern or recognition will be provided to the grantee. |
| On-Site Monitoring | Documents performance review results including project activities, reimbursement claims review, equipment purchases, and other information. Reviews applicable information related to the project(s) including but not limited to contract, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. Conducted on-site at the grantee's agency with monitoring form completed on-site by Project Coordinator. Any |

| |
|---|
| findings or areas of improvement, concern, or recognition, will be provided to the grantee. |
|---|

On-site and/or In-house monitoring for grantees of designated projects with large capital outlay purchases, personnel services, and complex projects must be completed within the second or third quarter of the fiscal year. Contracted projects displaying any problems might need on-site monitoring more than once during the fiscal year.

On-site and/or In-house monitoring includes a review and discussion of all issues related to assure the effective administration of the contracted project. The following are the most important items to review:

- Progress toward meeting goals/objectives and performance measures
- Adherence to the contract specifications, timely submission of complete and correct reports, including required documentation
- Quarterly reports
- Status of expenditures related to the outlined budget
- Accounting records
- Supporting documentation (training documentation, inventory sheets, photographs, press releases, etc.)

In addition, the designated project administrator will assure that any equipment purchased will be available for inspection and is being used for the purpose for which it was bought under the outlined contractual agreement.

Documentation

The Governor's Office of Highway Safety will retain all findings documented on the GOHS Monitoring Form in the grantee's respective federal file. Findings will be discussed with the grantee designated contract representative (project administrator, fiscal specialist) by phone and/or e-mail. All noted deficiencies will be provided to the grantee with guidance for improvement and solutions to problems. Grantees that exhibit significantly poor performance will be placed on a performance plan as outlined by the project coordinator. Grantee monitoring information will additionally provide documentation for potential funding in subsequent fiscal year grant proposal review.

PROJECT PERIOD:

The Project Period shall commence on the date the GOHS Director signs the Highway Safety Contract and terminate on May 31, 2015 of that or subsequent year as indicated on the Highway Safety Contract.

Any unexpended funds remaining at the termination of the contract shall be released back to the Governor's Office of Highway Safety.

DURATION:

Contracts shall be effective on the date the Governor's Office of Highway Safety Director signs the contract and expire at the end of the project period.

If the Agency is unable to expend the funds in the time specified, the Project Director will submit notification on the Agency's letterhead and hand-deliver or submit via regular mail to the Director of the Governor's Office of Highway Safety a minimum of 90 days prior to the end of the project period.

The Agency shall address all requests to modify the contract to the Director of the Governor's Office of Highway Safety on Agency letterhead and either hand deliver or submit the request via regular mail. All requests for modification must bear the signature of the Project Director.

Failure to comply may result in cancellation of the contract. Any unexpended funds remaining at the termination of the contract shall be released back to the Governor's Office of Highway Safety.

ESTIMATED COSTS:

| | | |
|------|--------------------------------------|-------------------|
| I. | Personnel Services (overtime) | \$794.00 |
| II. | Employee Related Expenses | \$206.00 |
| III. | Professional and Outside Services | \$0.00 |
| IV. | Travel In-State | \$0.00 |
| V. | Travel Out-of-State | \$0.00 |
| VI. | Materials and Supplies | \$0.00 |
| VII. | Capital Outlay | \$0.00 |
| | TOTAL ESTIMATED COSTS | *\$1000.00 |

*Includes all applicable training, tax, freight, and advertising costs. The GOHS reserves the right to limit reimbursement of Employee Related Expenses from zero (0) to a maximum rate of 40 percent. This is the maximum ERE amount to be reimbursed. It is agreed and understood that the Kingman Police Department (KPD) shall absorb any and all expenditures in excess of **\$1,000.00**.

CERTIFICATIONS AND AGREEMENTS

This CONTRACT, is made and entered into by and between the STATE OF ARIZONA, by and through the Governor's Office of Highway Safety (GOHS) hereinafter referred to as "STATE", and the agency named in this Contract, hereinafter referred to as "AGENCY".

WHEREAS, the National Highway Safety Act of 1966, as amended (23 USC §§401-404), provides Federal funds to STATE for approved highway safety projects; and

WHEREAS, STATE may make said funds available to various state, county, tribal, or municipal agencies, governments, or political subdivisions upon application and approval by STATE and the United States Department of Transportation (USDOT); and

WHEREAS, AGENCY must comply with the requirements listed herein to be eligible for Federal funds for approved highway safety projects; and

WHEREAS, AGENCY has submitted an application for Federal funds for highway safety projects;

NOW, THEREFORE, IN CONSIDERATION OF MUTUAL PROMISES AND OTHER GOODS AND VALUABLE CONSIDERATION, it is mutually agreed that AGENCY will strictly comply with the following terms and conditions and the following Federal and State Statutes, Rules, and Regulations:

I. Project Monitoring, Reports, and Inspections

- A. AGENCY agrees to fully cooperate with representatives of STATE monitoring the project, either on-site or by telephone, during the life of the Contract.
- B. AGENCY will submit Quarterly Reports (one for each three-month period of the project year) to STATE in the form and manner prescribed by STATE. Notice of the specific requirements for each report will be given in this Contract or at any time thereafter by giving thirty (30) days written notice to AGENCY by ordinary mail at the address listed on the Contract. Failure to comply with Quarterly Report requirements may result in withholding of Federal funds or termination of this Contract.
- C. AGENCY will submit a Final Report/Statement of Accomplishment at completion of the Contract to include all financial, performance, and other reports required as a condition of the grant to STATE within thirty (30) days of the completion of the Contract.
- D. Representatives authorized by STATE and the National Highway Traffic Safety Administration (NHTSA) will have the right to visit the site and inspect the work under this Contract whenever such representatives may determine such inspection is necessary.

II. Reimbursement of Eligible Expenses

- A. AGENCY'S Project Director, or Finance Personnel, will submit a Report of Costs Incurred Form (RCI) to STATE each time there have been funds expended for which reimbursement is being requested. Failure to meet this requirement may be cause to terminate the project under section XX herein, "Termination and Abandonment".

- B. AGENCY will reimburse STATE for any ineligible or unauthorized expenses for which Federal funds have been claimed and reimbursement received, as may have been determined by a State or Federal audit.
- C. STATE will have the right to withhold any installments equal to the reimbursement received by AGENCY for prior installments which have been subsequently determined to be ineligible or unauthorized.

III. Property Agreement

- A. AGENCY will immediately notify STATE if any equipment purchased under this Contract ceases to be used in the manner as set forth by this Contract. In such event, AGENCY further agrees to either give credit to the project cost or to another active highway safety project for the residual value of such equipment in an amount to be determined by STATE or to transfer or otherwise dispose of such equipment as directed by STATE.
- B. No equipment will be conveyed, sold, salvaged, transferred, etc., without the express written approval of STATE, or unless otherwise provided elsewhere in this Contract.
- C. AGENCY will maintain or cause to be maintained for its useful life, any equipment purchased under this Contract.
- D. AGENCY will incorporate any equipment purchased under this Contract into its inventory records.
- E. AGENCY will insure any equipment purchased under this Contract for the duration of its useful life. Self-insurance meets the requirements of this section.

IV. Travel

In-State and Out-of-State Travel

In state and out-of-state travel claims will be reimbursed at rates provided by AGENCY'S regulations, provided that such regulations are as restrictive as those of STATE. Where they are less restrictive, ARS §38-624 will apply.

The State must approve all out-of-state travel in writing and in advance.

V. Standard of Performance

AGENCY hereby agrees to perform all work and services herein required or set forth, and to furnish all labor, materials, and equipment, except that labor, material, and equipment as STATE agrees to furnish pursuant to this Contract.

VI. Hold Harmless Agreement

Neither party to this agreement agrees to indemnify the other party or hold harmless the other party from liability hereunder. However, if the common law or a statute provides for either a right to indemnify and/or a right to contribution to any party to this agreement then the right to pursue one or both of these remedies is preserved.

VII. Non-Assignment and Sub-Contracts

This Contract is not assignable nor may any portion of the work to be performed be sub-contracted unless specifically agreed to in writing by STATE. No equipment purchased hereunder may be assigned or operated by other than AGENCY unless agreed to in writing by STATE.

VIII. Work Products and Title to Commodities and Equipment

- A. The work product and results of the project are the property of STATE, unless otherwise specified elsewhere in this Contract. All property, instruments, non-consumable materials, supplies, and the like, which are furnished or paid for by STATE under the terms of this Contract, unless otherwise provided for elsewhere in this Contract, are and remain the property of STATE and will be returned at the completion of this project upon request of STATE. The work product and results of the project will be furnished to STATE upon request, if no provision is otherwise made by this Contract.
- B. The provisions of subparagraph A apply whether or not the project contracted for herein is completed.

IX. Copyrights and Patents

Any copyrightable materials, patentable discovery, or invention produced in the course of this project may be claimed by STATE and a copyright or patent obtained by it at its expense. In the event STATE does not wish to obtain such copyright or patent, AGENCY may do so, but in any event, provision will be made by AGENCY for royalty-free, nonexclusive, nontransferable, and irrevocable licenses to be given the United States Government and STATE and its political subdivisions to use such copyrightable material, patented discoveries, or inventions in any manner they see fit. The STATE reserves the right to impose such other terms and conditions upon the use of such copyrights or patents as may be deemed in the best interest of STATE in the event AGENCY is allowed to obtain a copyright or patent.

X. "Common Rule" and OMB Circular No. A-102 (Revised)

"Common Rule" (49 CFR, Part 18): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

OMB Circular No. A-102 (Revised): Grants and Cooperative Agreements with State and Local Governments

The application of USDOT "Common Rule" and Circular A-102 requires that:

AGENCY and sub-grantees will use their own procurement procedures, which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law. The most stringent purchasing requirement at each level must be met.

The Arizona Procurement Code (ARS, §41-2501, et. seq.) and promulgated rules (A.A.C. Title 2, Chapter 7) are a part of this Contract as if fully set forth herein and AGENCY agrees to fully comply with these requirements for any procurement using grant monies from this Contract.

XI. Equal Opportunity

- A. Pursuant to the requirements of the Federal-Aid Highway Act of 1968 (U.S.C. §103 et. seq.), AGENCY, as a condition to receiving approval of this Contract submitted under the Highway Safety Act of 1966, as amended, hereby gives its assurance that employment in connection with the subject Highway Safety Project will be provided without regard to race, color, creed, sex, or national origin, and that any contract it enters into with any private agency pursuant hereto will include provisions in compliance with this paragraph (XI).

As a condition of receiving approval of this Contract, AGENCY will be subject to and will comply with Title VI of the Civil Rights Act of 1964 and all applicable requirements of the Department of Commerce regulations as adopted by the USDOT, providing that no person in the United States shall on the ground of race, color, creed, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the subject Highway Safety Project.

- B. If AGENCY fails or refuses to comply with its undertaking as set forth in these provisions, STATE or the USDOT may take any or all of the following actions.
1. Cancel, terminate, or suspend, in whole or in part, the agreement, contract, or other arrangement with respect to which the failure or refusal occurred; and
 2. Refrain from extending any further Federal financial assistance to AGENCY under the Highway Safety Program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from AGENCY.
- C. Pursuant to the requirement of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794), AGENCY must operate this Highway Safety Project so that it is accessible and otherwise non-discriminatory to handicapped persons.

XII. Executive Order 2009-09

It is mutually agreed that AGENCY will comply with the terms and conditions of Executive Order 2009-09, *Non-Discrimination in Employment by Government Contractors and Subcontractors*. Executive Order 2009-09 is located in Part II of the Project Director's Manual.

XIII. Application of Hatch Act

AGENCY will notify all of its employees whose principal employment is in connection with any highway safety project, financed in whole or in part by loans or grants under the Highway Safety Act of 1966, as amended, of the provisions of the Hatch Act (5 U.S.C. §7321 et. seq.).

XIV. Minority Business Enterprises (MBE) Policy and Obligation

- A. Policy: It is the policy of the USDOT that minority business enterprises as defined in 49 CFR, Part 23, will have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Contract. Consequently, the minority business enterprises requirements of 49 CFR, Part 23 apply to this Contract.
- B. Obligation: The recipient or its contractor agrees to ensure that minority business enterprises as defined in 49 CFR, Part 23 have the subcontracts financed in whole or in part with Federal funds provided under this Contract. In this regard, all recipients or contractors will take all necessary and reasonable steps in accordance with 49 CFR, Part 23 to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors will not discriminate on the basis of race, color, creed, sex, or national origin in the award and performance of USDOT-assigned contracts.

XV. Arbitration Clause, ARS §12-1518

Pursuant to ARS §12-1518, the parties agree to use arbitration, after exhausting applicable administrative reviews, to resolve disputes arising out of this Contract where the provisions of mandatory arbitration apply.

XVI. Inspection and Audit, ARS §35-214

Pursuant to ARS §35-214, all books, accounts, reports, files, and other records relating to this Contract will be subject at all reasonable times to inspection and audit by STATE for five (5) years after completion of this Contract. The records will be produced at the Governor's Office of Highway Safety.

XVII. Appropriation of Funds by U.S. Congress

It is agreed that in no event will this Contract be binding on any party hereto unless and until such time as funds are appropriated and authorized by the U.S. Congress and specifically allocated to the project submitted herein and then only for the fiscal year for which such allocation is made. In the event no funds are appropriated by the U.S. Congress or no funds are allocated for the project proposed herein for subsequent fiscal years, this Contract will be null and void, except as to that portion for which funds have then been appropriated or allocated to this project, and no right of action or damages will accrue to the benefit of the parties hereto as to that portion of the Contract or project that may so become null and void.

XVIII. Continuation of Highway Safety Program

It is the intention of AGENCY to continue the Highway Safety Program identified in this Contract once Federal funding is completed. This intended continuation will be based upon cost effectiveness and an evaluation by AGENCY of the program's impact on highway safety.

XIX. E-Verify

Both Parties acknowledge that immigration laws require them to register and participate with the E-Verify program (employment verification program administered by the United States Department of Homeland Security and the Social Security Administration or any successor program) as they both employ one or more employees in this state. Both Parties warrant that they have registered with and participate with E-Verify. If either Party later determines that the other non-compliant Party has not complied with E-Verify, it will notify the non-compliant Party by certified mail of the determination and of the right to appeal the determination.

XX. Termination and Abandonment

- A. The STATE and AGENCY hereby agree to the full performance of the covenants contained herein, except that STATE reserves the right, at its discretion, to terminate or abandon any portion of the project for which services have not been already performed by AGENCY.
- B. In the event STATE abandons the services or any part of the services as herein provided, STATE will notify AGENCY in writing and within twenty-four (24) hours after receiving such notice, AGENCY will discontinue advancing the work under this Contract and proceed to close said operations under the Contract.
- C. The appraisal value of work performed by AGENCY to the date of such termination or abandonment shall be made by STATE on a basis equitable to STATE and AGENCY and a final reimbursement made to AGENCY on the basis of costs incurred. Upon termination or abandonment, AGENCY will deliver to STATE all documents, completely or partially completed, together with all unused materials supplied by STATE.
- D. AGENCY may terminate or abandon this Contract upon thirty (30) days written notice to STATE, provided there is subsequent concurrence by STATE. Termination or abandonment by AGENCY will provide that costs can be incurred against the project up to and including sixty (60) days after notice is given to STATE.
- E. Any equipment or commodities which have been purchased as a part of this Contract and which have not been consumed or reached the end of its useful life will be returned to STATE upon its written request.

XXI. Cancellation Statute

All parties are hereby put on notice that this Contract is subject to cancellation pursuant to ARS §38-511, the provisions of which are stated below.

In accordance with ARS §38-511, this Contract may be cancelled without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of the STATE, its political subdivisions or any department or agency of either, is at any time while the Contract or any extension of the Contract is in effect, an employee of any other party to the Contract in any capacity or a consultant to any other party of the Contract with respect to the subject matter or the Contract.

The cancellation shall be effective when written notice from the Governor or chief executive officer or governing body of the political subdivision is received by all other parties to the Contract unless the notice specifies a later time.

AGREEMENT OF UNDERSTANDING AND CERTIFICATION OF COMPLIANCE**Acceptance of Condition**

It is understood and agreed by the undersigned that a grant received as a result of this Contract is subject the Highway Safety Act of 1966, as amended (23 U.S.C.A. §§401-404), ARS §28-602, and all administrative regulations governing grants established by the USDOT and STATE. It is expressly agreed that this Highway Safety Project constitutes an official part of the STATE's Highway Safety Program and that AGENCY will meet the requirements as set forth in the accompanying Project Director's Manual, which are incorporated herein and made a part of this Contract. All State and Federal Statutes, Rules, Regulations, and Circulars referenced in this Contract are a part of this document as if fully set forth herein. It is also agreed that no work will be performed nor any obligation incurred until AGENCY is notified in writing that this project has been approved by the Governor's Highway Safety Representative.

Certificate of Compliance

This is to certify that AGENCY will comply with all of the State and Federal Statutes, Rules and Regulations identified in this Contract.

Certification of Non-Duplication of Grant Funds Expenditure

This is to certify that AGENCY has no ongoing nor completed projects under contract with other Federal fund sources which duplicate or overlap any work contemplated or described in this Contract. It is further certified that any pending or proposed request for other Federal grant funds which would duplicate or overlap work described in the Contract will be revised to exclude any such duplication of grant fund expenditures. It is understood that any such duplication of Federal funds expenditures subsequently determined by audit will be subject to recovery by STATE.

Single Audit Act

If your political subdivision has had an independent audit meeting the requirements of the Single Audit Act of 1984, (31 U.S.C.A. §7501 et. seq.), please forward a copy to GOHS, Attention: Fiscal Services Officer, within thirty (30) days of the effective date of this Contract. If such audit has not been performed, please advise when it is being scheduled.

Buy America Act

In accordance with the Buy America Act (49 U.S.C. 5323(j)):
Only steel, iron and manufactured products produced in the United States may be purchased with Federal funds unless the Secretary of Transportation determines that such domestic purchases would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. Clear justification for the purchase of non-domestic items must be in the form of a waiver request submitted to and approved by the Secretary of Transportation.

REIMBURSEMENT INSTRUCTIONS

1. **Agency Official preparing the Reports of Costs Incurred:**

Name: Robert DeVries

Title: Chief of Police

Telephone Number: 928-753-2191 Fax Number: 928-753-2542

E-mail Address: rdevries@cityofkingman.gov

2. **Agency's Fiscal Contact:**

Name: Jennifer Sochocki

Title: Support Service Administrator

Telephone Number: 928-753-8163 Fax Number: 928-753-2542

E-mail Address: jsochocki@cityofkingman.gov

Federal Identification Number: 86-6000769

3. **REIMBURSEMENT INFORMATION:**

Warrant/Check to be made payable to:

City of Kingman

Warrant/Check to be mailed to:

Kingman Police Department

(Agency)

2730 E. Andy Devine Ave.

(Address)

Kingman, AZ 86401

(City, State, Zip Code)

Lobbying Restrictions

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The undersigned will require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients will certify and disclose accordingly.
- D. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 USC §1352. Any person who fails to file the required certification will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature of Project Director:

Robert Devries, Chief
Kingman Police Department

*Signature of Authorized Official of
Governmental Unit:*

John Dougherty, City Manager
City of Kingman

Date Telephone

Date Telephone

CITY OF KINGMAN COMMUNICATION TO COUNCIL



TO: Honorable Mayor and Council Members

FROM: City Clerk's Office

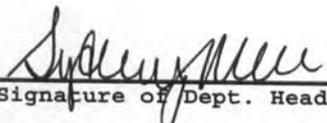
MEETING DATE: April 21, 2015

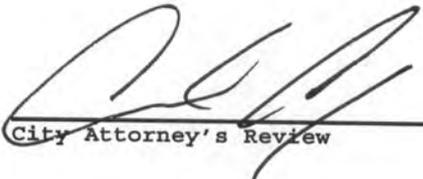
AGENDA SUBJECT: Special Event Liquor License Application

SUMMARY: Applicant Fawson Zane of Kingman Route 66 Rotaract Trailblazers has applied for a Series 15 Special Event Liquor License for an event to take place Saturday, May 2, 2015 from 4:00 P.M. to 11 P.M. at Beale Celebrations, 201 N 4th Street in Kingman.

ATTACHMENT: First page of the Liquor License Application.

STAFF RECOMMENDATION: Approve the special event liquor license application.


Signature of Dept. Head


City Attorney's Review


City Manager's Review

AGENDA ITEM: 3c

CITY OF KINGMAN COMMUNICATION TO COUNCIL

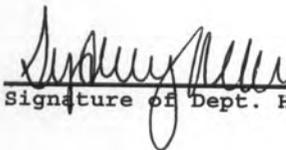


TO: Honorable Mayor and Council Members
FROM: City Clerk's Office
MEETING DATE: April 21, 2015
AGENDA SUBJECT: Special Event Liquor License Application

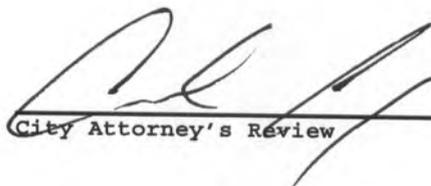
SUMMARY: Applicant Carlos Cella of Cella Winery LLC has applied for a Series 16W Wine Fest/Wine Fair Liquor License for an event to take place Saturday, May 16, 2015 from 11 a.m. to 6 P.M. at Firefighter's Park, 2001 Detroit Ave. in Kingman.

ATTACHMENT: First page of the Liquor License Application.

STAFF RECOMMENDATION: Approve the special event liquor license application.



Signature of Dept. Head



City Attorney's Review



City Manager's Review

AGENDA ITEM: 3d

FAIR/FESTIVAL LICENSE APPLICATION
 A.R.S. §4-203.03 Farm Winery / A.R.S. §4-205.11 Craft Distillery
 A.R.S. §4-203.02 At Special Event

A service fee of \$25 will be charged for all dishonored checks (A.R.S. 44-6852). When the days of the fair/festival are not consecutive, a separate license for each uninterrupted period is needed.

SECTION 1 Application type:

- Wine Fair Wine Festival Craft Distillery Fair Craft Distillery Festival

1. Applicant's Name: CARLOS CELLA Daytime Phone #: [REDACTED]

2. Business name: CELLA WINERY LLC Liquor license #: 13083001
farm winery or craft distillery

Email: ZULCAR64@YAHOO.COM

3. Mailing address: [REDACTED]
street address city state zip code

4. Location of fair/festival: Firefighter's Park, 2001 Detroit Ave., Kingman, Mohave, 86401
street address city county zip code

SECTION 2 Fees, Date & Hours: \$15 per day

Winery festival days permitted: 50 licenses per winery per calendar year for a total of 150 days per winery per calendar year.

Craft Distillery festival days permitted: 25 licenses per craft distillery per calendar year for a total of 75 days per craft distillery per calendar year.

| | DATE | DAY OF WEEK | START TIME AM/PM | END TIME AM/PM |
|----|---------------------|-----------------|------------------|----------------|
| 1. | <u>May 16, 2015</u> | <u>Saturday</u> | <u>11:00 AM</u> | <u>6:00 PM</u> |
| 2. | _____ | _____ | _____ | _____ |
| 3. | _____ | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |
| 7. | _____ | _____ | _____ | _____ |

Please attach an additional sheet if necessary

CITY OF KINGMAN COMMUNICATION TO COUNCIL

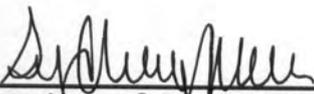


TO: Honorable Mayor and Council Members
FROM: City Clerk's Office
MEETING DATE: April 21, 2015
AGENDA SUBJECT: Special Event Liquor License Application

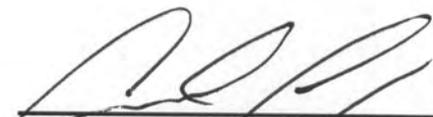
SUMMARY: Applicant Cory Whalin of Su Vino Winery has applied for a Series 16W Wine Fest/Wine Fair Liquor License for an event to take place Saturday, May 16, 2015 from 11 a.m. to 6 P.M. at Firefighter's Park, 2001 Detroit Ave. in Kingman.

ATTACHMENT: First page of the Liquor License Application.

STAFF RECOMMENDATION: Approve the special event liquor license application.



Signature of Dept. Head



City Attorney's Review



City Manager's Review

AGENDA ITEM: 3e

FAIR/FESTIVAL LICENSE APPLICATION
 A.R.S. §4-203.03 Farm Winery / A.R.S. §4-205.11 Craft Distillery
 A.R.S. §4-203.02 At Special Event

A service fee of \$25 will be charged for all dishonored checks (A.R.S. 44-6852). When the days of the fair/festival are not consecutive, a separate license for each uninterrupted period is needed.

SECTION 1 Application type:

- Wine Fair Wine Festival Craft Distillery Fair Craft Distillery Festival

1. Applicant's Name: Cory Whalin Daytime Phone # [REDACTED]

2. Business name: Su Vino Winery Liquor license #: 13073002
farm winery or craft distillery

Email: cory@suvinowineryaz.com

3. Mailing address: [REDACTED]
street address city state zip code

4. Location of fair/festival: Firefighter's Park, 2001 Detroit Ave., Kingman, Mohave, 86401
street address city county zip code

SECTION 2 Fees, Date & Hours: \$15 per day

Winery festival days permitted: 50 licenses per winery per calendar year for a total of 150 days per winery per calendar year.

Craft Distillery festival days permitted: 25 licenses per craft distillery per calendar year for a total of 75 days per craft distillery per calendar year.

| | DATE | DAY OF WEEK | START TIME AM/PM | END TIME AM/PM |
|----|--------------|-------------|------------------|----------------|
| 1. | May 16, 2015 | Saturday | 11:00 AM | 6:00 PM |
| 2. | _____ | _____ | _____ | _____ |
| 3. | _____ | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |
| 7. | _____ | _____ | _____ | _____ |

Please attach an additional sheet if necessary

CITY OF KINGMAN COMMUNICATION TO COUNCIL



TO: Honorable Mayor and Council Members
FROM: Development Services Department
MEETING DATE: April 21, 2015
AGENDA SUBJECT: Proposed Resolution No. 4946 naming two private streets located within the city limits of Kingman as "Hotel Way" and "Bonelli Avenue."

SUMMARY: Stockton Airway Center, Tract 6007 is a commercial subdivision located west of Stockton Hill Road between Airway Avenue and Sycamore Avenue. The subdivision includes two private streets which provide the sole access to six internal lots. In 2010, these lots were given Stockton Hill Road addresses even though they did not have direct frontage on that street. In the original development concept, these streets were intended to function like driveways that would access common parking areas associated with a possible shopping center. However, several lots have been sold in recent years and are being developed separately by different property owners.

A building permit has been submitted for La Quinta Inn on Lot 10-A. The sole access to this lot is via the private street that connects between Airway and Sycamore. The Fire Department determined that the hotel should be addressed off of the private street for public safety purposes in compliance with our 9-1-1 system.

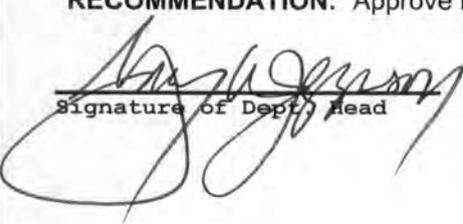
Planning staff sent letters to the two property owners who own the lots directly affected by the possible street name change. The owner for the La Quinta Inn suggested the name "Hotel Circle" for the street abutting this property and Lot 9 which is also owned by him. The other owner, who is the original subdivision developer, did not directly respond. However, his broker indicated that "Stockton Hill" needed to be part of any new street names. Sections 4-1(b) and (c) of the Streets and Sidewalks Development Rules and Regulations would appear to disallow that option as this particular street does not have direct access to and from Stockton Hill Road. The other street connects to Stockton Hill Road but is not a terminating street and, therefore, would also not be eligible for a Stockton Hill name.

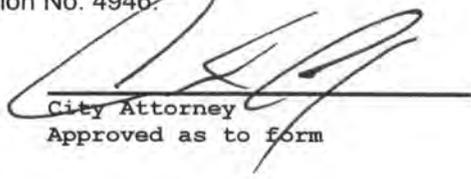
"Hotel Way" is recommended by staff for the street that extends from Airway to Sycamore because it is a through-street. "Bonelli Avenue" is recommended by staff for the other street in honor of a pioneering family in Kingman, and because 2015 marks the 100th anniversary of the construction of the Bonelli House which is on the National Register of Historic Places. It is intended that these streets will remain private as they do not meet all city street improvement standards.

ATTACHMENTS: Proposed Resolution No. 4946 with map exhibit, aerial map of location, Section 4-1 from Street Policy, correspondence.

FISCAL IMPACT: Street signs for Hotel Way and Bonelli Avenue will be needed.

RECOMMENDATION: Approve Resolution No. 4946.


Signature of Dept. Head


City Attorney
Approved as to form


City Manager's Review

AGENDA ITEM: 3F

CITY OF KINGMAN RESOLUTION NO. 4946

**A RESOLUTION BY THE MAYOR AND COMMON COUNCIL OF THE CITY OF
KINGMAN, ARIZONA: NAMING TWO PRIVATE STREETS AS “HOTEL WAY” AND
“BONELLI AVENUE” FOR THE PURPOSE OF ENHANCING THE SAFETY AND
CONVENIENCE OF THE PUBLIC.**

WHEREAS, Stockton Airway Center, Tract 6007 is a commercial subdivision located west of Stockton Hill Road and south of Airway Avenue which features two unnamed private streets that lie within public ingress-egress and utility easements, and

WHEREAS, the subject unnamed private streets provide the sole access to Lots 3, 4-A, 7, 8, 9 and 10-A within Stockton Airway Center, Tract 6007, and

WHEREAS, Lots 3, 4-A, 7, 8, 9 and 10-A within Stockton Airway Center, Tract 6007 have a Stockton Hill Road address assigned to them for future development, however, the subject lots do not front on nor have direct access to Stockton Hill Road, and

WHEREAS, staff has determined that the private streets should be named and the adjoining lots addressed on the streets they front on in order to avoid potential confusion within the 9-1-1 system and to enhance the safety and convenience of the public, and

WHEREAS, the property owner of Lots 9 and 10-A has proposed naming the private street fronting these lots “Hotel Circle”, and staff has recommended that the “Hotel Way” be used instead as this is a through-street, and

WHEREAS, staff has proposed naming the other private street “Bonelli Avenue” in honor of a pioneering family in Kingman and in recognition of the 100th anniversary of the construction of the Bonelli House which is on the National Register of Historic Places, and

WHEREAS, the streets in question will remain private streets as they do not meet all city improvement standards as set forth within the City of Kingman Subdivision Ordinance and the City of Kingman Streets and Sidewalks Development Rules and Regulations.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Common Council of the City of Kingman, Arizona: That two private streets located in Stockton Airway Center, Tract 6007 are hereby authorized to be named as “Hotel Way” and “Bonelli Avenue” as indicated in the attached “Exhibit A.”

PASSED AND ADOPTED by the Honorable Mayor and Common Council of the City of Kingman, Arizona this 21st day of April, 2015.

ATTEST:

APPROVED:

Sydney Muhle, City Clerk

Richard Anderson, Mayor

APPROVED AS TO FORM:

Carl Cooper, City Attorney

DIVISION 4. STREET NAMES

Sec. 4-1. Names

- (a) The names of the streets and avenues of the City are designated as shown on the "Official City Map - City of Kingman" as adopted under Sec. 2-3 of the City Code of Ordinances, which is a public record and three copies of which are on file in the office of the Clerk. For new streets, street names shall be included on the subdivision plat or parcel plat; or be submitted to the Planning Department for scheduling for review and approval by the Common Council.
- (b) Names for new streets shall be consistent with natural alignment and extensions of existing streets, and shall not duplicate in whole or part or be confused with existing street names within the Greater Kingman Area.
- (c) North-South streets shall use the designation of "Street", East/West streets shall use the designation of "Avenue". Cul-de-sacs and short terminated streets shall use the designation of "Circle", "Drive", "Bay", "Loop", "Way", and shall use the same name as the through road they are serviced by. Arterials may be called "Road" or "Boulevard".

Rich Ruggles

From: Mohammad Aysheh <itc3880@gmail.com>
Sent: Monday, March 30, 2015 10:23 AM
To: Gary Jeppson
Cc: Rich Ruggles
Subject: Re: Street Name

Follow Up Flag: Follow up
Flag Status: Completed

Good Morning Gary,

Yes, please use the street name "Hotel Circle".

Thank you,
Mohammad Aysheh
Owner

On Mon, Mar 30, 2015 at 9:41 AM, Gary Jeppson <gjeppson@cityofkingman.gov> wrote:

Mohammad,

The City is proceeding with the naming of the street fronting your new LaQuinta Inn. Are you still desiring "Hotel Circle"?

Gary Jeppson



Rich Ruggles

From: David Hollingsworth <landman@citlink.net>
Sent: Friday, March 06, 2015 2:20 PM
To: Rich Ruggles
Cc: Tony Kouba; Mohammad Aysheh
Subject: Stockton Airway Center private streets
Attachments: David Hollingsworth.vcf

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Rich;

Thanks for returning my call today about your letter of 2/27/2015 regarding the City's concern that the private streets within Stockton Airway Center be named for compliance with the 911 system.

I have spoken with both of my clients, Tony Kouba, manager of Stockton Airway Center LLC and Mohammad Aysheh who is planning the LaQuinta Hotel development. They are both in agreement that it is critical that any new private street name have Stockton Hill in it, as this ties directly back to the I-40 off ramp named Stockton Hill, so my research shows that there is no Stockton Hill Court, Stockton Hill Circle or Stockton Hill Lane presently in use so please use one of these names for the street.

Please also change your letter, last two sentences in paragraph 2, as this information is NOT correct. You are correct in your paragraph 1 description of this development as a "commercial subdivision". This is what was approved by the City and there have been no changes, other than minor lot line adjustments, since the original approval.

Please also remember that Tony Kouba played a huge part in the expansion of the water, sewer, electric, fiber optic, drainage, signalization and expanded lanes along Airway Ave thru his granting of the land needed for same.

Thank you in advance

David E. Hollingsworth
Broker Associate
Keller Williams
2501 Stockton Hill Rd. Ste. 108
Kingman, AZ 86401
(928) 530-6400
landman@citlink.net

CITY OF KINGMAN COMMUNICATION TO COUNCIL



TO: Honorable Mayor and Council Members

FROM: Public Works

MEETING DATE: April 21, 2015

AGENDA SUBJECT: Authorization for purchase and Scrub application of 120 tons of PASS Emulsion for the 2014-2015 fiscal year chip seal project.

SUMMARY: The City of Kingman Street Department Requested Quotes for supply and scrub application of PASS CR Emulsion per City of Kingman Municipal Code 2-160f. Upon receipt of quotes it was found that two of the three bidders had not submitted their offer as required in the Request for Quotes. The price provided on the "Per Ton" line was for only the emulsion and did not include any labor, transportation or incidental costs related to application of the emulsion as required. The only contractor to correctly submit a bid was Hawker and Evans Asphalt Company.

ATTACHMENT: City of Kingman Request for Quote, submitted Bid Offers, and City of Kingman Municipal Code 2-160.

FISCAL IMPACT: \$ 140,880 from Pavement Preservation Funds.

RECOMMENDATION: Staff recommends authorization of purchase and Scrub application of 120 tons of PASS CR Emulsion for the 2014-2015 fiscal year chip seal project, from Hawker and Evans Asphalt Company, in the amount of \$140,880.

Signature of Dept. Head

City Attorney
Approved as to form

City Manager's Review

AGENDA ITEM: 3g



City of Kingman

310 NORTH FOURTH STREET • KINGMAN • ARIZONA • 86401 • (928)753-5561
www.cityofkingman.gov

March 31, 2015

To: **Contractors**

Re: **Request for Quote for PASS CR Polymer Asphalt Surface Sealer.**

The City of Kingman Public Works Department is soliciting written quotes for supplying and applying Polymer Modified Asphalt Surface Sealer and scrubbing the applied emulsion sealer with a scrub broom as specified herein.

GENERAL

The City of Kingman would like to obtain Quotes for the upcoming chip seal project. Procurement for this work will be completed in accordance with Section 2-160f of the Kingman Municipal Code.

Bidders are instructed to include any and all costs in their bid items for providing all labor, materials, equipment, transportation, utilities, facilities, licenses, permits, incidentals and fee's for the performance of all work as required to produce, store, load, weigh, deliver, transfer and apply the asphalt as specified by the City of Kingman.

The bidder shall possess all permits, licenses and professional credentials necessary to provide services as specified including all equipment and operator's licenses necessary to supply, deliver and perform services as specified. Payment and Performance Bonds are not required but, the contractor shall demonstrate proof of adequate insurance coverage naming the City of Kingman as an Additional Insured by endorsement. Refer to the insurance requirements section for minimum coverage requirements.

COOPERATIVE-MULTI-AGENCY PROCUREMENT

This solicitation is being prepared by the City of Kingman as the lead agency. While this solicitation is for the City of Kingman, other public agencies may have an interest in utilizing the resulting contract. After an award, this solicitation may be utilized by eligible public entities. Individual public entities would negotiate service with the Successful Vendor using the bid pricing quoted herein. No volume is implied or guaranteed.

BITUMINOUS MATERIAL

Polymerized Asphalt Surface Sealer (PASS) Trademark, Patent No.5, 180.428, will be offered as described in Western Emulsion proprietary PASS specifications and manufactured by Western Emulsions. Asphaltic Materials supplied to the project shall be pre-certified by a qualified laboratory and a certificate of compliance shall accompany each load of material delivered to the project site. Asphalt materials shall be bid by the ton and shall include all costs for providing all, taxes, labor, materials, equipment, transportation, services, facilities, licenses, permits, fees and incidentals, for the performance of all work as may be necessary to produce, store, load, weigh, deliver and to transfer the Asphalt Materials requested at the site of Work at the unit price per ton bid.

DISTRIBUTER TRUCK

The distributor truck shall be capable of holding 2900 gallon or more unless approved by the City of Kingman prior to the start of work. The distributor truck(s) shall be capable of being fully operated from the cab of the truck. The distributor truck(s) supplied shall be designed, equipped, maintained so that bituminous material at even heat may

be applied uniformly at variable widths of surface up to 16 feet at readily determined and controlled rates from 0.02 to 1.0 gallons per square yard in units of 0.1 gallons per square yard, with uniform pressure, and with an allowable transverse variation from any specified rate not to exceed ten percent or 0.02 gallon per square yard, whichever is less. Distributor equipment shall include computerized rate control, tachometer, pressure gauge, accurate volume measuring devices or a calibrated tank, and a thermometer for measuring the temperatures of the tank contents. Distributors shall be equipped with a power unit for the pump, and full circulation spray bars adjustable laterally and vertically. Distributor trucks shall be tested within six months from the date of spreading to determine the rate of the transverse spread. The contractor shall furnish the City of Kingman evidence that the transverse spread of the distributor truck, when the trucks were approved for use, was as uniform as practicable and under no condition was there a variance on any of the test pads greater than allowable transverse variation. The bidder shall be fully responsible for assuring compliance with spread rate certification. The bidder shall also be responsible for monitoring yield rates of the distributor truck to ensure correct shot rate of material requested is being applied during operation.

APPLICATION

The scrub seal shall be applied 0"-4" from the lip of the gutter. Where a curb exists without gutter, the scrub seal shall be applied 0"-4" from the face of curb when receiving a cape. If a cape is not specified then the scrub seal shall be placed from edge of pavement to edge of pavement. Where no curb or gutter exists, the scrub seal shall be applied from edge of pavement to edge of pavement. The edges of the limits of the scrub seal application on both sides of the street shall be maintained in a neat and uniform line. Scrub seal shall not be applied on concrete gutters or pads unless directed by the Engineer.

The areas to be scrub sealed shall have the Polymer Modified Asphalt Surface Sealer applied with a distributor truck to the pavement surface at a rate of 0.25 to 0.40 gallons per square yard. For cul-de-sacs, turnout pockets, elbows and curve returns the use of the scrub broom will not be required. The Polymer Modified Asphalt Surface Sealer temperature when applied shall be at a minimum of 140 degrees Fahrenheit. For smaller areas the emulsion sealer may be applied with a wand. The emulsion sealer shall be immediately broomed to fill cracks and voids.

SCRUB BROOM

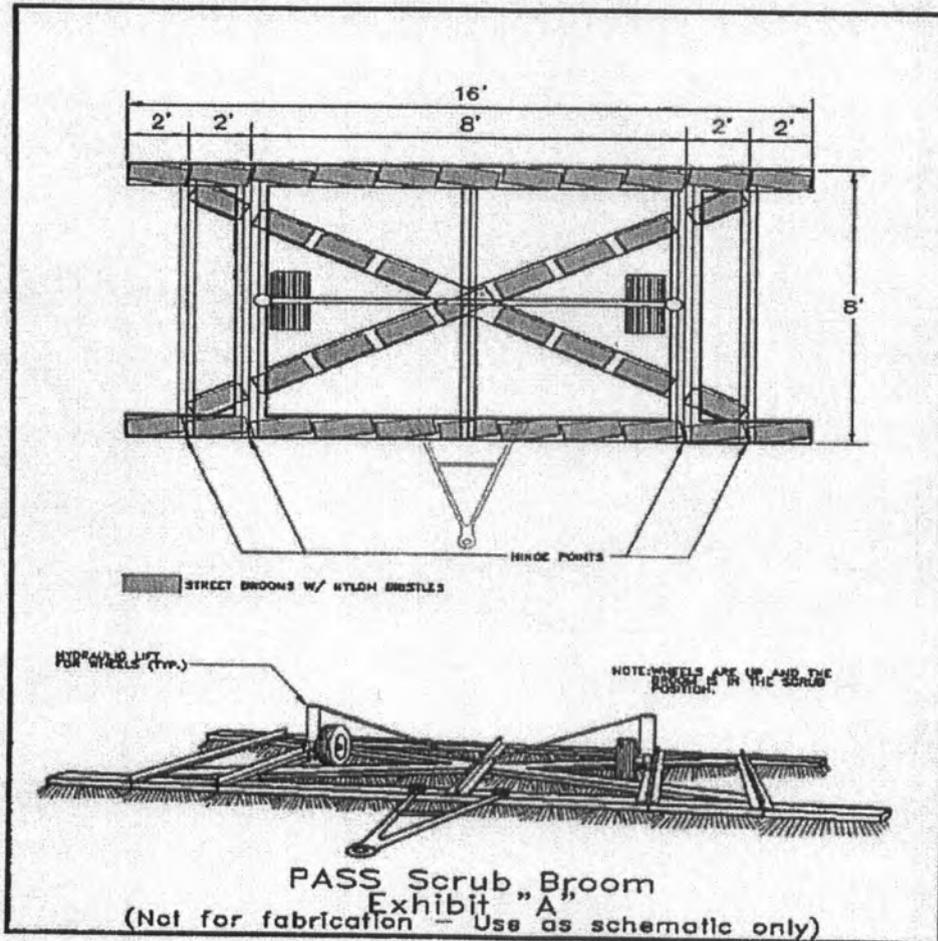
Immediately following the application of the emulsion sealer to the road surface, the material shall be scrubbed with a scrub broom for the purpose of forcing the emulsion sealer into the existing surface and distributing the emulsion sealer evenly over variable road surface contours.

The scrub broom frame shall be constructed of metal. The scrub broom shall be attached to and pulled by the distributor truck. The scrub broom must be equipped with the means to mechanically raise and lower the scrub broom off and onto the road surface at designated points of completion and start up. It shall be towable in the elevated position to the next area of construction. The weight of the broom assembly shall be such that it does not squeegee the emulsion sealer off the roadway surface.

The main body of the scrub broom shall be a minimum of 6'-9" wide and 8'-0" (ft) deep. The maximum width of the rigid frame at any point shall not exceed 8'-0". The depth shall not exceed 10'-0". The nearest and furthest members, paralleling the back of the spreader truck, and diagonal members shall be equipped with street brooms. The leading member and the trailing member shall have broom heads angled at 15 degrees off the centerline of the supporting member. The diagonal members shall have broom heads attached in line with the centerline of the supporting member. Each individual street broom attached to the scrub broom assembly shall be 3 1/2" w x 6 1/2" h x 16" L and have stiff nylon bristles. Bristle height is to be maintained at a minimum of 5". The scrub broom shall be equipped with a min. of 2- hinged wing assemblies attached to the main body not to exceed 4'-6" (ft) in total per side, with diagonals and equipped with street brooms. The purpose of the maximum rigid frame width and the

hinged wing extensions is not only for maximum width of 16' (ft) but to maintain the scrubbing process evenly as contours and cross-sections change across the existing road surface. The Emulsion supplier shall supply a scrub broom as described for the purpose of scrubbing the Polymer Modified Asphalt Surface Sealer.

The application of the Polymer Modified Asphalt Surface Sealer and the scrub broom operation shall cease 40' (ft) prior to the end of the street section or intersection. The remaining emulsion sealer shall be drug out by the scrub broom, and the remaining emulsion sealer required to complete the pass shall be applied only by the spread truck (boot truck), at the specified rate.



STAND-BY TIME

Bid item stand-by time shall only apply to Tankers and shall only be for that time which the Tanker is authorized by the City of Kingman to be and is at the site of work during City hours, past the allotted one hour stand-by time included in the bidders unit price per ton bid for the Asphalt Materials whereby, due to no fault whatsoever of the Tanker, Tanker's Owner, or Bidder, the Tanker is unable to begin transferring the Asphalt Material. The City of Kingman will not be responsible for stand-by time caused as a result of Transports, malfunctioning Distributer Equipment, or other causes which are no fault of the City of Kingman. Distributer Trucks and/or Trailers shall not be eligible for nor shall they receive reimbursement for stand-by time.

QUANTITY

The City of Kingman is anticipating purchasing 120 tons of Polymer Asphalt Sealer but, actual tons ordered may be higher or lower than estimated pending material costs and available funding. The City of Kingman makes no guaranty of actual purchase quantity.

SCHEDULE/DELIVERY

The projected start date for the project is June 1st and expected to be completed June 2nd, but schedule is subject to change. The City of Kingman will submit to the contractor a delivery plan with dates and times after quotes have been received.

REGARDING PASS (Trademark, Patent, No.5, 180,428)

The brand name or equivalent specification used in this solicitation for PASS is for illustrative purposes only, and such use does not represent an endorsement of any product or company by the City of Kingman, and is not intended to limit or restrict competition. In such instances, equivalent products and suppliers may be available. Any offer which proposes equal quality, design and/or performance will be considered if the product offered is identified in the offer, including providing published ADOT or MAG specification for proposed equivalent products or suppliers. The City of Kingman will make determination of an equivalent product or supplier through review of provided specifications.

INSURANCE REQUIREMENTS

The Contractor, at Contractor's own expense, shall purchase and maintain the minimum insurance required herein with companies duly licensed to do business in the State of Arizona, possessing a current A.M. Best, Inc. Rating of B+ or better.

Said insurance shall be maintained in full force and effect until all work required to be performed under the terms of the Contract is satisfactorily completed and formally accepted. All liability policies shall be written on an occurrence basis form. In the event any insurance policy(ies) required by the Contract is(are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of the Contractor's work or services.

The Contractor's insurance shall be primary insurance, and any insurance or self-insurance maintained by the City shall not contribute to it.

Any failure to comply with the claim reporting provisions of the policies or any breach of an insurance policy warranty shall not affect coverage afforded under the policy to protect the City.

The policy(ies), except Workers' Compensation, shall contain a waiver of transfer rights of recovery (subrogation) against the City, its agents, officers, officials and employees for any claims arising out of the Contractor's work or service.

Any deductibles and/or self-insured retentions under the policy(ies) shall be waived with respect to the coverage provided to the City under such policy(ies). The Contractor shall be solely responsible for deductibles and/or self-

insured retention and the City, at its option, may require the Contractor to secure the payment of such deductible or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

The City reserves the right to request and to receive, within 10 working days, certified copies of any or all of the required insurance policies and/or endorsements. The City shall not be obligated, however, to review same or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve the Contractor from, or be deemed a waiver of, the City's right to insist on strict fulfillment of the Contractor's obligations outlined herein.

The insurance policy(ies), required herein, except the copy of Workers' Compensation, required by the Contract shall name the City, its agents, officers, officials and employees as Additional Insured's and provide a policy endorsement to effect such change to the actual liability policies.

REQUIRED COVERAGE

General Liability

Contractor shall maintain Commercial General Liability insurance with a limit of not less than \$1,000,000 for each occurrence with a \$2,000,000 Products and Completed Operations Aggregate and \$2,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products/completed operations and blanket contractual coverage, including but not limited to, the liability assumed under the indemnification provisions of the Contract, which coverage will be at least as broad as ISO occurrence form CG 00 01 10 93 or any replacement thereof. The coverage shall not exclude X, C, U.

Said policy shall contain a severability of interest provision, and shall not contain a sunset provision, commutation clause, nor any provision which would serve to limit third party action over claims.

The Commercial General Liability additional insured endorsement shall be at least as broad as the ISO Additional Insured, Form B, CG 20 10 11 85, and shall include coverage for Contractor's operations and products and completed operations.

If the Contract allows the Contractor to, or the Contractor does, sublet or subcontract any part of the work, services or operations awarded to the Contractor, the Contractor shall purchase and maintain, at all times pertinent to the work, services or operations under the Contract, an Owner and Contractor's Protective Liability insurance policy for bodily injury, including death, and property damage which may arise in the performance of the Contractor's work, service or operations under this Contract. Coverage shall be on an occurrence basis with a limit not less than \$1,000,000 per occurrence, and the policy shall be issued by the same insurance company that issues the Contractor's Commercial General Liability insurance.

Automobile Liability

Contractor shall maintain Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to the Contractor's owned, hired and non-owned vehicles assigned to or used in the performance of the Contractor's work. Coverage will be at least as broad as coverage code 1, "any auto" of the Insurance Service Office, Inc. Policy Form COMMERCIAL AUTOMOBILE 00 01 12 93, or any amendments thereto. Such insurance shall include coverage for loading and off-loading hazards. If hazardous substances or materials or wastes are to be transported, MCS 90 endorsement shall be included and \$5,000,000 per accident limits for bodily injury and property damages is required under the Contract.

Workers' Compensation

The Contractor shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the performance of the work or services; and, Employer's Liability insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee, and \$500,000 disease policy limit.

In case any work is subcontracted, the Contractor will require each subcontractor to provide Workers' Compensation and Employer's Liability to a least the same extent as required of the Contractor.

CERTIFICATES OF INSURANCE

Prior to commencement of performance under the Contract, the Contractor shall furnish the City with Certificates of Insurance, and formal additional insured endorsement as required herein, issued by the Contractor's insurer(s), as evidence that policies providing the required coverage, conditions, and limits required herein are in full force and effect.

All liability policies shall be written on an occurrence basis form. In the event any insurance policy(ies) required herein is(are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of the Contractor's work or service and such coverage shall be evidenced by the required Certificates of Insurance.

If a policy does expire during the life of the contract, a renewal certificate must be sent to the City fifteen (15) days prior to the expiration date.

All Certificates of Insurance required herein shall be identified with the name of and/or description of the project.

Please return quotes per US Mail or to by email to the City of Kingman Street Superintendent, Jack Plaunty by 1 PM Monday April 13th, 2015.

Jack Plaunty
City of Kingman
Street Superintendent
(928)692-3135
JPlaunty@cityofkingman.gov

Address: City of Kingman Public Works
Attn. Jack Plaunty
3700 E. Andy Devine
Kingman, AZ 86401

PASS OFFER PAGE

The Undersigned hereby offers and agrees to furnish the material or service in compliance with all terms, conditions, specifications and amendments in the Invitation for Bid and any written exceptions in the offer.

Price per ton including tax \$1,174.00

Tax Rate used 8.05%

Stand-by rate \$95.00/HR

HAWKER & EVANS ASPHALT
Company Name

315 S MORRIS ST
Address

MESA, AZ 85210
City State Zip

DENNIS RYAN, PRESIDENT
Authorized Company Representative/Title

DENNIS RYAN, PRESIDENT
Authorized Representative/Title

480 834-3058
Phone

DENNISR@HAWKEREVANS.COM
Email

Dennis Ryan
Signature of Authorized Representative

by 4-15-15 18:57
now LP 4-15-15 18:40

ACCEPTANCE OF OFFER:

The offer is hereby accepted. The Vendor is not bound to provide the materials or services including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by the City of Kingman/Public entity.

The Contractor has been cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives this signed sheet, or written notice to proceed.

Awarded this _____ day of _____

PASS OFFER PAGE

The Undersigned hereby offers and agrees to furnish the material or service in compliance with all terms, conditions, specifications and amendments in the Invitation for Bid and any written exceptions in the offer. *see attached*

Price per ton including tax \$ 887.50/Ton

Tax Rate used 8.1%

Stand-by rate \$ 80/hr after first 1 1/2 hours

Western Emulsions, Inc
Company Name

ANTONIO C. PAEZ / AZ Sales Manager
Authorized Representative/Title

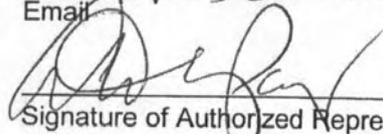
3900 E. Broadway Blvd.
Address

(520) 429-3472
Phone

Tucson AZ 85711
City State Zip

tony.paez@westernemulsions.com
Email

Mike McWenig / AZ Regional Director
Authorized Company Representative/Title


Signature of Authorized Representative

ACCEPTANCE OF OFFER:

The offer is hereby accepted. The Vendor is not bound to provide the materials or services including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by the City of Kingman/Public entity.

The Contractor has been cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives this signed sheet, or written notice to proceed.

Awarded this _____ day of _____, _____



April 13, 2015

Re: City of Kingman: PASS-CR- Supply and Spread w/Broom

QUOTE:

~120 Tons PASS-CR: \$821/ton
FOB, rack at Tucson Plant
TAX Rate of 8.1% is Not Included in price/ton.
SPREAD: \$225/Hr, 4 Hrs minimum
Broom Mobilization: \$500
Broom Rental: \$250/day
Freight: \$57.12/ton, 24 ton minimum
Plus applicable taxes, if any.

INCIDENTALS, if applicable:

Demurrage after First 1 ½ hours: \$80.00/Hr
Return Freight: 50% of Outbound Freight.
Layover: \$400/day

Please contact Jodi Williams/(520) 262-2803 at the Tucson Plant for scheduling.

Antonio (Tony) C. Paez, PE, RLS
Western Emulsions, Inc.
Business Development Manager
3900 E. Broadway Boulevard
Tucson, Arizona 85711
Office: (520) 622-7203 x256
Direct Dial: (520) 777-2256
Cell: (520) 429-3472

paez@westernemulsions.com

NN: #351372 CA: #672104 AZ: #093522

ARIZONA

3900 E. Broadway Boulevard
Tucson, Arizona 85711
phone: (520) 622-7203
tollfree: (800) 513-4707

CALIFORNIA

Three Monarch Bay Plaza, Suite 210
Dana Point California 92629
phone: (949) 248-8020
tollfree: (888) 706-4137

PLANT LOCATIONS:

Reynold, New Mexico
phone: (575) 347-9727

Irwindale, California
phone: (626) 854-3559

Tucson, Arizona
phone: (520) 624-4130

Billings, Montana
phone: (406) 478-1801

PASS OFFER PAGE

The Undersigned hereby offers and agrees to furnish the material or service in compliance with all terms, conditions, specifications and amendments in the Invitation for Bid and any written exceptions in the offer.

Price per ton including tax \$ 936.36

Tax Rate used 8.25%

Stand-by rate \$95

Cactus Transport
Company Name

Tim McWenig / AZ Transport Manager
Authorized Representative/Title

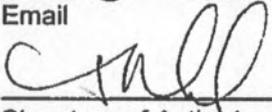
8211 W Sherman St
Address

602 679 9188
Phone

Tolleson AZ 85353
City State Zip

tm@cactustransport.com
Email

Tim McWenig / AZ Transport Manager
Authorized Company Representative/Title


Signature of Authorized Representative

ACCEPTANCE OF OFFER:

The offer is hereby accepted. The Vendor is not bound to provide the materials or services including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by the City of Kingman/Public entity.

The Contractor has been cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives this signed sheet, or written notice to proceed.

Awarded this _____ day of _____,



Cactus Transport, Inc | 8211 W Sherman St | Tolleson, AZ 85353
Office: 623-907-2800 | Fax: 623-907-2900

Re: PASS Emulsion Application and Delivery
Project Name: The City of Kingman
Location: Kingman, AZ
Date: 4-13-15

Quote

Item 1 – PASS Material

Quantity: 120 Tons
Product: PASS

120 tons at \$865.00 per ton

- Price includes freight to deliver material to project
- 24 Ton Minimum per load
- Loading- One Hour Free/ Unloading- One and One Half Hours Free
- Excess Time Charge- \$95.00 Hr.
- *Return Load:* To Loading Origin- 50% of the outbound freight
- Loads cancelled in transit on a prorated basis. Delivery fee waived if completed during mobilization

Price: **\$865** per Ton

Sub Total: \$103,800.00

Item 2 – Spreader Hours

Hours: 20 Hours

Application of Material:

20 Hours at \$232.50 per hour

- One (1) trucks for two (2) days of work
- Portal to portal for all spreader truck time,
- Including load/unload, spread, standby and retort, driver time.
- Six (6) hour minimum per day

Price: **\$232.50** per Hour

Sub Total: \$4,650.00

Item 3 – Mobilization

Mobilization of one (1) spreader trucks

1 Mobilization at \$1,125 per Mob

Price: **\$1,125** per Mob

Sub Total: \$1,125.00

Item 4 – Overnight Stay

Layover for two (2) nights

2 Nights at \$175.00 per Night

Price: **\$175.00** per Night

Sub Total: \$350.00

SUB TOTAL: \$109,925.00

TAXES: \$9,068.81

GRAND TOTAL: \$118,993.81

- Project is subject to equipment availability
- Project information is based off two (2) days of work. If the times vary from the specified time the pricing will revert to the hourly or daily rates provided.

If you have any questions please call. Thanks **Tim McWenie**.

- No Credits or Returns on Diluted or Asphalt Cutback Products.
- All prices and contracts subject to equipment and material availability.
- All prices exclude all taxes, bonds, and traffic control.

ARTICLE X.
CITY PROCUREMENT CODE¹

Sec. 2-159 In general.

(a) The city manager shall be the purchasing agent for the City of Kingman. Unless otherwise required by state law, no purchase or contract for services of any kind or description, payment for which is to be made from funds of the city, shall be made by the purchasing agent, or any officer, employee or agent of the city, except in the manner set forth in this article.

(b) The city manager shall issue direction to staff providing for a centralized purchasing procedure, a procedure for disposition of surplus property and a periodic inventory of city property.

(c) This article shall apply to the purchase, rent or lease of non-construction-related supplies, services and personal property for the City of Kingman. For requirements for the procurement of construction services and related materials and architecture and engineering services, see A.R.S. § 34-201, et seq.

(d) Except as otherwise provided in this article, city purchases of, or contracts for goods or services, other than in connection with the construction of public buildings and public works improvements, shall be made according to the following procedure:

(1) Under \$5,000.00. Whenever any contemplated purchase of, or contract for, goods or services is for the sum of less than five thousand dollars (\$5,000.00), the purchasing agent may purchase the item or items as needed without further formality.

(2) \$5,000.00 to \$25,000.00. Whenever any contemplated purchase of, or contract for, goods or services is for the sum of at least five thousand dollars (\$5,000.00) but not more than twenty-five thousand dollars (\$25,000.00), the purchasing agent shall solicit at least three (3) proposals, either written or oral, for the item or service. The purchasing agent shall document the substance of the proposals and shall procure the goods or services from the vendor whose proposal best meets the needs and interests of the city, in terms of cost, specifications and qualifications of the vendor.

(3) \$25,000.00 and over. Whenever any contemplated purchase of, or contract for, goods or services is for the sum of twenty-five thousand dollars (\$25,000.00) or more, the purchasing agent shall subject the purchase or contract to the formal competitive bidding process in accordance with section 2-161.

(4) When council approval is required. No contract of twenty-five thousand dollars (\$25,000.00) or more shall be let except with the approval of the common council. Whenever any contemplated purchase or contract for services is for the sum of twenty-five thousand dollars (\$25,000.00) or more, the purchasing agent shall present the bids to the

council for approval, and advise the council of the advantages or disadvantages of contract and bid proposals.

(Ord. No. 1239, § 2, 12-20-99)

Sec. 2-160 Exceptions to the formal bidding requirement.

In the following instances, any applicable formal bidding requirement is waived, provided that purchases or contracts of twenty-five thousand dollars (\$25,000.00) or more shall be subject to approval by the common council.

(a) Council discretion. Whenever competitive bidding would be otherwise required under this article, if it is determined that the use of competitive sealed bidding is either not practicable or not advantageous to this city, the purchasing agent shall prepare a written report to the common council and the council may authorize an alternative procedure, taking into consideration the need to provide for fair competition and, at the same time, the need to serve the best interests of the city.

(b) Emergency purchases. In case of an emergency which requires immediate purchases of supplies or services and time is of the essence, the mayor shall be empowered to authorize the purchasing agent to purchase or secure services without complying with procedures as set forth above. A full report in writing of the circumstances of any emergency purchase shall be filed by the purchasing agent with the common council at its next meeting.

(c) Sole source. Contracts may be awarded for goods and services covered by this article without competitive bidding if the purchasing agent determines in writing that there is only one source for the required goods or services. The purchasing agent may require the submission of cost or pricing data in connection with an award under this section. Sole source procurement shall be avoided, except when no reasonable alternative sources exist. A written determination of the basis for the sole source procurement shall be included in the contract file.

(d) Professional services. The purchasing agent may suspend the application of section 2-159 in the employment of professional services. For purposes of this section, "professional services" means the furnishing of labor, time or effort by a contractor or subcontractor engaged in an activity of special skill or experience which does not involve the delivery of a specific end product other than required reports and performance directly related to his/her specialized field or occupation. Such services shall include, but not be limited to, the following: physicians, attorneys, expert witnesses, appraisers, consultants, equipment maintenance and technical support, etc.

(e) Cooperative purchasing. Section 2-159 shall not apply to purchases made by, through or with any United States Federal, state, or political subdivisions thereof. The city may make purchases or award contracts for services without a formal bidding process whenever other governmental units have done so pursuant to competitive bidding for the same item or service if, in the opinion

of the purchasing agent, a separate bidding process is not likely to result in a lower price for such items or services.

(f) Petroleum products. Unless required by the council, this article shall not apply to the purchase of petroleum products, including gas, oil and diesel fuel.

(g) Used items. The purchasing agent may purchase used items without competitive bidding.

(Ord. No. 1239, § 2, 12-20-99; Ord. No. 1598, § 1, 11-19-07)

Sec. 2-161 Bidding.

Whenever formal bidding is required under this article, the purchasing agent and all parties contracting with the city for the goods and services covered by this article shall follow the procedure hereinafter set forth in relation to all bidding.

(a) The purchasing agent shall cause a notice of invitation for bids to be published in one issue of a newspaper of general circulation within the city no less than ten (10) days prior to the date set for receipt and opening of the bids. All notices shall state the time and place for receipt of bids, the time and place for opening and where the invitation for bids and a complete set of specifications may be obtained. The notice shall also include a general but brief description of the articles to be purchased or the services to be performed in sufficient detail to enable bidders to determine their desire and ability to bid. In addition, the purchasing agent shall post the notice of invitation for bids in the city complex and may also mail a copy of the notice and invitation for bids to responsible prospective suppliers.

(b) All bids shall bear the original signature of a responsible agent of the bidder, shall be physically delivered to the city clerk by mail or other means before the time set for receipt of bids, shall be submitted in a sealed envelope or other container and shall be identified as bids for specified items or services on the envelope or container. Unsealed bids or bids delivered by facsimile or other electronic means shall not be considered.

(c) Bids shall be opened publicly at the time and place designated in the invitation for bids. The amount of each bid, and such other relevant information as may be specified by rule, together with the name of each bidder shall be recorded. This record shall be open to public inspection at the bid opening in a manner prescribed by rule. The bid documents in their entirety shall not be open for public inspection until a contract is brought to council for approval, at which time all bid materials shall be public information in accordance with section 2-164.

(d) A tabulation of all bids received shall be posted for at least five (5) days in the city complex for public inspection.

(e) The purchasing agent may require bid guarantees for up to five (5) per cent of the amount of the bid. The bid guarantee shall consist of a certified check, cashier's check, letter of credit or

CITY OF KINGMAN COMMUNICATION TO COUNCIL



TO: Honorable Mayor and Council Members

FROM: Public Works

MEETING DATE: April 21, 2015

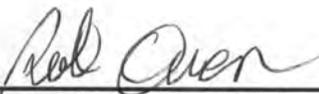
AGENDA SUBJECT: Authorization for purchase and application of 515 Tons of CRS-2P Emulsion for the 2014-2015 fiscal year chip seal project.

SUMMARY: The City of Kingman Street Department Requested Quotes for supply and application of CRS-2P Emulsion per City of Kingman Municipal Code 2-160f. Upon receipt of quotes it was found that two of the three bidders had not submitted their offer as required in the Request for Quotes. The price provided on the "Per Ton" line was for only the emulsion and did not include any labor, transportation or incidental costs related to application of the emulsion as required. The only contractor to correctly submit a bid was Hawker and Evans Asphalt Company.

ATTACHMENT: City of Kingman Request for Quote, submitted Bid Offers, and City of Kingman Municipal Code 2-160.

FISCAL IMPACT: \$342,475 from Pavement Preservation Funds.

RECOMMENDATION: Staff recommends authorization of purchase and application of 515 tons of CRS-2P Emulsion for the 2014-2015 fiscal year chip seal project, from Hawker and Evans Asphalt Company, in the amount of \$342,475.



Signature of Dept. Head



City Attorney
Approved as to form



City Manager's Review

AGENDA ITEM: 3h



City of Kingman

310 NORTH FOURTH STREET • KINGMAN • ARIZONA • 86401 • (928)753-5561
www.cityofkingman.gov

March 31, 2015

To: Contractors

Re: Request for Quote for ~~PASS CR Polymer Asphalt Surface Sealer~~ ^{Polymer Modified CRS-2P}
The City of Kingman Public Works Department is soliciting written quotes to supply the City of Kingman with Polymer Modified CRS-2P.

dr 4-15-15 18:53
LP 4-15-15 18:40

GENERAL

The City of Kingman would like to obtain Quotes for the upcoming chip seal project. Procurement for this work will be completed in accordance with Section 2-160f of the Kingman Municipal Code.

Bidders are instructed to include any and all costs in their bid items for providing all labor, materials, equipment, transportation, utilities, facilities, licenses, permits, incidentals and fees for the performance of all work as required to produce, store, load, weigh, deliver, transfer and apply the asphalt as specified by the City of Kingman.

The bidder shall possess all permits, licenses and professional credentials necessary to provide services as specified including all equipment and operator's licenses necessary to supply, deliver and perform services as specified. Payment and Performance Bonds are not required but, the contractor shall demonstrate proof of adequate insurance coverage naming the City of Kingman as an Additional Insured by endorsement. Refer to the insurance requirements section for minimum coverage requirements.

COOPERATIVE-MULTI-AGENCY PROCUREMENT

This solicitation is being prepared by the City of Kingman as the lead agency. While this solicitation is for the City of Kingman, other public agencies may have an interest in utilizing the resulting contract. After an award, this solicitation may be utilized by eligible public entities. Individual public entities would negotiate service with the Successful Vendor using the bid pricing quoted herein. No volume is implied or guaranteed.

BITUMINOUS MATERIAL

Emulsified Asphalt shall meet the requirements of section 1005-BITUMINOUS MATERIALS, of the ARIZONA DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION, for Emulsified Asphalt CRS-2P. Polymer shall be added prior to the emulsification. Asphaltic Materials supplied to the project shall be pre-certified by a qualified laboratory and a certificate of compliance shall accompany each load of material delivered to the project site. Asphalt materials shall be bid by the ton and shall include all costs for providing all, taxes, labor, materials, equipment, transportation, services, facilities, licenses, permits, fees and incidentals, for the performance of all work as may be necessary to produce, store, load, weigh, deliver and to transfer the Asphalt Materials requested at the site of Work at the unit price per ton bid.

DISTRIBUTER TRUCK

The distributor truck shall be capable of holding 2900 gallon or more unless approved by the City of Kingman prior to the start of work. The distributor truck(s) supplied shall be designed, equipped, maintained and operated so that bituminous material at even heat may be applied uniformly at variable widths of surface up to 16 feet at readily determined and controlled rates from 0.02 to 1.0 gallons per square yard in units of 0.1 gallons per square

yard, with uniform pressure, and with an allowable transverse variation from any specified rate not to exceed ten percent or 0.02 gallon per square yard, whichever is less. Distributer equipment shall include computerized rate control, tachometer, pressure gauge, accurate volume measuring devices or a calibrated tank, and a thermometer for measuring the temperatures of the tank contents. Distributors shall be equipped with a power unit for the pump, and full circulation spray bars adjustable laterally and vertically. Distributor trucks shall be tested within six months from the date of spreading to determine the rate of the transverse spread. The contractor shall furnish the City of Kingman evidence that the transverse spread of the distributor truck, when the trucks were approved for use, was as uniform as practicable and under no condition was there a variance on any of the test pads greater than allowable transverse variation. The bidder shall be fully responsible for assuring compliance with spread rate certification. The bidder shall also be responsible for monitoring yield rates of the distributor truck to ensure correct shot rate of material requested is being applied during operation.

STAND-BY TIME

Bid item stand-by time shall only apply to Tankers and shall only be for that time which the Tanker is authorized by the City of Kingman to be and is at the site of work during City hours, past the allotted one hour stand-by time included in the bidders unit price per ton bid for the Asphalt Materials whereby, due to no fault whatsoever of the Tanker, Tanker's Owner, or Bidder, the Tanker is unable to begin transferring the Asphalt Material. The City of Kingman will not be responsible for stand-by time caused as a result of Transports, malfunctioning Distributer Equipment, or other causes which are no fault of the City of Kingman. Distributer Trucks and/or Trailers shall not be eligible for nor shall they receive reimbursement for stand-by time.

QUANTITY

The City of Kingman is anticipating purchasing 515 tons of CRS-2P but, actual tons ordered may be higher or lower than estimated pending material costs and available funding. The City of Kingman makes no guaranty of actual purchase quantity.

SCHEDULE/DELIVERY

The projected start date for the project is May 17th and will be completed over two weeks. The work is expected to be completed in seven days. It is expected the first week will work Sunday to Wednesday and Tuesday to Thursday on the second week. The City of Kingman will submit to the contractor a delivery plan with dates and times after quotes have been received.

INSURANCE REQUIREMENTS

The Contractor, at Contractor's own expense, shall purchase and maintain the minimum insurance required herein with companies duly licensed to do business in the State of Arizona, possessing a current A.M. Best, Inc. Rating of B+ or better.

Said insurance shall be maintained in full force and effect until all work required to be performed under the terms of the Contract is satisfactorily completed and formally accepted. All liability policies shall be written on an occurrence basis form. In the event any insurance policy(ies) required by the Contract is(are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of the Contractor's work or services.

The Contractor's insurance shall be primary insurance, and any insurance or self-insurance maintained by the City shall not contribute to it.

Any failure to comply with the claim reporting provisions of the policies or any breach of an insurance policy warranty shall not affect coverage afforded under the policy to protect the City.

The policy(ies), except Workers' Compensation, shall contain a waiver of transfer rights of recovery (subrogation) against the City, its agents, officers, officials and employees for any claims arising out of the Contractor's work or service.

Any deductibles and/or self-insured retentions under the policy(ies) shall be waived with respect to the coverage provided to the City under such policy(ies). The Contractor shall be solely responsible for deductibles and/or self-insured retention and the City, at its option, may require the Contractor to secure the payment of such deductible or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

The City reserves the right to request and to receive, within 10 working days, certified copies of any or all of the required insurance policies and/or endorsements. The City shall not be obligated, however, to review same or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve the Contractor from, or be deemed a waiver of, the City's right to insist on strict fulfillment of the Contractor's obligations outlined herein.

The insurance policy(ies), required herein, except the copy of Workers' Compensation, required by the Contract shall name the City, its agents, officers, officials and employees as Additional Insured's and provide a policy endorsement to effect such change to the actual liability policies.

REQUIRED COVERAGE

General Liability

Contractor shall maintain Commercial General Liability insurance with a limit of not less than \$1,000,000 for each occurrence with a \$2,000,000 Products and Completed Operations Aggregate and \$2,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products/completed operations and blanket contractual coverage, including but not limited to, the liability assumed under the indemnification provisions of the Contract, which coverage will be at least as broad as ISO occurrence form CG 00 01 10 93 or any replacement thereof. The coverage shall not exclude X, C, U.

Said policy shall contain a severability of interest provision, and shall not contain a sunset provision, commutation clause, nor any provision which would serve to limit third party action over claims.

The Commercial General Liability additional insured endorsement shall be at least as broad as the ISO Additional Insured, Form B, CG 20 10 11 85, and shall include coverage for Contractor's operations and products and completed operations.

If the Contract allows the Contractor to, or the Contractor does, sublet or subcontract any part of the work, services or operations awarded to the Contractor, the Contractor shall purchase and maintain, at all times pertinent to the work, services or operations under the Contract, an Owner and Contractor's Protective Liability insurance policy for bodily injury, including death, and property damage which may arise in the performance of the Contractor's work, service or operations under this Contract. Coverage shall be on an occurrence basis with a limit not less than \$1,000,000 per occurrence, and the policy shall be issued by the same insurance company that issues the Contractor's Commercial General Liability insurance.

Automobile Liability

Contractor shall maintain Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to the Contractor's owned, hired and non-owned vehicles assigned to or used in the performance of the Contractor's work. Coverage will be at least as broad as coverage code 1, "any auto" of the Insurance Service Office, Inc. Policy Form COMMERCIAL AUTOMOBILE 00 01 12 93, or any amendments thereto. Such insurance shall include coverage for loading and off-loading hazards. If hazardous substances or materials or wastes are to be transported, MCS 90 endorsement shall be included and \$5,000,000 per accident limits for bodily injury and property damages is required under the Contract.

Workers' Compensation

The Contractor shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the performance of the work or services; and,

Employer's Liability insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee, and \$500,000 disease policy limit.

In case any work is subcontracted, the Contractor will require each subcontractor to provide Workers' Compensation and Employer's Liability to a least the same extent as required of the Contractor.

CERTIFICATES OF INSURANCE

Prior to commencement of performance under the Contract, the Contractor shall furnish the City with Certificates of Insurance, and formal additional insured endorsement as required herein, issued by the Contractor's insurer(s), as evidence that policies providing the required coverage, conditions, and limits required herein are in full force and effect.

All liability policies shall be written on an occurrence basis form. In the event any insurance policy(ies) required herein is(are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of the Contractor's work or service and such coverage shall be evidenced by the required Certificates of Insurance.

If a policy does expire during the life of the contract, a renewal certificate must be sent to the City fifteen (15) days prior to the expiration date.

All Certificates of Insurance required herein shall be identified with the name of and/or description of the project.

Please return quotes per US Mail or to by email to the City of Kingman Street Superintendent, Jack Plaunty by 1 PM Monday April 13th, 2015.

Jack Plaunty
City of Kingman
Street Superintendent
(928)692-3135
Jplaunty@cityofkingman.gov

Address: City of Kingman Public Works
Attn. Jack Plaunty
3700 E. Andy Devine
Kingman, AZ 86401

CRS-2P OFFER PAGE

The Undersigned hereby offers and agrees to furnish the material or service in compliance with all terms, conditions, specifications and amendments in the Invitation for Bid and any written exceptions in the offer.

Price per ton including tax \$ 665 / TON

Tax Rate used 8.05 %

Stand-by rate \$ 95 / HR

HAWKER & EVANS ASPHALT CO
Company Name

315 S MORRIS ST
Address

MESA, AZ 85210
City State Zip

DENNIS RYAN, PRESIDENT
Authorized Company Representative/Title

DENNIS RYAN, PRESIDENT
Authorized Representative/Title

480 834-3058
Phone

DENNISR@HAWKERLEEVANS.COM
Email

Dennis Ryan
Signature of Authorized Representative

ACCEPTANCE OF OFFER:

The offer is hereby accepted. The Vendor is not bound to provide the materials or services including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by the City of Kingman/Public entity.

dt 4-15-15 18:55
now AP 4-15-2015 18:40

The Contractor has been cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives this signed sheet, or written notice to proceed.

Awarded this _____ day of _____

CRS-2P OFFER PAGE

The Undersigned hereby offers and agrees to furnish the material or service in compliance with all terms, conditions, specifications and amendments in the Invitation for Bid and any written exceptions in the offer.

see attached
Aay

Price per ton including tax \$572.93/Ton

Tax Rate used 8.1%

Stand-by rate \$80/hr after first 1 1/2 hours

Western Emulsions, Inc
Company Name

ANTONIO C. PAEZ / AZ Sales Manager
Authorized Representative/Title

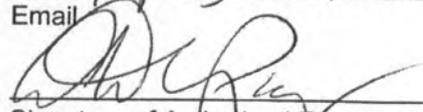
3900 E. Broadway Blvd.
Address

(520) 429-3472
Phone

Tucson ARIZONA 85711
City State Zip

tony.paez@westernemulsions.com
Email

MIKE McWenig / AZ Regional Director
Authorized Company Representative/Title


Signature of Authorized Representative

ACCEPTANCE OF OFFER:

The offer is hereby accepted. The Vendor is not bound to provide the materials or services including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by the City of Kingman/Public entity.

The Contractor has been cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives this signed sheet, or written notice to proceed.

Awarded this _____ day of _____, _____



April 13, 2015

RE: City of Kingman: CRS-2P - Supply and Spread

QUOTE:

~ 515 tons CRS-2P: \$530/ton + 8.1% TAX = \$572.93/Ton
FOB, rack at Tucson Plant
SPREAD: \$225/HR, 4 Hrs minimum
Freight: \$57.12/ton, 24 ton minimum
Plus applicable taxes, if any.

INCIDENTALS, if applicable:
Demurrage after First 1 ½ hours: \$80.00/Hr
Return Freight: 50% of Outbound Freight.
Layover: \$400/day

Please contact Jodi Williams/(520) 262-2803 at the Tucson Plant for scheduling.

Antonio (Tony) C. Paez, PE, RLS
Western Emulsions, Inc.
Business Development Manager
3900 E. Broadway Boulevard
Tucson, Arizona 85711
Office: (520) 622-7203 x256
Direct Dial: (520) 777-2256
Cell: (520) 429-3472

paez@westernemulsions.com

NM: #351372 CA: #672104 AZ: #093522

ARIZONA

3900 E. Broadway Boulevard
Tucson, Arizona 85711
phone: (520) 622-7203
tollfree: (800) 513-4203

CALIFORNIA

Three Monarch Bay Plaza, Suite 210
Dana Point, California 92629
phone: (949) 248-8020
tollfree: (888) 705-4137

PLANT LOCATIONS

| | |
|--|--|
| Rawl, New Mexico phone: (575) 347-9227 | Tucson, Arizona phone: (520) 624-4130 |
| Irwindale, California phone: (714) 638-8330 | Billings, Montana phone: (406) 672-1831 |

CRS-2P OFFER PAGE

The Undersigned hereby offers and agrees to furnish the material or service in compliance with all terms, conditions, specifications and amendments in the Invitation for Bid and any written exceptions in the offer.

Price per ton including tax \$589.96

Tax Rate used 8.25%

Stand-by rate \$45/hr

Cactus Transport
Company Name

Tim McWenig / AZ Transport
Authorized Representative/Title manager

8211 W Sherman St
Address

602-679-9188
Phone

Tolleson AZ 85353
City State Zip

tim@cactustransport.com
Email

Tim McWenig
Authorized Company Representative/Title
AZ Transport Manager

[Signature]
Signature of Authorized Representative

ACCEPTANCE OF OFFER:

The offer is hereby accepted. The Vendor is not bound to provide the materials or services including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by the City of Kingman/Public entity.

The Contractor has been cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives this signed sheet, or written notice to proceed.

Awarded this _____ day of _____.



Cactus Transport, Inc | 8211 W Sherman St | Tolleson, AZ 85353
Office: 623-907-2800 | Fax: 623-907-2900

Re: Emulsion Application and Delivery
Project Name: The City of Kingman
Location: Kingman, AZ
Date: 4-13-15

Quote

Item 1 – CRS-2P Material

Quantity: 515 Tons

Product: CRS-2P

515 tons at \$545.00 per ton

- Price includes freight to deliver material to project
- 24 Ton Minimum per load
- Loading- One Hour Free/ Unloading- One and One Half Hours Free
- Excess Time Charge- \$95.00 Hr.
- Return Load: To Loading Origin- 50% of the outbound freight
- Loads cancelled in transit on a prorated basis. Delivery fee waived if completed during mobilization

Price: \$545.00 per Ton

Sub Total: \$280,675.00

Item 2 – Spreader Hours

Hours: 75 Hours

Application of Material:

- One (1) trucks for seven (7) days of work
- Portal to portal for all spreader truck time,
- Including load/unload, spread, standby and retort, driver time.
- Six (6) hour minimum per day

75 Hours at \$185.00 per hour

Price: \$185.00 per Hour

Sub Total: \$13,875.00

Item 3 – Mobilization

Mobilization of one (1) spreader trucks for two (2) moves

2 Mobilizations at \$1,125 per Mob

Price: \$1,125 per Mob

Sub Total: \$2,250.00

Item 4 – Overnight Stay

Layover for seven (7) nights

14 Nights at \$175.00 per Night

Price: \$175.00 per Night

Sub Total: \$1,225.00

SUB TOTAL: \$298,025.00

TAXES: \$24,587.06

GRAND TOTAL: \$322,612.06

- Project is subject to equipment availability
- Project information is based off seven (7) days of work. If the times vary from the specified time the pricing will revert to the hourly rates provided.

If you have any questions please call. Thanks **Tim McWenie**.

- No Credits or Returns on Diluted or Asphalt Cutback Products.
- All prices and contracts subject to equipment and material availability.
- All prices exclude all taxes, bonds, and traffic control.

**ARTICLE X.
CITY PROCUREMENT CODE¹**

Sec. 2-159 In general.

(a) The city manager shall be the purchasing agent for the City of Kingman. Unless otherwise required by state law, no purchase or contract for services of any kind or description, payment for which is to be made from funds of the city, shall be made by the purchasing agent, or any officer, employee or agent of the city, except in the manner set forth in this article.

(b) The city manager shall issue direction to staff providing for a centralized purchasing procedure, a procedure for disposition of surplus property and a periodic inventory of city property.

(c) This article shall apply to the purchase, rent or lease of non-construction-related supplies, services and personal property for the City of Kingman. For requirements for the procurement of construction services and related materials and architecture and engineering services, see A.R.S. § 34-201, et seq.

(d) Except as otherwise provided in this article, city purchases of, or contracts for goods or services, other than in connection with the construction of public buildings and public works improvements, shall be made according to the following procedure:

(1) Under \$5,000.00. Whenever any contemplated purchase of, or contract for, goods or services is for the sum of less than five thousand dollars (\$5,000.00), the purchasing agent may purchase the item or items as needed without further formality.

(2) \$5,000.00 to \$25,000.00. Whenever any contemplated purchase of, or contract for, goods or services is for the sum of at least five thousand dollars (\$5,000.00) but not more than twenty-five thousand dollars (\$25,000.00), the purchasing agent shall solicit at least three (3) proposals, either written or oral, for the item or service. The purchasing agent shall document the substance of the proposals and shall procure the goods or services from the vendor whose proposal best meets the needs and interests of the city, in terms of cost, specifications and qualifications of the vendor.

(3) \$25,000.00 and over. Whenever any contemplated purchase of, or contract for, goods or services is for the sum of twenty-five thousand dollars (\$25,000.00) or more, the purchasing agent shall subject the purchase or contract to the formal competitive bidding process in accordance with section 2-161.

(4) When council approval is required. No contract of twenty-five thousand dollars (\$25,000.00) or more shall be let except with the approval of the common council. Whenever any contemplated purchase or contract for services is for the sum of twenty-five thousand dollars (\$25,000.00) or more, the purchasing agent shall present the bids to the

council for approval, and advise the council of the advantages or disadvantages of contract and bid proposals.

(Ord. No. 1239, § 2, 12-20-99)

Sec. 2-160 Exceptions to the formal bidding requirement.

In the following instances, any applicable formal bidding requirement is waived, provided that purchases or contracts of twenty-five thousand dollars (\$25,000.00) or more shall be subject to approval by the common council.

(a) Council discretion. Whenever competitive bidding would be otherwise required under this article, if it is determined that the use of competitive sealed bidding is either not practicable or not advantageous to this city, the purchasing agent shall prepare a written report to the common council and the council may authorize an alternative procedure, taking into consideration the need to provide for fair competition and, at the same time, the need to serve the best interests of the city.

(b) Emergency purchases. In case of an emergency which requires immediate purchases of supplies or services and time is of the essence, the mayor shall be empowered to authorize the purchasing agent to purchase or secure services without complying with procedures as set forth above. A full report in writing of the circumstances of any emergency purchase shall be filed by the purchasing agent with the common council at its next meeting.

(c) Sole source. Contracts may be awarded for goods and services covered by this article without competitive bidding if the purchasing agent determines in writing that there is only one source for the required goods or services. The purchasing agent may require the submission of cost or pricing data in connection with an award under this section. Sole source procurement shall be avoided, except when no reasonable alternative sources exist. A written determination of the basis for the sole source procurement shall be included in the contract file.

(d) Professional services. The purchasing agent may suspend the application of section 2-159 in the employment of professional services. For purposes of this section, "professional services" means the furnishing of labor, time or effort by a contractor or subcontractor engaged in an activity of special skill or experience which does not involve the delivery of a specific end product other than required reports and performance directly related to his/her specialized field or occupation. Such services shall include, but not be limited to, the following: physicians, attorneys, expert witnesses, appraisers, consultants, equipment maintenance and technical support, etc.

(e) Cooperative purchasing. Section 2-159 shall not apply to purchases made by, through or with any United States Federal, state, or political subdivisions thereof. The city may make purchases or award contracts for services without a formal bidding process whenever other governmental units have done so pursuant to competitive bidding for the same item or service if, in the opinion

of the purchasing agent, a separate bidding process is not likely to result in a lower price for such items or services.

(f) Petroleum products. Unless required by the council, this article shall not apply to the purchase of petroleum products, including gas, oil and diesel fuel.

(g) Used items. The purchasing agent may purchase used items without competitive bidding.

(Ord. No. 1239, § 2, 12-20-99; Ord. No. 1598, § 1, 11-19-07)

Sec. 2-161 Bidding.

Whenever formal bidding is required under this article, the purchasing agent and all parties contracting with the city for the goods and services covered by this article shall follow the procedure hereinafter set forth in relation to all bidding.

(a) The purchasing agent shall cause a notice of invitation for bids to be published in one issue of a newspaper of general circulation within the city no less than ten (10) days prior to the date set for receipt and opening of the bids. All notices shall state the time and place for receipt of bids, the time and place for opening and where the invitation for bids and a complete set of specifications may be obtained. The notice shall also include a general but brief description of the articles to be purchased or the services to be performed in sufficient detail to enable bidders to determine their desire and ability to bid. In addition, the purchasing agent shall post the notice of invitation for bids in the city complex and may also mail a copy of the notice and invitation for bids to responsible prospective suppliers.

(b) All bids shall bear the original signature of a responsible agent of the bidder, shall be physically delivered to the city clerk by mail or other means before the time set for receipt of bids, shall be submitted in a sealed envelope or other container and shall be identified as bids for specified items or services on the envelope or container. Unsealed bids or bids delivered by facsimile or other electronic means shall not be considered.

(c) Bids shall be opened publicly at the time and place designated in the invitation for bids. The amount of each bid, and such other relevant information as may be specified by rule, together with the name of each bidder shall be recorded. This record shall be open to public inspection at the bid opening in a manner prescribed by rule. The bid documents in their entirety shall not be open for public inspection until a contract is brought to council for approval, at which time all bid materials shall be public information in accordance with section 2-164.

(d) A tabulation of all bids received shall be posted for at least five (5) days in the city complex for public inspection.

(e) The purchasing agent may require bid guarantees for up to five (5) per cent of the amount of the bid. The bid guarantee shall consist of a certified check, cashier's check, letter of credit or

CITY OF KINGMAN COMMUNICATION TO COUNCIL



TO: Honorable Mayor and Council Members

FROM: Chief Robert J. DeVries

MEETING DATE: April 7, 2015

AGENDA SUBJECT: Smoking Ban in Vehicles

SUMMARY:

The Kingman Youth Coalition Beating Up Teen Tobacco (KYC - BUTT) has approached staff and members of the City Council in an effort to adopt a city ordinance that would ban an individual from smoking in a vehicle occupied by a minor.

Currently 9 states have adopted similar legislation with an additional 5 states working through the legislative process. The KYC - BUTT Coalition has also located 3 counties and 6 cities that have adopted ordinances.

The KYC - Butt Coalition is requesting that the City of Kingman consider adopting the ordinance, to include electronic smoking devices, to enhance child endangerment laws.

ATTACHMENT:

KYC - BUTT Informational Packet

FISCAL IMPACT:

None

STAFF RECOMMENDATION:

Staff requests direction from the Mayor and Council in pursuing an ordinance banning individuals from smoking in a vehicle occupied by a minor.

Signature of Dept. Head



City Attorney
Approved as to form



City Manager's Review

AGENDA ITEM: *Sa*

KYCBUTT Proposal for No Smoking in Cars with Minors City Ordinance:

- ▣ City Ordinance Prohibit Smoking In Any Motor Vehicle When A Minor Is Present
 - This law would be a secondary offense that would require a person have already been pulled over for a primary reason. (Similar to seatbelt and distracted driver laws.)
 - When cited, the person shall pay a fine of \$50.00, which the court could offer to waive if the person completes a court approved tobacco education class. Any subsequent citations would be subject to the \$50.00 fine. (The Mohave County Tobacco Program would offer tobacco education classes at no charge.)
 - This ordinance would include electronic smoking devices.
 - To enhance the child endangerment laws we already have in place for our community.

Second Hand Smoke Fact Sheet

- Secondhand smoke (also called environmental tobacco smoke, involuntary smoke, and passive smoke) is the smoke given off by a burning tobacco product and the smoke exhaled by a smoker.
- At least 69 chemicals in secondhand smoke are known to cause cancer.
- Secondhand smoke causes lung cancer in nonsmokers.
- Secondhand smoke has also been associated with heart disease in adults and sudden infant death syndrome, ear infections, and asthma attacks in children.
- The amount of secondhand smoke kids are exposed to in motor vehicles in which smoking occurs is comparable to the amount of secondhand smoke they would be exposed to if they were to hang out in a smoke filled bar.
- 2 of every 3 children ages 3-11 are involuntarily exposed to secondhand smoke.
- 320,000 Arizona children are exposed to secondhand smoke within motor vehicles each week.
- 5.6 million Children alive today will ultimately die early from secondhand smoke exposure.
- There is no safe level of exposure to secondhand smoke.

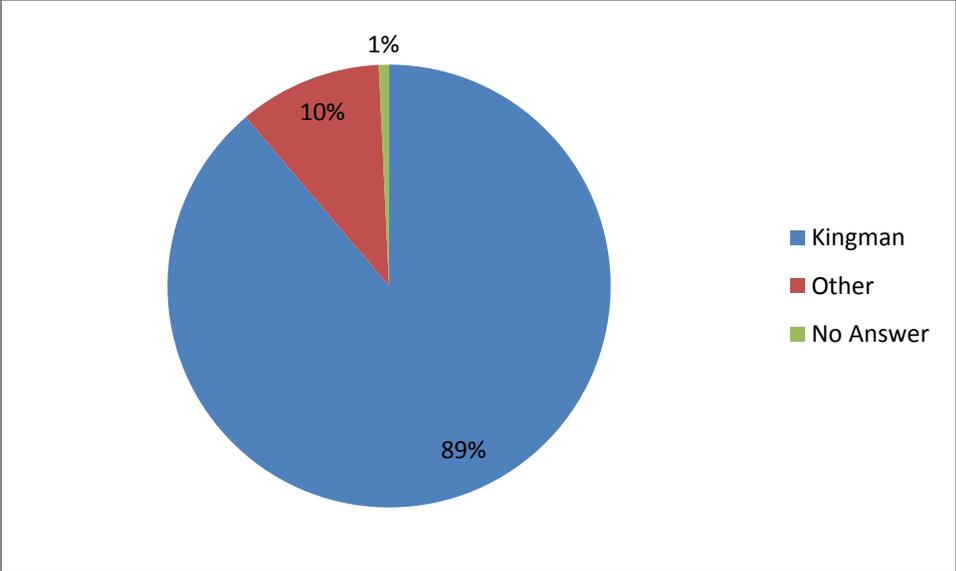
Smoke Free Cars w/ Kids under 18 years of Age

Survey Results

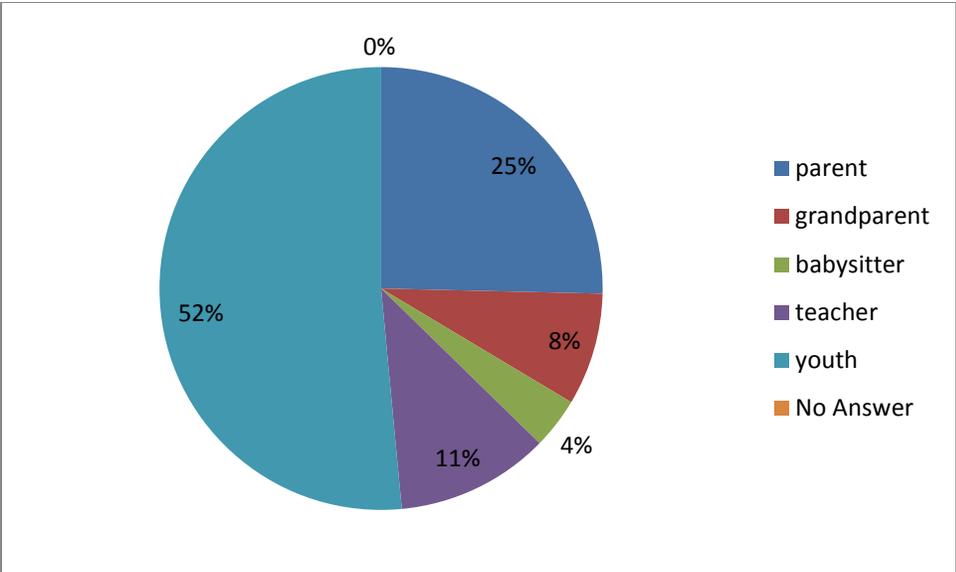
(134 surveys were completed in Kingman, AZ)

1. 89% of all respondents are from Kingman
2. Respondents were: 25% parents, 8% grandparents, 4% babysitters, 11% teachers, and 52% youth.
3. In general, 80% of respondents feel that an exposure to second hand smoke is a serious health hazard. 18% believe it is a minor health hazard, and 2% thought it was not a hazard at all.
4. 78% of respondents strongly agreed that smoke from other people's cigarettes is harmful to children. 29% agreed it was harmful, and 2% disagreed.
5. 87% of respondents felt that exposing children to smoke in a confined space such as a car is very harmful. 10% believed it is somewhat harmful, 2% said it was not very harmful, and 1% said it was not harmful at all.
6. When asked if they agree or disagree with Mohave County having a law prohibiting smoking inside a vehicle when a child under age 18 years is present, 57% strongly agreed, 28% agreed, 9% disagreed, 4% strongly disagreed, and 2% did not answer.
7. When asked if they would support a law making it illegal to smoke in a vehicle when a child under 18 is present, 77% said yes they would. 19% said no they would not, and 4% did not answer.
8. When asked if they would consider helping with these efforts, 25% of respondents said yes and provided their contact information. 2% of respondents said they would not, and 73% did not respond at all.

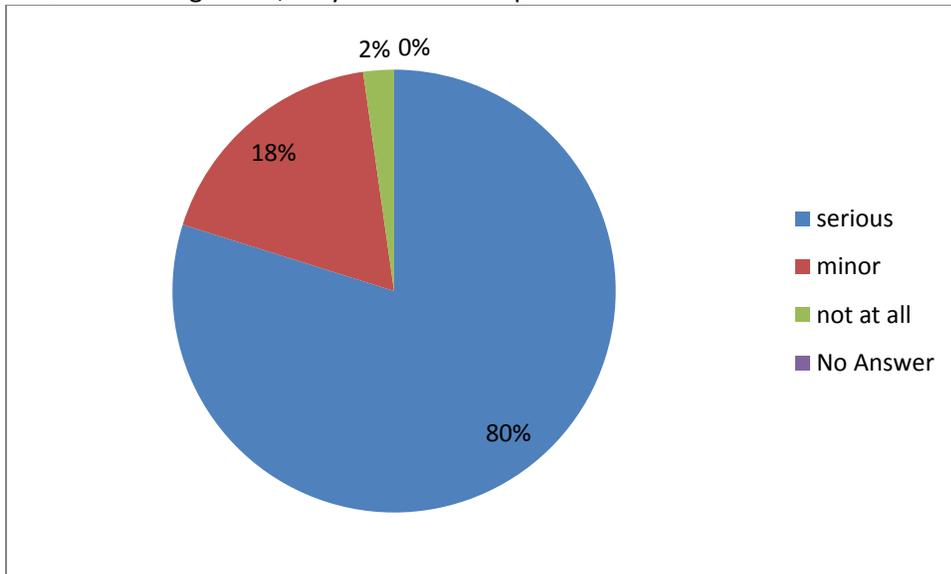
Q1 Which city do you represent?



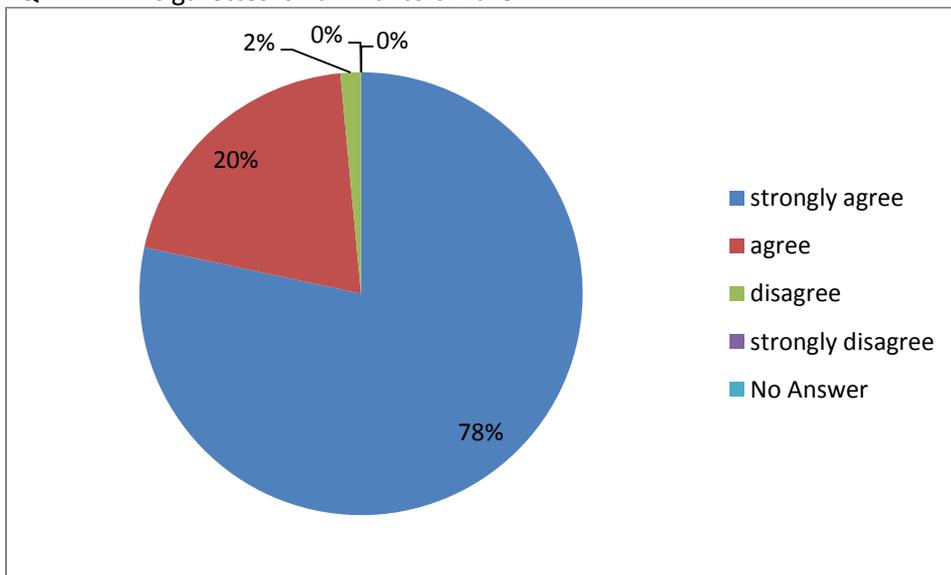
Q2 Which of the following best describes you?



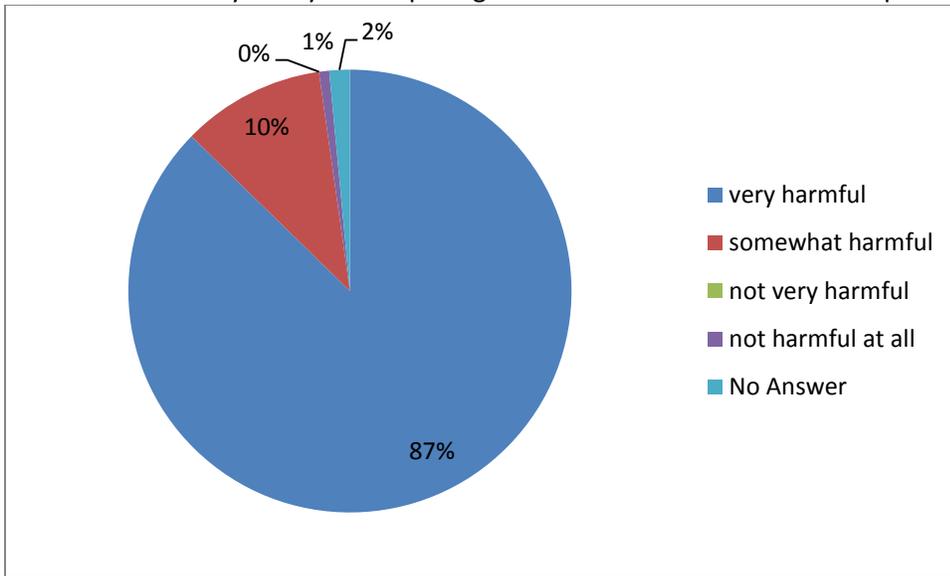
Q3 In general, do you feel that exposure to second hand smoke is:



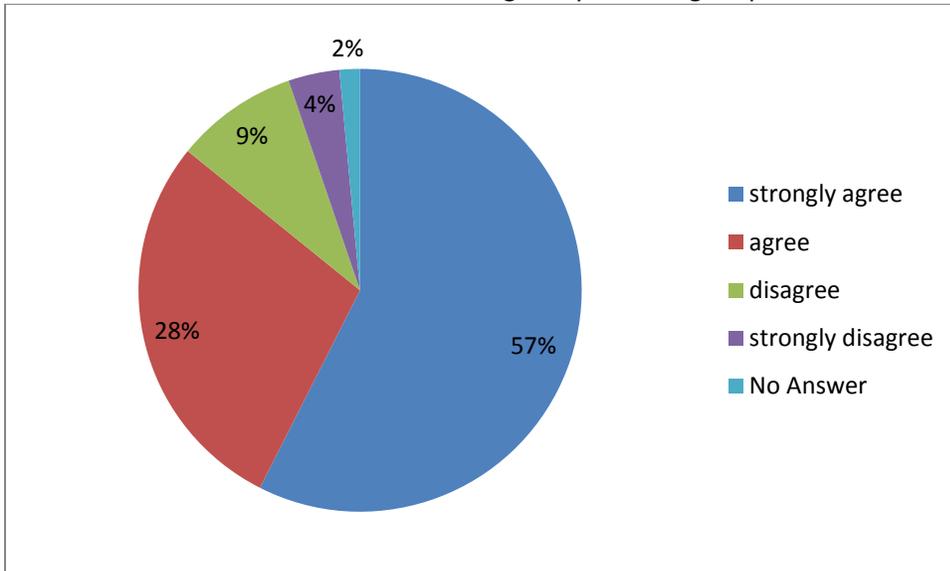
Q4 How strongly do you agree or disagree with the following statement: smoke from other people's cigarettes is harmful to children.



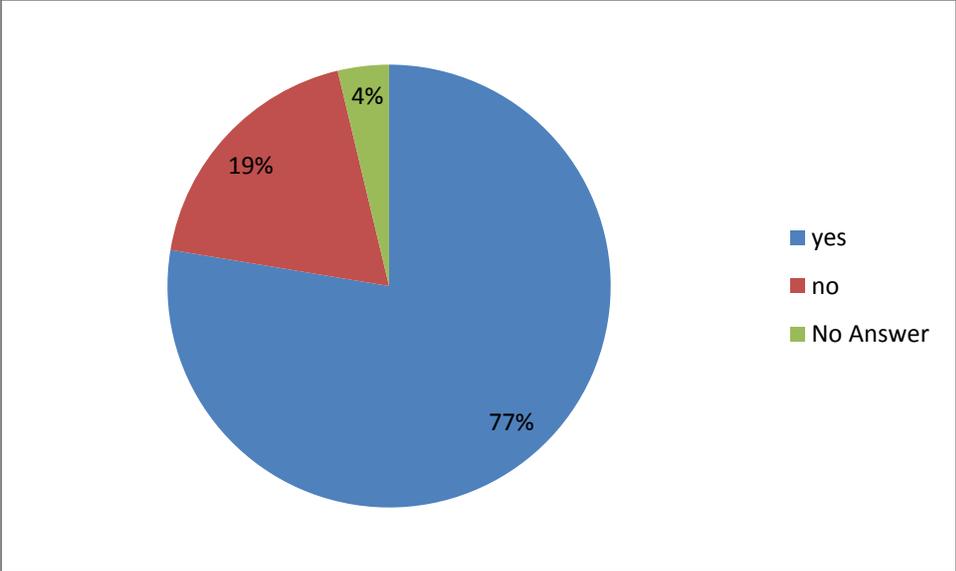
Q5 Would you say that exposing children to smoke in a confined space such as a car is..



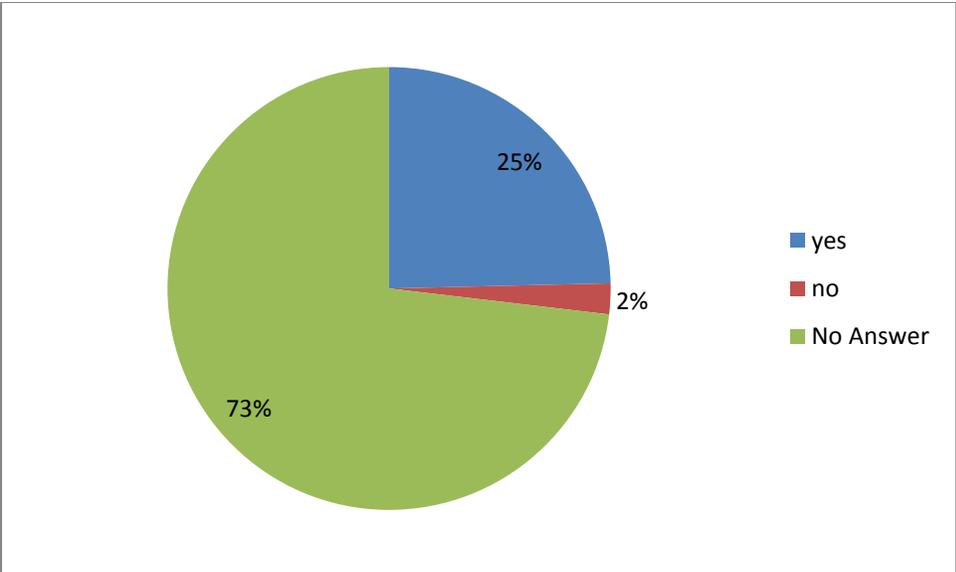
Q6 How strongly do you agree or disagree with Mohave County having a law prohibiting smoking inside a vehicle when a child under age 18 years of age is present?



Q7 Would you support a law making it illegal to smoke in a vehicle when a child under 18 is present?



Q8 Would you consider helping with these efforts?



Maricopa County Policy Assessment: Smoking Ban in Vehicles with Minors

June 2014

Prepared by:

Holly L. Figueroa, MSW
Ashley Lynch, MSW
Christine W. Totura, Ph.D.
Wendy Wolfersteig, Ph.D.



Funding provided by:

Maricopa County Department of Public Health



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Executive Summary

The state of Arizona has been active in tobacco-control efforts for over two decades. In 2006, the Smoke-Free Arizona Act (A.R.S. §36-601.01) outlawed smoking within most enclosed public spaces and places of employment to reduce employees' involuntary exposure to harmful secondhand smoke (SHS). In 2007 and 2010, David Schapira, a member of the Arizona House of Representatives and State Senate until January 2014, attempted but failed to pass bills that would ban smoking in vehicles when minors were among the passengers. Despite research indicating the health risks of both second- and thirdhand smoke to children, especially those with asthma or other lung conditions, only seven states have successfully passed a smoking ban in vehicles with minors thus far.

The purpose of the current study was to conduct research and policy analysis surrounding the issue of smoking in vehicles with minors to assess the feasibility of implementing this type of ban in Arizona and to recommend the best strategies for moving policy efforts forward.

Evaluation Objectives

Four specific objectives guided the project:

1. Identify and summarize the health risks associated with second- and thirdhand smoke exposure to minors riding in motor vehicles.
2. Review and summarize smoking in vehicles with minors legislation in Arizona and in other states.
3. Prepare priority policy alternatives and identify key stakeholders, policy champions and policy promotion tools to consider.
4. Identify and assess the level of public support in Arizona for a smoking ban in vehicles with minors.

Study Methodology

Data were collected through a multi-method approach consisting of archival data, key informant interviews, and a statewide, telephone-based public opinion survey.

Archival Data

Data were collected from the research literature regarding the health risks and societal and fiscal impacts associated with second- and thirdhand smoke exposure to minors in motor vehicles. Official and proposed policy language, meeting minutes and recordings, and other documentation were collected to assess smoking in motor vehicles with minors legislation both locally and nationwide.

Key Informant Interviews

Fourteen key informants participated in face-to-face and/or telephone interviews. These informants, listed below, included lobbyists and legislative liaisons representing county and state-level decision makers as well as community stakeholder groups.

Candace Alexander, COPD/Coalition Manager for Northern Arizona and Mary Kurth, Program Director Arizona COPD Coalition

Mark Bogart, Senior Policy Advisor, Democratic Caucus, Arizona House of Representatives

Colby Bower, Legislative Liaison, Arizona Department of Health Services

Kristin Cippola, Legislative Liaison, County Supervisors Association

Leland Fairbanks, President, Arizonans Concerned About Smoking

Barb Fanning, Director of Government Affairs, Arizona Hospital and Healthcare Association (AzHHA)

Stuart Goodman, Principal, Goodman Schwartz Public Affairs

Bryan Hummel, Arizona Director of Government Relations, American Cancer Society

Rebecca Nevedale, Associate Director, Arizona Chapter of the American Academy of Pediatrics (AzAAP)

Nicole Olmstead, Government Relations Director, American Heart Association Arizona

Beth Rosenberg, Director of Child Welfare and Juvenile Justice, Children's Action Alliance

David Schapira, Assistant Superintendent of East Valley Institute of Technology (EVIT) & former Arizona State Legislator

Christian Stumfd, Regional Director of Government Relations, American Lung Association

Brianne Westmore, State Director of Program Services, March of Dimes

Telephone Public Poll Surveys

A telephone-based public opinion survey was conducted to assess statewide attitudes, beliefs, and preferences related to a smoking in vehicles with minors policy. The survey was designed and conducted in coordination with the Behavior Research Center and included both landline and cellular telephones. Interviews were conducted in both English and Spanish with 710 adult heads of household throughout Arizona, including 423 Maricopa County residents, using Computer Assisted Telephone Interviewing (CATI) techniques. Survey responses are weighted by county, political party, and age in order to be more representative of all Arizonans.

Policy Alternatives

Assessment of policy alternatives included consideration of the following:

1. Age of children to whom the law would apply
2. Classification of the offense (primary or secondary)
3. Enforcement standards
4. Level at which the policy might be passed (city, county, or state)
5. Public support for the policy

Key Findings

- Each week, approximately 320,000 Arizona children are directly affected by the smoking in cars issue.
- More than 9 in 10 Arizonans agree that secondhand smoke is harmful.
- While Arizona stakeholder organizations support a ban on smoking in vehicles with minors, it is not a high priority issue for them at this time. However, support and interest might increase under certain conditions.
- Smoking in vehicles with minors policies should be attempted at the state level.
- Nanny state and civil liberties concerns are the two primary oppositional arguments to a smoking in vehicles with minors ban.
- More than 7 in 10 (72%-74%) Arizonans would support a law that bans smoking in cars when children under 18 are among the passengers.
- Arizonans Concerned about Smoking has already begun collecting signatures on a petition to ban smoking in cars with minors.

Policy Recommendations

1. Put together a coalition of stakeholders to further discuss the issue.
2. Carefully consider whether resources are better spent on legislation or an education and awareness campaign.
3. Focus on implementing the policy at the state level.
4. Conduct an educational campaign.
5. Assess attitudes and beliefs around e-cigarette usage and harm.
6. Monitor the 2014 Governor, Speaker, and Senate President races.
7. Enforce the policy as a secondary offense with civil penalties that begin with a warning, impose increasing fines with subsequent violations, and offer participation in a smoking cessation program.

Maricopa County Policy Assessment: Smoking Ban in Vehicles with Minors

Overview

The purpose of the Maricopa County Smoking Ban in Vehicles with Minors Policy Assessment Study was three-fold: 1) to evaluate the health risks of second- and thirdhand smoke to children riding in motor vehicles in which smoking occurs; 2) to evaluate the existing initiatives related to prohibiting tobacco use in vehicles with minors both state- and nationwide, as well as barriers and facilitators to adoption and implementation of such policies; and 3) to recommend strategies for moving forward with such a policy in Arizona.

Four specific objectives guided the project:

1. Identify and summarize the health risks associated with second- and thirdhand smoke exposure to minors riding in motor vehicles.
2. Review and summarize smoking in vehicles with minors legislation in Arizona and in other states.
3. Prepare priority policy alternatives and identify key stakeholders, policy champions and policy promotion tools to consider.
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Fourteen key informants participated in face-to-face and/or telephone interviews. These informants, listed below, included lobbyists and legislative liaisons representing county and state-level decision makers as well as community stakeholder groups.

David Schapira, Assistant Superintendent of East Valley Institute of Technology (EVIT) & former Arizona State Legislator

Stuart Goodman, Principal, Goodman Schwartz Public Affairs

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Christian Stumfd, Regional Director of Government Relations, American Lung Association

Beth Rosenberg, Director of Child Welfare and Juvenile Justice, Children's Action Alliance

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Bryan Hummel, Arizona Director of Government Relations, American Cancer Society

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Problem Analysis: Health Risks and Extent of the Problem

Quick Facts

National Figures:

- 2 of every 3 children ages 3-11 are involuntarily exposed to secondhand smoke (SHS).¹
- Children exposed to SHS are at increased risk for sudden infant death syndrome (SIDS), childhood cancers, slowed growth and decreased lung function, asthma, ear infections, depression, and Attention-Deficit Hyperactivity Disorder (ADHD).
- Children inhale more harmful chemicals from secondhand smoke than adults in the same environment because they have immature lungs,² greater oxygen requirements, and breathe faster than adults.³
- 5.6 million children alive today will ultimately die early from SHS exposure.⁴
- Direct medical costs from exposure to SHS among U.S. children exceed \$700 million per year.⁵
- In children aged 18 months or younger, SHS is responsible for an estimated 150,000-300,000 new cases of bronchitis and pneumonia, and 7,500-15,000 hospitalizations annually.⁶
- SHS exposure within a confined motor vehicle is especially dangerous because SHS is even more concentrated and reaches harmful levels rapidly, regardless of open windows or use of the vehicle's ventilation system.⁷
- Exposure to toxic pollutants via SHS could exceed the daily pollution levels deemed harmful for children after just two cigarettes smoked inside a motor vehicle.⁸
- The amount of SHS kids are exposed to in motor vehicles in which smoking occurs is comparable to the amount of SHS they would be exposed to if they were to hang out in a smoke-filled bar.⁹

Arizona Figures:

- 3 of every 5 Arizona children live in counties that receive failing air quality grades from the Arizona Lung Association.¹⁰
 - This means that before the problem is made exponentially worse by children's involuntary exposure to SHS, more than 1 million Arizona children, including more than 86,000 children with asthma, are breathing in polluted air at levels that can cause irreparable damage to their health.
- 1 of every 5 children are exposed to SHS within motor vehicles each week.^{11,12}
 - This means that each week approximately 320,000 Arizona children are directly affected by the smoking in cars issue.¹³

Background

Smoking, including exposure to secondhand smoke (SHS), is the single leading cause of preventable death and disease in the United States and places a high burden on society.¹⁴ **Secondhand smoke** is defined as tobacco smoke that is exhaled by smokers or given off by burning tobacco products and inhaled by persons nearby. A relatively new term, **thirdhand smoke**, refers to the SHS that settles on objects in an environment exposed to smoking. This remaining SHS essentially creates a cocktail of toxins that builds up over time and clings to skin, hair, clothing, upholstery, carpet and other surfaces long after tobacco products are extinguished and the SHS in the air dissipates.¹⁵

Both second- and thirdhand smoke have been shown to be harmful to children as well as adults. It is well-documented that SHS exposure at any age causes significant adverse physical conditions such as cardiovascular diseases¹⁶, upper and lower respiratory tract infections such as the common cold, middle-ear disease, bronchitis, pneumonia, and other bacterial infections¹⁷, as well as several types of cancer.¹⁸ Evidence is now sufficient to conclude that SHS exposure causes stroke as well.¹⁹ The U.S. Surgeon General recently released a report stating that **there is no risk-free level of exposure to involuntary SHS**.²⁰

Beyond their mortality and morbidity impacts, cigarette smoking and SHS exposure have significant fiscal impacts as well; they are associated with considerable economic losses to society and place a substantial burden on the US health-care system.²¹ Cigarette smoking and exposure to SHS result in approximately 443,000 deaths and \$193 billion in direct health-care expenditures and productivity losses each year.²² Direct medical costs from exposure to SHS among U.S. children exceed \$700 million per year.²³ However, there is strong evidence that the implementation of **smoke-free policies can help to reduce both the negative health impacts and the fiscal costs of smoking and SHS exposure to society**.^{24, 25}

Health Risks of SHS Exposure to Children

Secondhand smoke can have a significant negative effect on the cardiovascular system, similar to the impact on active smokers, and increases the risk of heart disease by approximately 30 percent.²⁶ Past and present exposure to SHS in childhood causes a direct and irreversible damage to the structure of the arteries, which puts exposed children at an increased risk for heart attack and stroke later in life. Additionally, SHS exposure may lead to changes in serum lipid profile in children and adolescents, particularly to a decrease in high-density lipoproteins (HDL) cholesterol. Since thickness of the arterial wall is considered a predictor of early atherosclerosis, it has been proposed that SHS exposure may advance the development of atherosclerosis and other cardiovascular diseases into adulthood.²⁷

The 2014 Surgeon General report stated that **5.6 million children alive today will ultimately die early as a result of SHS exposure**. Despite these facts, approximately two out of every three (66%) children ages 3-11 are involuntarily exposed to SHS, and about 25% of all U.S. children live with one or more persons who smoke.²⁸ SHS is particularly detrimental to children and adolescents' physical

health due to their developing and immature immune systems, and to their respiratory systems due to smaller airways and greater demand for oxygen.²⁹ On average, lung development and growth continues well into the late adolescent years for females and early 20's for males.³⁰

Children exposed to tobacco smoke are at an increased risk for short-term and long-term physical health effects which include, but are not limited to, the following:

- Sudden infant death syndrome (SIDS);³¹
- Ear infections³²;
- Respiratory Syncytial Virus (RSV);³³
- Respiratory tract infections;
- Respiratory complications, induction and exacerbation of asthma;³⁴
- Increased risk of current and incessant wheeze;³⁵
- Slowing lung growth;³⁶
- Decreased lung function;
- Meningitis;
- Otitis media;
- Dental decay;
- Stunted physical growth;
- Metabolic syndrome;³⁷
- Higher levels of nicotine-dependent symptoms,³⁸ and more.

While exposure to SHS is also well-known risk factor for cancer, emerging evidence suggests it may also be associated with childhood cancers,³⁹ such as nasal sinus cancer and breast cancer in young, primarily premenopausal females.⁴⁰

Exposure to SHS has also been linked to mental health issues such as Major Depressive Disorder (MDD), General Anxiety Disorder (GAD), Attention-Deficit Hyperactivity Disorder (ADHD), and Conduct Disorder (CD), as defined by the Diagnostic and Statistical Manual of Mental Disorders 4th edition (DSM-IV). Involuntary childhood exposure to SHS may also worsen or advance the onset of other mental health symptoms for children and adolescents.⁴¹

SHS Exposure in Motor Vehicles

Many nations and more than half of all U.S. states have smoke-free workplace laws. Although these laws are popular with the public and largely self-enforcing,⁴² they fail to protect children in the two settings where they most commonly face exposure—homes and cars. Multiple studies show that minors, cars and cigarettes are a particularly dangerous combination,⁴³ leading many scientists and policymakers to conclude that regulation of smoking in cars is needed to protect children from harm.⁴⁴ **SHS exposure within a confined motor vehicle is especially critical because SHS is even more concentrated and reaches harmful levels rapidly, regardless of open windows or use of the vehicle's ventilation system.**⁴⁵ Additionally, fewer households, regardless of smoking status, report having smoking bans in their vehicles than in their households⁴⁶, indicating that a misconception may exist that leads individuals to erroneously believe that SHS in their vehicles is less harmful than SHS inside their homes. Indeed, through a

qualitative study with 136 families in rural Georgia, researchers⁴⁷ found a widespread, inaccurate belief that SHS is not a problem when car windows are down.

Ventilating vehicles fails to protect those inside the vehicle from health risks associated with exposure. In air quality tests, concentrations of secondhand smoke in vehicles have been found to be far greater than in any other micro-environments tested, including smoke-free homes, smokers' homes, smoke-filled bars, and outdoor air—even with a vehicle's windows open and its fan set on high.⁴⁸ Evidence suggests that SHS exposure in vehicles produces fine particulate concentration that creates consequential health risks, most notably if exposure to SHS with minors riding in a vehicle is common practice.⁴⁹ As a result, children and youth who are exposed to these high levels of particulates are at increased risk for any number of the adverse health effects previously described.⁵⁰

Scientific assessments of the concentrations of toxins inside vehicles from SHS tend to measure the amount of fine particulate matter (PM_{2.5}), or “particle pollution”, in the air. This type of pollution is especially damaging because when inhaled these harmful particles can travel deeply into the lungs and can have a wide variety of negative short- and long-term health effects⁵¹. The U.S. Environmental Protection Agency's National Ambient Air Quality Standards (NAAQS) set the short-term air quality standard for PM_{2.5} at 35 micrograms per cubic meter of air (µg/m³) and the long-term standard at 12-15 µg/m³, the lesser of which is considered damaging for “sensitive” populations such as children, asthmatics, and the elderly.⁵²

In a study examining the particle pollution (PM_{2.5}) produced by SHS inside motor vehicles, Sohn and Lee (2010)⁵³ found average PM_{2.5} levels of 506 µg/m³ in the car with the smoker's window fully open, 877 µg/m³ with the smoker's window half open, and 1307 µg/m³ with the smoker's window open only 10 cm, as one might find on a rainy or cold day in most states (or on hot days in many areas of Arizona). These levels, measured in the vehicle during the 3-minute smoking period, represent PM_{2.5} concentrations that are 30-77 times higher than the PM_{2.5} levels in the vehicle prior to lighting the cigarette, and 14-37 times higher than the short-term particle pollution standards set by the EPA to protect public health and welfare. The PM_{2.5} levels remained several times higher than the EPA's standard after the cigarette was extinguished, even with the window open.

Rees and Connolly (2006)⁵⁴ measured carbon monoxide (CO) and particle pollution (PM_{2.5}) concentrations in vehicles during periods of smoking from the simulated position of a child's head in a child-restraint seat. They found average PM_{2.5} concentrations of 272 µg/m³ and a significant increase in CO, a poisonous gas, when the driver's window was only slightly open, and an average PM_{2.5} concentration of 51 µg/m³ when all windows were at least halfway open during smoking periods. Although these particle pollution levels are smaller than those found in some other studies, they remain much higher than the EPA's healthy air quality standards.

Rees and Connolly (2006) then compared the particle pollution (PM_{2.5}) levels they found from smoking in vehicles to PM_{2.5} levels that other studies found in bars that allowed smoking, the latter of which ranged from 206-412 µg/m³. The comparisons indicate that **the amount of SHS kids are exposed to in motor vehicles in which**

smoking occurs is comparable to the amount of SHS they would be exposed to if they were to hang out in a smoke-filled bar.

Additionally, thirdhand smoke, which is leftover as the SHS settles into vehicle surfaces and is contaminated with nicotine and residual smoke gases and particles, is dangerous for children—especially infants and young children—because they frequently touch and put their mouths to contaminated surfaces. Children breathe faster than adults and have smaller lung capacity; consequently, they ingest about twice as much of this toxic dust as adults.⁵⁵

Data indicate that approximately one in five children is exposed to SHS in a motor vehicle within any given week.^{56,57} Based on the 2013 U.S. Census population estimates, this means that **approximately 320,000 Arizona children are directly affected by this issue** and could experience short- or long-term negative health impacts as a result.

Policy History: Smoking in Vehicles with Minors

Arizona

There have been two separate bills in Arizona related to smoking in motor vehicles with minors, HB 2076 and HB 2729. Both bills were introduced by former State Representative, David Schapira (D), and were held in committees after the House second read, thus failing to pass.

Representative Schapira, who was interviewed for this study, reported that he initially set the policy to apply to all children under the age of 18 based on state code regarding what constitutes a minor. The second time he proposed the bill he lowered the age to 16 because it is the driving age and the age at which someone could have his own car. The initial impetus for the bill was a combination of both the negative impacts of tobacco exposure to children and the inability of children to choose their own environment – a person who does not have a say regarding whether he wants to inhale secondhand smoke, which can have adverse short-term and long-term health effects, should be protected. He also argued that Arizona has a unique characteristic in that there is a large portion of the year during which it is uncomfortable to have the windows rolled down, an argument that other stakeholders mentioned as being relevant as well.

While the bills did not have much institutional opposition and did have the support of the American Cancer Society and the American Heart and Lung Associations, the bills were assigned to several committees, which is normally done when the Speaker or President is trying to kill a bill, and the committee chairs refused to grant the bills a hearing. Representative Schapira reported that the main focus of the bills was to protect small children, but because the bills were never granted a hearing, he did not get a chance to discuss lowering the age to make the policy more palatable.

More specific information about each version of the smoking in vehicles with minors ban attempted in Arizona is available in Appendix A.

Nationwide

Policies: Passed

To date, eight states (including Puerto Rico) and nine local governments have successfully adopted policies that prohibit smoking in motor vehicles when children are present (Table 1 and Table 2).

Table 1. States in which legislation passed: Policy characteristics.

| Passed | Age Criteria | Sponsor | Penalty |
|------------------------------|-----------------------------|---|--|
| Arkansas (2006; 2011) | <14 (originally passed < 6) | Sen. Malone (D) | Fine up to \$25. Entering a smoking cessation program waives fine for 1 st violations. |
| Louisiana (2006) | <13 | Rep. Gary Smith, Jr. (D) | Fine of \$150/offense (or at the discretion of the judge); may be sentenced to no less than 24 hours of community service—Primary Offense. |
| California (2008) | <18 | Sen. Jenny Oropeza (D) | Fine of up to \$100—Secondary Offense. |
| Maine (2008) | <16 | Rep. Brian Duprey (R) | Fine up to \$50 penalty or a warning given in the discretion of the law enforcement officer—Secondary Offense. |
| Oregon (2014) | <18 | Lead Sponsor— Sen. Steiner Hayward (D); Co-Sponsor(s)— 11 (D) and 2 (R) | Smoking in a motor vehicle is a Class D traffic violation for a first offense and Class C traffic violation for a second or subsequent offense; \$250 for 1st violation; Class C offense, \$500 for subsequent violations—Secondary Offense. |
| Puerto Rico (2007) | <13 | N/A | Fine up to \$250 for a first offense. Administrative charge (not criminal). |
| Utah (2013) | <16 | Lead Sponsor— Sen. Arent (D); Co-Sponsor(s)—7 (D) and 14 (R) | Fine up to \$45, which can be waived if they enroll in a program to quit smoking—Secondary Offense. |
| Vermont (2014) | <8 | Rep. Komline (R) with 3(R), 5(D), 2(I) | Fine of not more than \$100. No points assessed. |

The details of each of these policies are available in Appendix B.

In locations where the policy passed, the age of children to whom the law applies ranges from under eight to all minors under the age of 18; offenses are primarily classified as secondary; and penalties include fines ranging from \$25-\$250 for a first offense.

While many of the states faced barriers and concerns about government reach (i.e., the “nanny state” argument), champions counteracted such arguments with the negative health impact and risks associated with second- and thirdhand smoke exposure to minors in motor vehicles, as well as the societal and economic impact on communities.

Table 2. Cities and counties in which legislation passed: Policy characteristics.

| Passed | Age Criteria | Sponsor | Penalty |
|------------------------------------|--------------|---------|---|
| Bangor, ME (2007) | <18 | | |
| Hawaii County, HI (2010) | <18 | N/A | Fined between \$25-50—Secondary Offense. |
| Keyport, NJ (2007) | <18 | N/A | Fined at \$75.00—Secondary Offense. |
| Loma Linda, CA (2008) | <18 | | |
| Martinez, CA (2009) | <18 | | |
| Monroe County, IN (2009) | <14 | N/A | Class D Ordinance Violation—Secondary Offense. |
| Rockland County, NY (2007) | <18 | N/A | Criminal violation. Initial fines between \$75-150. Subsequent violations subject to fines between \$150 and \$250. |
| Rohnert Park, CA (2009) | <18 | | |
| West Long Branch, NJ (2007) | <18 | N/A | Fined at \$75.00—Secondary Offense. |

For states in which the legislation passed, the bills were predominately heard in the following standing committees:

- Committee on Public Health, Welfare and Labor;
- Committee on Transportation, Highways, and Public Works;
- Committee on Health; and
- Health and Human Services Committee.

Policies: Failed to Pass

There have been at least 20 states and 2 counties that have failed to pass the legislation (Table 3). In states that failed to pass the legislation, the following outcomes were most prevalent:

- Failed to get assigned to a standing committee;
- Assigned to multiple standing committees;
- Did not get heard in standing committee(s);
- Never made it out of standing committee(s);
- Went through the committee(s) and came out with a “do not pass”; and/or
- Failed to pass either the House or Senate chambers.

Table 3. States and counties in which legislation failed to pass.

| Location: Failed to Pass | Age | Sponsor(s) |
|--|---|---|
| Arizona (2007; 2010) | <18; <16 | Lead Sponsor—Rep. Schapira (D) (1 st and 2 nd bills); Co-Sponsor(s)(2 nd bill)— 10 (D) and 2 (R) |
| Augusta, Georgia (2012) | <14 | Commissioners Johnson, Aitken, Brigham |
| Connecticut (2013) | 6 and under, or less than 60 lbs. and required to be in child restraint | Lead Sponsor—Rep. Genga (D); Co-Sponsor(s)—40 (D) and 2 (R) |
| Illinois (2010; 2014; 2014) | <8; <13; <18 | Rep. Evans (D); Sen. Silverstein (D) |
| Indiana (2008) | <13 | Rep. Brown C (D) |
| Kentucky (2011) | <17 | Reps. Stumbo (D), Riner (D), Marzian (D) |
| Maryland (2013) | <8 | Sen. Zirkin (D); Forehand (D) |
| Massachusetts (2010; 2012) | <12; <18 | Rep. Heroux (D) |
| Michigan (2007) | <4 | Rep. Moolenaar (R) |
| Mississippi (2012) | <17 | Sen. Frazier (D) |
| Nassau County, NY (2011) | <18 | County legislators Bosworth (D); Jacobs (D) |
| New Jersey (2008; 2010) | <16 | Lead Sponsor—Sen. Lesniak (D); Co-Sponsor(s)—2 (D) |
| New York (2013) | <14 | Sen. Stavisky (D), Martins (R), Parker (D) |
| North Dakota (2009) | <16 | Lead Sponsor—Sen. Lyson (R); Co-Sponsor(s)—2 (D) and 2 (R) |
| Ohio (2012) | <6 | Sen. Tavares (D) |
| Pennsylvania (2009) | <18 | Lead Sponsor—Rep. Cruz (D); Co-Sponsor(s)—8 (D) |
| Rhode Island (2013) | <18 | Sen. Sosnowski (D) |
| South Carolina (2011) | <6 (House); <10 (Senate) | Lead Sponsor—Reps. Brady (R); Co-Sponsor(s)—3 (D) and 2 (R) |
| Tennessee (2010) | <8 | Lead Sponsor—Rep. Hensley (R); Co-Sponsor(s)—1 (D) and 1 (R)) |
| Virginia (2013; two separate bills) | <15; <13 | Lead Sponsor—Senator Northam (D); Co-Sponsor(s)—2 (D) |
| Washington State (2011; 2014) | <18 | Sen. White (D), Shin (D), Kohl-Welles (D), Prentice (D) |

Note: Vermont failed to pass smoking in cars legislation twice beginning in 2008 (under age 18 and under age 13) before finally passing it in 2014 (under age 8).

Policy Champions and Opponents

The policy champions of smoking in motor vehicles with minors legislation have primarily included health departments; medical groups and pediatric associations; American Heart, Lung, and Cancer Associations/Societies; tobacco prevention organizations; and youth groups.

Overall, organized opposition to such policies has been minimal and has primarily included smokers' rights groups and individual citizens.

There were no discernable differences between policy champions and opponents in states where the legislation passed compared to those where it failed to pass.

Policy champions/opponents for passed policies are available in Appendix C.

Related Arizona Policies

*Arizona Administrative Code § 6-5-7465(K)*⁵⁸

This policy prohibits foster care licensees from:

- 1) Exposing a child in care to tobacco products or smoke
- 2) Allowing any person to use tobacco products inside buildings
- 3) Allowing a child in care to use or possess tobacco products

The first component of the policy includes motor vehicles in which a foster child is a passenger, while the second component also bans smoking in foster homes.

*Arizona Distracted Driving Law*⁵⁹

Arizona Revised Statute (A.R.S.) 28-701 is Arizona's distracted driving law. It bans driving at a speed greater than what is "reasonable and prudent under the circumstances, conditions, and actual and potential hazards then existing".

The Arizona Department of Public Safety recently announced that it will use this statute as a way to crack down on distracted driving, including texting and other cell phone use.⁶⁰ Additionally, despite the repeated failure of texting bans through the state legislature, the cities of Phoenix and Tucson put their own texting bans into place with fines ranging from \$100-250 (Phoenix City Code 36-76.01; Tucson City Code 20-160).

The ability of these two cities to enact texting while driving bans indicates that it may also be possible to pass smoking in vehicles with minors bans at the local level.

Analysis of Policy Alternatives

Key Policy Components

Among the eight U.S. states/territories that have enacted smoke-free motor vehicle policies, key variables have included the following: 1) age of children and youth to whom the law applies, ranging from under age 8 to under age 18; 2) classification of the offense as either primary or secondary; and 3) fine level, ranging from \$25 to \$250. These were therefore the three primary components considered when determining priority policy alternatives to include in the research.

Based on similar legislation passed in other states and counties as well as interviews with key stakeholders in Arizona, this study assessed the following policy components and alternatives.

Age of Child

All key stakeholders were asked the ages to which a smoking ban in vehicles with minors should apply. Based on their suggestions and policy stipulations from other states and counties, the public opinion poll assessed support for the policy under four alternative ages:

1. Under 18 – all minors
2. Under 16 – the legal driving age in Arizona
3. Under 13 – pre-teens; similar to Louisiana and Puerto Rico; additionally, a July 2013 study found that 82% of adults would support a smoking in vehicles ban when minors under age 13 are present⁶¹
4. Under 8 – the age under which children are legally required to be restrained in a child booster seat in Arizona

Classification of an Offense as Primary or Secondary Enforcement

All key stakeholders were asked whether they would suggest primary or secondary enforcement for the policy.

Fines and Penalties

All key stakeholders were asked what types of penalties they would suggest for the policy.

A summary of other state and county approaches to these key policy components is available in Appendix D.

In addition to assessing various alternatives among these three key policy components, this study assessed: 1) the amount of organizational support for the policy; 2) barriers to policy adoption and implementation; 3) counter-arguments to identified barriers and suggested strategies for framing the policy issue; 4) estimates of the likelihood that the policy is successfully adopted; and 5) Arizonans' opinions and beliefs surrounding the policy.

Findings from Key Stakeholder Interviews

Policy Support

Most organizations interviewed were generally supportive of a ban on smoking in vehicles with minors; however, none of them offered to spearhead the policy effort at this time. The Heart, Lung and Cancer Associations are all supportive of issues that are more restrictive on tobacco use around kids and generally engage in all tobacco policy efforts together. Everything that they do is based on a sound scientific base, so they would need good data to show the impact of the policy before taking the charge.

Additionally, several organizations indicated needing to know: 1) who else was on board, 2) how much community support there is around this issue, 3) the official language of the policy, and 4) the knowledge and strength of the policy’s sponsor, prior to committing to put in the time and effort to move the issue forward.

Finally, while several organizations were generally supportive, they indicated that smoking in cars with minors was not a high priority policy issue for them at this time given the lack of evidence of the policy’s impact, the current political climate, and low perceived feasibility of getting the policy passed.

Table 4. Organizational support for smoking in vehicles with minors legislation

| Supporters | Probable Supporters | Neither Support nor Oppose |
|-----------------------------------|---|---|
| American Heart Association | Arizona Hospital and Healthcare Association | Arizona Association of Chiefs of Police |
| American Cancer Society | Arizona Chapter of the American Academy of Pediatrics | |
| American Lung Association | | |
| Arizona COPD Coalition | | |
| Arizonans Concerned About Smoking | | |
| March of Dimes | | |
| Children’s Action Alliance | | |

Reasons organizations would support the policy include:

- Generally supportive of smoke-free environments and tobacco restrictions, especially around children
- Reduced healthcare costs and complications (e.g., heart disease, stroke, etc.)
- Reduced tobacco-related harm to children
- Negative impact of SHS on children’s health
- Children learn from modeling others’ behaviors so the fewer places children can see people smoking the better.

Some stakeholders indicated that their groups' support of the policy might increase if the ban included e-cigarettes as well. One stakeholder also suggested that including e-cigarettes would decrease challenges associated with enforcement.

Barriers

Opposition to government regulation of smoking in motor vehicles is typically rooted in arguments about government invasion of privacy, as well as concerns about whether such laws might be difficult to enforce or might divert increasingly scarce law enforcement resources from more pressing needs.

Indeed, stakeholders suggested the following as being the primary barriers to expect in an attempt to pass a smoking in vehicles with minors policy:

- Belief that such a policy is an infringement upon personal freedoms (“nanny state” or “personal liberties” argument)
- Encroachment on parental rights - parents should have the freedom to make both good and bad decisions regarding their children
- Vehicles are private property - the next logical step that people will raise objection to is banning smoking in people’s homes (“slippery slope” argument)
- Relatively few people are exposed to SHS in vehicles
- Uncertain science
- The culture of Arizona as a libertarian state
- Finding a republican sponsor to introduce it
- Concerns about the challenges of enforcement
- Diminishing returns from increasingly restrictive tobacco policies
- Fears of being pulled over and penalized - concern that this provides yet another excuse for police with ulterior motives to pull people over
- Lack of organizations and policy makers among whom this policy is considered a high priority issue
- How will e-cigarettes be addressed? (suggestion to include them in the ban)
- We do not currently prohibit smoking by pregnant women – what is the difference once the child is born?

The “nanny state” and “civil liberties” arguments are the two primary arguments that one should expect to be raised in opposition to a smoking in vehicles with minors ban.

The “nanny state” argument conveys a view that the government and/or its policies are overprotective or interfering unduly with personal choice, particularly with those related to private and personal behaviors.

“Civil liberties” arguments relate to the right to privacy and personal liberty, and claim that certain policies are government infringements upon personal freedom. This argument suggests that there are personal guarantees and freedoms that the government cannot abridge, either by law or by judicial interpretation. The argument also includes views that policies such as a smoking in vehicles with minors ban would be an encroachment on parental rights and that parents should

have the personal freedom and right to make decisions about how they raise their children and what is best for them.

While opposition from the tobacco industry was mentioned as a potential barrier, for the most part, stakeholders did not anticipate that this policy effort would receive much institutional opposition, and certainly would not have nearly as much money raised against it as was used against Smoke-Free Arizona.

Policy Framing

Stakeholders suggested that the best counter-arguments to the “nanny state” and “civil liberties” arguments include the following:

- Arizona has already set a strong precedent that SHS should not involuntarily impact others (e.g., Smoke-Free Arizona).
- Arizona also has a strong precedent for protecting children from harm (e.g., child abuse laws, child restraint laws, children are not allowed to smoke tobacco and are banned from adult bookstores, etc.).
- The point is not to infringe on personal freedoms or parental rights but to protect children from harm, especially when they have no agency, no way out and no alternative.
- Children are considered vulnerable persons who require additional protections.
- Individuals still have the right to smoke in their car if they want to, just not when kids are in it.

One stakeholder also suggested that a potential counter-argument to the “slippery slope” concern is that smoking in vehicles occurs on public roads, which puts individuals in the public sphere and out in the open for everyone to see; this is not the case inside privately-owned homes.

Additional strategies for framing the policy issue, as suggested by stakeholders, include:

- Focus on protecting children and the impacts of SHS exposure to children’s health (must point to a direct harm to children).
- Children do not have a choice as to whether they are exposed to SHS in vehicles.
- Motor vehicles represent a confined space where a child is trapped with minimal ventilation.
- Concentrations of SHS in enclosed vehicles are particularly dangerous, especially to sensitive groups such as children, as indicated by the EPA.
- There is precedent for this policy as laws banning smoking in vehicles with minors already exist in several states including Louisiana, Arkansas, and Utah.

- There is precedent in Arizona regarding SHS affecting others and the idea that SHS exposure should not be involuntary – Arizona restricts smoking in bars, restaurants and other places of employment. This policy extends those policies to protect children from involuntary SHS exposure as well.
 - Smoke-Free Arizona⁶² prohibits smoking in vehicles “owned and operated by a proprietor during working hours” when:
 - More than one individual occupies the vehicle, and
 - The vehicle is used for business purposes
- Air quality in Arizona is already bad; smoking makes it even worse and kids are negatively impacted.
 - Review hospital admissions for childhood asthma.

Finally, stakeholders suggested that policy advocates:

- Present strong scientific evidence as well as personal stories;
- Identify the benefit to smokers as well; and,
- Frame the policy as educational in intent rather than punitive.

Projections for Successful Policy Adoption

All stakeholders agreed that **smoking in vehicles with minors legislation would have to be passed at the state level**. Indeed, one stakeholder commented that counties would not even have the legal authority to pass such a law at the county level.

Stakeholders had differing opinions on how likely a smoking in vehicles with minors ban would be to pass as a bill in the state legislature. Responses ranged from nearly 0% to 65%.

Those who gave the bill a higher chance of passing stated that it depended on several things including:

- 1) Who the Speaker of the House and President of the Senate are at the time the bill is introduced;
- 2) Who chairs the committee(s) to which the bill is assigned;
- 3) Who is elected Governor; and
- 4) Who sponsors the bill.

A strong, conservative sponsor raises the chances of the bill passing exponentially. Chances of it passing are also higher if the majority of other states have already passed similar legislation, but it does help somewhat that conservative states such as Louisiana, Arkansas, and Utah have passed it.

Several stakeholders suggested running the law as a ballot initiative due to Arizona’s current political climate, legislative makeup and additional barriers previously listed.

Given the results of the public opinion poll, which indicated that 72 to 74 percent of Arizonans would support a ban on smoking in vehicles with minors present, **the policy has a strong chance of passing as a ballot initiative**. However, successful

ballot initiatives tend to require significant organization and financing at levels that are oftentimes prohibitive to well-intended efforts.

Findings from the Public Opinion Poll

Highlights from the public opinion poll that are most useful to decision making are listed below. The full report submitted by the Behavior Research Center is available in Appendix E.

Support for the Policy

More than seven in ten (72%-74%) Arizonans would support a law that bans smoking in cars when children are among the passengers.

Age of the children to whom the law would apply does not appear to make much of a difference as 72% of Arizonans support the policy for all children under age 18 and support increases only minimally for children under age 8 (74%).

Among registered voters, 80% of Democrats indicated that they would support the policy along with 65% of Republicans and 61% of Independents.

Support for the policy is strongest among Hispanics, women, younger adults, and those with children in the household.

Support for the policy is weakest among non-Hispanic minorities, males, adults ages 55 and older, and those without children in the household. However, even among these groups, more than 6 in 10 would support the policy.

Opposition to the Policy

Among those who would oppose a law banning smoking in vehicles with children present, three primary reasons stood out:

- 57% consider the policy government interference and think it is none of government's business
- 17% think the policy would be unenforceable
- 12% think that smoking in cars with children should be a personal choice

Interestingly, while the vast majority of Democrats and Republicans (over 95%) opposed the policy for at least one of these three reasons, nearly one-third (31%) of Independents who opposed the policy either were unsure or chose not to provide responses when asked why they did not support it.

Behaviors and Beliefs Related to Smoking in Vehicles with Minors

Respondents were asked how much harm breathing smoke from other people's cigarettes or tobacco products causes. More than half (51%) think it causes *a lot of harm* and an additional 30% think it causes *some harm*; only five percent believe that SHS causes no harm.

Women, minorities, and individuals with children in the household feel most strongly that SHS is harmful.

Among all respondents, 86% reported that smoking is never allowed in family vehicles. Similarly, among smokers, eight in ten (80%) reported that they do not smoke in the car when children are present; the majority of those who do, reported that they roll the window all the way down.

Policy Recommendations

Policy Recommendation 1

Put together a coalition of stakeholders.

In order to successfully implement tobacco restrictions, the American Heart Association, American Lung Association, and American Cancer Society must be on board. These three organizations almost always work together on tobacco policies and their absence from a tobacco policy effort would be quite noticeable.

Other stakeholders to get on board or, at a minimum, to contact, include:

- Arizona Chapter of the American Academy of Pediatrics
- Students Taking a New Direction (STAND) AZ – youth anti-tobacco coalition with 25 chapters across the state
- Arizona Hospital and Healthcare Association
- Arizonans Concerned about Smoking
- Arizona Asthma Coalition
- Arizona COPD Coalition
- March of Dimes
- Children’s Action Alliance
- AAA
- Hospice of the Valley
- Other Coalition for a Tobacco Free Arizona members

Other youth serving organizations, insurance agencies, and prevention providers such as Blue Cross Blue Shield and the YMCA are natural allies to this type of effort as well.

The policy coalition will help determine whether or not to move forward with the effort and, if so, the official messaging for the policy, including data and justifications for the policy and counter-arguments to address expected barriers and objections from policy opponents. The coalition will also be able to assess the level of fiscal support available among stakeholder groups to fund the policy effort.

Policy Recommendation 2

Carefully consider whether resources are better spent on legislation or an education and awareness campaign.

The results of the public opinion poll suggest that while the majority of Arizonans support a ban on smoking in vehicles when children are present, the issue may not be very widespread. Approximately 86% of respondents said that smoking is never allowed in their vehicles when children are present, and even among smokers, who represented 15% of the sample, eight in ten reported that they do not smoke in their vehicles when children are passengers.

While these figures may be influenced by a response bias that leads socially undesirable behaviors to be slightly underreported, they indicate that a relatively small portion of the Arizona population may be impacted by this issue. However, the

portion of the population that is most negatively affected by smoking in cars – children – is also one of the most vulnerable and may be the least empowered to address the issue without outside assistance. Other data indicate that 1 in 5, or approximately 320,000, Arizona children may be exposed to secondhand smoke in a motor vehicle any given week. Therefore, decision makers, in coordination with the stakeholder coalition, must carefully examine whether the resources available to address the issue of smoking in vehicles with minors present are better spent advocating for formal legislation or running a comprehensive education and awareness campaign.

Either way, an educational campaign will be necessary to enhance support and awareness surrounding the issue.

Policy Recommendation 3

Focus on implementing a smoking in vehicles with minors ban at the state level.

While nine counties nationwide have successfully adopted policies prohibiting smoking in vehicles with minors present, local stakeholders agree that such a policy would need to be passed at the state level in Arizona. In fact, stakeholders are uncertain as to whether cities or counties would even have the legal authority to pass a smoking in vehicles with children ban, although the texting while driving ban that the city of Phoenix passed indicates that it might be possible.

Regardless, if the coalition decides to move forward with a formal policy to prohibit smoking in vehicles with minors, it is recommended that advocates first attempt to run the policy through the state legislature as a formal bill. The process might take several years as it takes time for people to get used to the idea and to increase awareness about the problem.

Since more than 7 of 10 Arizonans support a ban on smoking in vehicles with minors, the policy has a stronger chance of passing as a ballot initiative than it has of passing through the state legislature. However, ballot initiatives are very expensive – upwards of \$2 million is expected to be successful – and, given the low placement of the policy on stakeholders’ current priority lists, this may not be the best route to take, at least initially.

Policy Recommendation 4

Conduct an educational campaign.

A comprehensive education and awareness campaign could help raise awareness of the dangers associated with smoking in motor vehicles, particularly to children, and could increase support for the policy among lawmakers and the general public.

A successful educational campaign might include informative videos, print ads, talking points, posters, social media, and one-on-one meetings with policymakers to discuss the issue. Examples of other states’ media and educational tools are available in Appendix F.

Educational campaigns are a necessary component of tobacco control policies, both during the advocacy period as well as upon policy adoption and implementation. The campaign should combine presentation of strong scientific evidence about the harms of secondhand smoke in motor vehicles with personal stories, ideally from the youth perspective.

For example, a video, such as the one produced by the California Tobacco Control Program (Appendix F), might be updated to be more useful in Arizona by having a child describe what it feels like to be trapped in a car with a smoker. The child might even address opponents' concerns about the law restricting adults' personal freedoms with comments about her own lack of freedom to do anything about the smoke she is involuntarily exposed to when an adult decides to smoke in the car.

Advocates might also consider training and sharing promotional materials with doctors/pediatricians and firefighters. A research article promoted by the American Academy of Pediatrics recommends that pediatricians discuss the dangers of secondhand smoke within motor vehicles with parents.⁶³ Fire departments are also a good place to reach parents as they tend to run Arizona Child Safety Seat Inspection programs and clinics.

Because people relate to messages differently, learn in different manners, and are exposed to different forms of media, a comprehensive effort that spans print, radio, television, and the web is suggested.

Policy Recommendation 5

Assess attitudes and beliefs around e-cigarette usage and harm.

Some stakeholders recommended including e-cigarettes in a policy prohibiting smoking in vehicles with minors. Available evidence suggests that e-cigarettes may still be harmful and not including e-cigarettes in the ban could cause issues with enforcement.

As more research continues to be published on this issue, it is recommended that advocates conduct a thorough review of health-related studies of e-cigarette usage and the potential secondhand harms in order to determine whether e-cigarettes should indeed be included in the policy.

Policy Recommendation 6

Monitor the 2014 Governor, Speaker, and Senate President races.

The individuals in these three key leadership positions are particularly important to passing legislation. The Speaker and President are both responsible for assigning bills to committees and have the power to refrain from doing so if they so choose. A more moderate Speaker and/or President might give the policy a better chance of being assigned to committees, although there is a delicate balance at play even once it is assigned. As Senator Schapira reported, the previous bills he ran on this issue

were either assigned to several committees in an attempt to keep the bills from being heard and passed, or were not given a hearing in the committees to which they were assigned.

Whoever is in these positions for the 2015 legislative session, stakeholders recommend talking with them, or having the bill's sponsor talk with them, to let them know the bill is coming and to gauge their level of support/opposition. It is better to prepare them for the bill than to have them react spontaneously when it is time to assign the bill to committee.

Policy Recommendation 7

Enforce the policy as a secondary offense with civil penalties that begin with a warning, impose increasing fines with subsequent violations, and offer participation in a smoking cessation program.

Although some states have implemented smoking in vehicles with minors bans as a primary offense for which an offending driver can be pulled over without committing any other infractions, local stakeholders recommend that an Arizona smoke-free cars policy should be a secondary offense. The offense should be considered a civil penalty which does not add points to an offending driver's record, and violators should be given a warning for the first offense. Subsequent violations might involve fees ranging anywhere from \$25-\$250 as other states have done, with increasing amounts for each additional offense. Stakeholders also suggested offering participation in a cessation program as a replacement for fines.

Appendix A
Previous Smoking in Vehicles with Minors
Legislation in Arizona

HB2729: Smoking in Vehicles with Minors (2007)

During the Forty-eighth Legislature-First Regular Session in 2007, HB2729 was introduced by House Representative David Schapira (D). Co-sponsors included the following twelve Representatives (most of whom were freshmen in the House at the time):

- Ableser (D)
- Gallardo (D)
- Kirkpatrick (D)
- Lujan (D)
- Saradnik (D)
- Campbell CH (D)
- Clark (R)
- Crandall (R)
- Farley (D)
- Garcia M (D)
- Lopes (D)
- McGuire (D)

The introduced bill read: “A person shall not smoke in a motor vehicle if a person under eighteen years of age is in the motor vehicle. 1st violation: civil penalty of at least \$50 for each person under 18 years in the vehicle; subsequent violations: the civil penalty shall be increased by \$50 for each person under the age of 18 in the vehicle”.

The proposed bill underwent a House first read on February 6, 2007 and was assigned to the House Transportation Committee (Chairman: Biggs, R), Health Committee (Chairman: Stump, R) and the Rules Committee (Chairman: Robson, R). The second House read occurred on February 7, 2007; however, the proposed bill was held in the standing committees.

For additional details, visit http://www.azleg.gov/FormatDocument.asp?inDoc=/legtext/48leg/1r/bills/hb2729o.asp&Session_ID=85.

HB2076: Smoking in Vehicles with Minors (2010)

HB2076 was introduced solely by Representative Schapira (D) in 2010 during the Forty-ninth Legislature-Second Regular Session. The introduced bill read as, “A person shall not smoke in a motor vehicle if a person under sixteen years of age is in the motor vehicle. A law enforcement officer shall not stop or issue a citation to a person operating a motor vehicle on a highway in this state for a violation of this section unless the law enforcement officer has reason to believe there is another alleged violation of a motor vehicle law of this state. 1st violation: civil penalty of \$50 for each person under age 16; for each subsequent violation, the civil penalty shall be \$100 for each person under age 16.”

The bill underwent a House first read on January 12, 2010 and was assigned to the House Transportation & Infrastructure Committee (Chairman: Biggs, R) and the Rules Committee (Chairman: Nichols, R). The second House read occurred on January 13, 2010; however, the proposed bill was held in the standing committees.

For additional details, visit http://www.azleg.gov/CommitteeInfo.asp?Committee_ID=29&Legislature=49&Session_ID=93.

Appendix B

Current State Smoking in Vehicles with Minors Policies

Arkansas

Bill/Ordinance Number and Title

- HB1046: The Arkansas Protection from Secondhand Smoke for Children Act (2006; initial law)
- SB1004: An Act to Raise the Age of Children for whom Smoking is Prohibited in Motor Vehicles; and For Other Purposes (2011; current law; increased age and protections from 2006 version)

Specifics of Legislation

- HB1046: Upon the effective date of this act, smoking is prohibited in all motor vehicles in which a child who is less than six (6) years of age and who weighs less than sixty pounds (60 lbs.) is restrained in a child passenger safety seat properly secured to the vehicle in accordance with § 27-34-101 et seq.
- SB1004: Smoking is prohibited in any motor vehicle in which a child who is less than fourteen (14) years of age is a passenger.

Age Criteria

- <14 years of age

Sponsors and Co-Sponsors

- HB1046: Sen. Smith (D), Reps. Bob Mathis (R), George (D), Saunders (D), Wills (D) and Senator Percy Malone (D)
- SB1004: Sen. Malone (D)

Penalty and Enforcement

A person who violates this subchapter is guilty of a violation and upon conviction shall be punished by a fine not to exceed twenty-five dollars (\$25). If a person is convicted, pleads guilty, pleads nolo contendere, or forfeits bond for violation of this subchapter, no court costs pursuant to § 16-10-305 or other costs or fee shall be assessed. Any person who proves to the court that he or she has entered into a smoking cessation program may have his or her fine eliminated for a first offense violation of this subchapter.

California

Bill/Ordinance Number and Title

SB7: Health & Safety Code § 118948 SB7, Chapter 425; 2007: Article 2.5. Smoking in vehicles with minor passengers.

Specifics of Legislation

It is unlawful for a person to smoke a pipe, cigar, or cigarette in a motor vehicle, whether in motion or at rest, in which there is a minor. For the purposes of this section, “to smoke” means to have in one’s immediate possession a lighted pipe, cigar, or cigarette containing tobacco or any other plant.

Age Criteria

<18 years of age

Sponsors and Co-Sponsors

Senator Jenny Oropeza (D)

Penalty and Enforcement

This bill would make it an infraction punishable by a fine not exceeding \$100 for a person to smoke a pipe, cigar, or cigarette in a motor vehicle, whether in motion or at rest, in which there is a minor. This bill would prohibit a law enforcement officer from stopping a vehicle under the act for the sole purpose of determining whether a driver was in violation of the antismoking provisions imposed by the bill.

Louisiana

Bill/Ordinance Number and Title

HB1010: Prohibits smoking in motor vehicles under certain circumstances- Act 838.

Specifics of Legislation

To enact R.S. 32:300.3, relative to operating motor vehicles; to prohibit the operator or a passenger in a motor vehicle from smoking when children of a certain age are present; to provide relative to penalties for violations; to provide relative to citations issued for violations; to prohibit certain actions by law enforcement officers; and to provide for related matters. It shall be unlawful for the operator or any passenger in a motor vehicle to smoke cigarettes, pipes, or cigars in a motor vehicle, passenger van, or pick-up truck, when a child who is required to be restrained in a rear-facing child safety seat, a forward-facing child safety seat, a booster seat, or a motor vehicle's safety belt as required in Louisiana Revised Statutes section 32:295 is also present in such vehicle, regardless of whether

windows of the motor vehicle are down. For purposes of this Section, the term “smoke” shall mean inhaling, exhaling, burning, or carrying any lighted cigarette, cigar, pipe, weed, plant, or other combustible substance in any manner or in any form.

Age Criteria

<13 years of age

Sponsors and Co-Sponsors

Representative Gary Smith, Jr. (D)

Penalty and Enforcement

Whoever violates the provisions of this Section shall be fined one hundred fifty dollars per offense, or at the discretion of the judge, may be sentenced to no less than twenty-four hours of community service. Probable cause for a violation of this Section shall be based solely upon a law enforcer's clear and unobstructed view of a person smoking as prohibited by this Section. Violation of this Section shall be considered a primary offense, and any law enforcement officer may stop a motor vehicle solely because of a violation of this Section; however, a law enforcement officer may not search or inspect a motor vehicle, its contents, the driver, or a passenger solely because of a violation of this Section. A violation of this Section shall be considered a nonmoving violation, and a citation issued by a law enforcement officer for such a violation shall not be included on the driver's operating record.

Maine

Bill/Ordinance Number and Title

Title 22: Health and Welfare, Chapter 262: SMOKING Heading; 2008; §1549.
Smoking in vehicles when minor under 16 years of age is present.

Specifics of Legislation

Smoking is banned in any car when a person under the age of 16 is present, though no driver may be pulled over or searched solely for violation of this law.; Smoking is prohibited in a motor vehicle by the operator or a passenger when a person who has not attained 16 years of age is present in that motor vehicle, regardless of whether the motor vehicle's windows are open. “Smoking” means inhaling, exhaling, burning or carrying a lighted cigarette, cigar, pipe, weed, plant, regulated narcotic or other combustible substance.

Age Criteria

<16 years of age

Sponsors and Co-Sponsors

Representative Brian Duprey (R).

Penalty and Enforcement

Prohibition on inspection or search. A motor vehicle, the contents of the motor vehicle or the operator or a passenger in the motor vehicle may not be inspected or searched solely because of a violation of this section. A violation of this section is not a moving violation as defined in Title 29-A, section 101, subsection 44. The amendment prohibits searches based solely on a violation of the provision, limits the penalty for violating the provision in the first 12 months of its taking effect to a warning and retains a violation after that time as a civil violation, for which a fine of \$50 may be assessed or a warning given in the discretion of the law enforcement officer.

Oregon

Bill/Ordinance Number and Title

SB444

Specifics of Legislation

A person who commits the offense of smoking in a motor vehicle if the person smokes in a motor vehicle while a person under 18 years of age is in the motor vehicle. As used in this subsection, “smokes” means to inhale, exhale, burn or carry a lighted cigarette, cigar, pipe, weed, plant, regulated narcotic or other combustible substance.

Age Criteria

<18 years of age

Sponsors and Co-Sponsors

Sen. Steiner Hayward (D), Reps. Thompson (R), Clem (D), Gleser (D), Greenlick (D), Keny-Guyer (D), Tomei (D), Senators Boquist (R), Burdick (D), Dingfelder (D), Monnes Anderson (D), Monroe (D), Rosenbaum (D), Shields (D)

Penalty and Enforcement

Notwithstanding ORS 810.410, a police officer may enforce this section only if the police officer has already stopped and detained the driver operating the vehicle for a separate traffic violation or other offense. Smoking in a motor vehicle is a: Class D

traffic violation for a first offense. Class C traffic violation for a second or subsequent offense; \$250 for 1st violation; Class C offense, \$500 for subsequent violations.

Puerto Rico

Bill/Ordinance Number and Title

HB2073; PR Laws Ann. 24 § 892(u) the “Act to Regulate Smoking in Certain Public and Private Places”

Specifics of Legislation

“Section 3.—Smoking is prohibited at all times in the following places

- Private transportation vehicles when there is a minor in a car seat present or when there is a child under the age of thirteen (13).”

Age Criteria

<13 years of age

Penalty and Enforcement

“Section 9.—In case of a violation of the provisions of this Act and its regulations, the Secretary of Health may impose administrative fines to the directing authorities of up to the sum of two hundred fifty (250) dollars. These penalties shall apply to both the persons smoking in said areas and the owners or operators of the same. In the case of subsequent violations, he/she may impose fines of up to five hundred (500) dollars for a second violation and of up to two thousand (2,000) dollars for subsequent violations. The administrative fines shall be paid by certified check or money order payable to the Secretary of the Treasury. The amounts collected hereby shall be deposited into the Tobacco Prevention and Control Program, attached to the Department of Health, so that it may have the resources needed to provide citizens with effective smoking prevention and quitting services. Any person who violates subsections (k) and (l) of Section 3 of this Act shall be guilty of a misdemeanor and sanctioned pursuant to the provisions of the Penal Code. The Puerto Rico Police is hereby empowered to intervene with persons who violate this Act.”

Utah

Bill/Ordinance Number and Title

HB 13: Protection of Children Riding in Motor Vehicles

Specifics of Legislation

Smoking is prohibited in a motor vehicle if a child who is 15 years of age or younger is a passenger in the vehicle. As used in this section, “smoking” has the same meaning as defined in Section 26-38-2. Except as provided in Subsection (2) (b), smoking is prohibited in a motor vehicle if a child who is 15 years of age or younger is a passenger in the vehicle. A person may smoke in a motor vehicle while a child who is 15 years of age or younger is a passenger in the vehicle if the person: 1) is operating a convertible or open-body type motor vehicle; and 2) the roof on the convertible or open-body type motor vehicle is in the open-air mode.

Age Criteria

15 years of age or younger

Sponsors and Co-Sponsors

Chief Sponsor: Representative Arent (D); Senate Sponsor: Senator Aaron Osmond (R); Co-Sponsors: 15 House Republicans and 7 House Democrats

Reps. Barlow (R), Briscoe (D), E. Brown (R), R. Brown (R), Chavez-Houck (D), Cosgrove (D), Draxler (R), Edwards (R), Eliason (R), Hall (R), King (D), Mciff (R), Menlove (R), Moss (D), Perry (R), Pitcher (R), Poulson (D), Powell (R), Ray (R), Redd (R), Seelig (D), Snow (R)

Penalty and Enforcement

Violators stopped for other infractions face fines up to \$45, which can be waived if they enroll in a program to quit smoking; A person who violates this section is guilty of an infraction and is subject to a maximum fine of \$45. Until July 1, 2014, a peace officer may not issue a citation to an individual for a violation of this section but shall issue the individual a warning instead. Enforcement of this section by a state or local law enforcement officer shall be only as a secondary action when the vehicle has been detained for another reason or offense. A violation of this section may not be used as a basis for or evidence of child abuse or neglect.

Vermont

Bill/Ordinance Number and Title

Act No. 135 (H.217)

An act relating to smoking in lodging establishments, hospitals, and child care facilities, and on state lands.

Specifics of Legislation

A person shall not possess a lighted tobacco product in a motor vehicle that is occupied by a child required to be properly restrained in a federally approved child passenger restraining system pursuant to subdivision 1258(a)(1) or (2) of this title.

Age Criteria

< 8 years of age

Sponsors and Co-Sponsors

Lead sponsor of amendment: Rep. Komline (R); Co-sponsors of amendment: 3 Republicans, 5 Democrats, and 2 Independents; Amendment added to bill sponsored by: Rep. Frank (D); Rep. Batchelor (R); Rep. Krowinski (D); Rep. Mrowicki (D)

Penalty and Enforcement

Violators shall be subject to a fine of not more than \$100.00. No points shall be assessed for a violation of this section.

Appendix C

**Supporters and Opponents of Smoking in Vehicles
with Minors Policies**

Policy Champions and Opponents in States/Counties with Existing Smoking in Vehicles with Minors Policies

The policy champions and opponents of the smoking in motor vehicles with minors' legislation have included the following:

Arkansas

- Arkansas Department of Health
- American Cancer Society
- Northwest Arkansas Tobacco Free Coalition
- Coalition for Tobacco Free Arkansas
- Tobacco Control Youth Board
- Opposition: Very minimal opposition and passed fairly easily. There was a tobacco industry lobbyist involved; however, they did not take a strong stance against the proposed legislation.

Louisiana

- Opposition: The Smokers' Rights Group Forest

California

- Action on Smoking and Health
- American Cancer Society
- American Federation of State, County and Municipal
- American Lung Association
- California Alliance for Consumer Protection (CACP)
- California Black Health Network, Inc. (CBHN)
- California Chiropractic Association (CDA)
- County Health Executives Association of California
- Foundation for a Smokefree America
- Glendalians Against Smoker Pollution (GASP)
- Kids Involuntarily Inhaling Secondhand Smoke (KISS)
- S.A.F.E. Smokefree Air for Everyone
- Opposition: none

Maine

- Augusta Lung Cancer Alliance
- Lung Cancer Association
- American Lung Association
- Penobscot Children's Dentistry Associates
- Ignite Kennebec County
- Ignite-Oxford County
- Department for Health and Human Services, Maine Center for Disease Control and Prevention
- Health Policy Partners'
- Maine American Academy of Pediatrics (AAP)

- Maine Coalition on Smoking or Health
- Maine Medical Association
- Travis Monmaney, student at University of Maine Farmington
- Mary E. Davis, Assistant Professor, School of Economics, University of Maine
- Opposition: Audrey Buffington (representing self), Maine Municipal Association
- Neutral: Maine Indoor Air Quality Council

Oregon

- The American Lung Association
- The American Heart Association
- Oregon Medical Association
- Oregon Pediatric Society (OPS)
- Tobacco-Free Coalition of Oregon, Inc.
- Medical organizations and health professionals
- Individuals and groups impacted by lung issues
- Individuals and groups with child welfare concerns
- Oregon State Sheriffs' Association
- Oregon Association Chiefs of Police
- Oregon Health & Science University
- Opposition: Predominately positive support for the legislation. One individual (representing self) opposed the bill because he thought it should be a primary offense rather than secondary. Other concerns cited that it would disproportionately impact individuals from low socioeconomic statuses.

Utah

- Utah Tobacco Prevention Task Force
- Coalition for a Tobacco Free Utah
- Utah Chapter of the American Academy of Pediatrics
- Mr. Tyler Adams, local high school student
- Primary Children's Medical Center
- Utah Medical Association
- Opposition: Utah Eagle Forum

Vermont

- Coalition for a Tobacco Free Vermont (over 80 members including insurance companies; prevention organizations; Heart, Lung and Cancer Associations; hospitals, dentists, pediatricians, nurses, and other medical groups; public health organizations; k-12 schools and higher education institutions; youth groups, and others)
- American Academy of Pediatrics, Vermont Chapter
- Vermont Academy of Family Physicians
- Vermont Medical Society
- American Cancer Society
- American Lung Association
- Free My Ride

Appendix D

Other State and County Approaches to Key Policy Components

Age of Child

Among the states and counties in which the legislation has passed, the age of children and youth protected by smoke-free motor vehicle laws has been edging upward, reaching to age 18 in California, Oregon, and in the municipalities Hawaii County, Hawaii, Keyport and West Long Branch, New Jersey, and Rockland County, New York. This can be a challenging issue to resolve and has been the subject of debate in counties and states that have passed these laws. More specifically, there has been uncertainty with regard to how the officer might determine the age of child at the time of enforcement if such a policy only applies to a subsection of minors.

Louisiana resolved this issue by matching the age criteria with the state's current child restraint/seatbelt law, which mandates that children under age 13 be restrained by car seat, booster seat, or safety belt. The prohibition on smoking in motor vehicles was limited to the presence of children who, by statute, are already required to be restrained in vehicles.

For Maine, some lawmakers made the argument that the age cut-off should reflect the legal driving age, which is set at age 16, while others contested that youth between the ages of 16 and 18 could voice their opposition to parental smoking in motor vehicles. A compromise resulted in amending the age criteria in the bill from 18 to 16, the age at which youth can legally drive in Maine.

In California, champions of the legislation found it challenging to develop a reasonable argument for protecting minors based on an arbitrary age cut-off. Since there is a lack of empirical evidence to suggest that children are less susceptible to health risks from SHS exposure upon reaching a particular age, this issue was solved by applying the law to protect all minors under age 18, the age at which Californians can legally possess and smoke tobacco.

California's legislature took a position which observed that all children and youth, no matter what their age, are at risk when exposed to tobacco smoke in vehicles, and does not make the assumption that minors of a certain age, for example 14 or 16, can prevent adults from smoking simply by requesting them to not do so. Protecting all minors under the legal age for tobacco use and possession is presumed to afford a clear-cut enforcement mechanism for law enforcement officers, one that is compatible with their duty to enforce laws prohibiting youth access to tobacco.

Classification of Offense: Primary or Secondary

Primary vs. secondary enforcement has been a key factor in similar policy initiatives to ban tobacco use in motor vehicles with minors. A state's decision about whether to classify an offense as primary or secondary frequently reflects the way comparable types of laws within the jurisdiction are structured. For example, if a state treats seatbelt laws, restrictions on use of cell phones, or child restraint laws

as primary offenses, often a law regulating smoking in motor vehicles with minors will be similarly categorized.

Lawmakers and police use these terms to signify traffic offenses for which drivers can be stopped and cited. To enact **primary enforcement** means a law enforcement officer may stop a motor vehicle solely because of the violation of smoking in a motor vehicle with a minor. For those counties and states that have implemented the policy as a primary enforcement, many have included a clause in which law enforcement officers may not stop or inspect a motor vehicle, its contents, the driver, or a passenger solely because of a violation of the provision. On the other hand, with **secondary enforcement**, law enforcement officers need another reason to pull over the drivers, such as speeding.

Questions related to whether or not to categorize a violation as a primary or secondary offense can potentially generate concerns from community members about the likelihood for racial- or bias-based profiling under either scenario. Profiling transpires when a law enforcement officer who engages in racial bias or other bias (ethnicity, gender, etc.) inappropriately detains a driver, using suspicion of a crime as a pretext for a traffic stop. Given that law enforcement officers do not have the authority to stop a driver simply for a secondary offense, occurrences of profiling may be less likely when a violation of a law (such as one developed principally to protect children's health) is categorized as a secondary offense.

Fines and Penalties

Fines in the seven states that have enacted smoke-free policies in motor vehicles with minors range from \$25 in Arkansas, in which a fine for the offense is waived if the violator enters a smoking cessation program, to fines of up to \$250, or at least 24 hours of community service in Louisiana. The Commonwealth of Puerto Rico imposes the highest fine among U.S. jurisdictions at \$250.

Appendix E
Public Opinion Poll Results
(Behavior Research Center, Inc.)

Attached as Separate Document

Appendix F

Promotional Tools

Resources

Web Links:

California Tobacco Control Program video regarding smoking in motor vehicles with minors: <http://vimeo.com/1513382>

Attached as separate documents:

1. Arkansas Smoke-Free Cars Policy fact card
2. Arkansas Smoke-Free Cars Policy print ad
3. Arkansas Smoke-Free Cars Policy poster
4. Arkansas Smoke-Free Cars Policy PowerPoint presentation
5. Smoke-Free Cars California sign

References/End Notes

- ¹ U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Coordinating Center for Health Promotion, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. (2006).
- ² Hai, V. N. (2013). Do smoke-free car laws work? Evidence from a quasi-experiment. *Journal of Health Economics*, 32, 138-148.
- ³ Rees, V.W., & Connolly, G.N. (2006). Measuring air quality to protect children from secondhand smoke in cars. *American Journal of Preventative Medicine*, 31(5), 363-368.
- ⁴ U.S. Department of Health and Human Services, Center for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. (2014). *The health consequences of smoking—50 years of progress. A report of the Surgeon General*. Retrieved from <http://www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf>
- ⁵ U.S. Environmental Protection Agency (n.d.). *Children's environmental health disparities: Hispanic and Latino American children and secondhand smoke* (No. 100F08032) [Fact sheet]. Retrieved from [http://yosemite.epa.gov/oceph/ochpweb.nsf/content/HD_Hispanic_Smoke.htm/\\$File/HD_Hispanic_Smoke.pdf](http://yosemite.epa.gov/oceph/ochpweb.nsf/content/HD_Hispanic_Smoke.htm/$File/HD_Hispanic_Smoke.pdf)
- ⁶ U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Coordinating Center for Health Promotion, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. (2006).
- ⁷ Sendzik, T., Fong, G. T., Travers, M. J., & Hyland, A. (2008).
- ⁸ Ott, W., Klepeis, N., & Switzer, P. (2008). Air change rates of motor vehicles and in-vehicle pollutant concentrations from secondhand smoke. *Journal of Exposure Science and Environmental Epidemiology*, 18, 312-325.
- ⁹ Rees, V.W., & Connolly, G.N. (2006). Measuring air quality to protect children from secondhand smoke in cars. *American Journal of Preventative Medicine*, 31(5), 363-368.
- ¹⁰ <http://www.stateoftheair.org/2014/states/arizona/>
- ¹¹ Arizona Department of Health Services. (2013). *Arizona Youth Tobacco Survey: 2013 report*. Retrieved from: <http://azdhs.gov/tobaccofreeaz/reports/pdf/az-youth-tobacco-survey-report-2013.pdf>
- ¹² King, B.A., Dube, S.R., & Tynan, M.A. (2012). Secondhand smoke exposure in cars among middle and high school students—United States, 2000-2009. *Pediatrics*, 129(3), 1-7. doi:10.1542/peds.2011-2307
- ¹³ Based on 2012 U.S. Census Estimates for Arizona population under 18 years of age. <http://quickfacts.census.gov/qfd/states/04000.html>
- ¹⁴ U.S. Department of Health and Human Services, Center for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. (2014). *The health consequences of smoking—50 years of progress. A report of the Surgeon General*. Retrieved from <http://www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf>
- ¹⁵ Winickoff, J. P., Friebely, J., Tanski, S. E., Sherrod, C., Matt, G. E., Hovell, M. F., & McMillen, R. C. (2009). Beliefs about the health effects of “thirdhand” smoke and home smoking bans. *Pediatrics*, 123(1), e74-e79.
- ¹⁶ Lai, H. K., Ho, S. Y., Wang, M. P., & Lam, T.H. Secondhand smoke and respiratory symptoms among adolescent current smokers. *Pediatrics*, 124(5), 1306-1310.
- ¹⁷ Kum-Nji, P., Meloy, L., & Herrod, H. G. (2006). Environmental tobacco smoke exposure: Prevalence and mechanisms to causation of infections in children. *Pediatrics*, 117(5), 1745-1754.
- ¹⁸ U.S. Department of Health and Human Services, Center for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. (2014).
- ¹⁹ U.S. Department of Health and Human Services, Center for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. (2014).
- ²⁰ U.S. Department of Health and Human Services, Center for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. (2014). *The health consequences of smoking—50 years of progress. A report of the Surgeon General*. Retrieved from <http://www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf>

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- ²¹ Centers for Disease Control and Prevention. (2008). *Smoking-attributable mortality, years of potential life lost, and productivity losses--United States, 2000-2004*. Retrieved from <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5745a3.htm>
- ²² Centers for Disease Control and Prevention. (2013). *Cigarette smoking – United States, 2006-2008 and 2009-2010*. Retrieved from <http://www.cdc.gov/mmwr/preview/mmwrhtml/su6203a14.htm>
- ²³ U.S. Environmental Protection Agency (n.d.). *Children’s environmental health disparities: Hispanic and Latino American children and secondhand smoke* (No. 100F08032) [Fact sheet]. Retrieved from [http://yosemite.epa.gov/oehp/ochpweb.nsf/content/HD_Hispanic_Smoke.htm/\\$File/HD_Hispanic_Smoke.pdf](http://yosemite.epa.gov/oehp/ochpweb.nsf/content/HD_Hispanic_Smoke.htm/$File/HD_Hispanic_Smoke.pdf)
- ²⁴ U.S. Department of Health and Human Services, Center for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. (2014).
- ²⁵ Ong, M.K., & Glantz, S.A. (2004). Cardiovascular health and economic effects of smoke-free workplaces. *American Journal of Medicine*, 117, 32-38. doi:10.1016/j.amjmed.2004.02.029
- ²⁶ Barnoya, J., & Glantz, S. A. (2005). Cardiovascular effects of secondhand smoke: Nearly as large as smoking. *Circulation*, 111, 2684-2698.
- ²⁷ Kallio, K., Jokinen, E., Saarinen, M., Hamalainen, M., Volanen, I., Kaitosaari, T., ... Simell, O. (2010). Arterial Intima-Media Thickness, Endothelial Function, and Apolipoproteins in adolescents frequently exposed to tobacco smoke. *Circulation: Cardiovascular Quality and Outcomes*, 3(2), 196-203.
- ²⁸ U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Coordinating Center for Health Promotion, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. (2006).
- ²⁹ Rees, V.W., & Connolly, G.N. (2006). Measuring air quality to protect children from secondhand smoke in cars. *American Journal of Preventative Medicine*, 31(5), 363-368.
- ³⁰ Hai, V. N. (2013). Do smoke-free car laws work? Evidence from a quasi-experiment. *Journal of Health Economics*, 32, 138-148.
- ³¹ Anderson, H. R., & Cook, D. G. (1997). Passive smoking and sudden infant death syndrome: review of the epidemiological evidence. *Thorax*, 52(11), 1003-1009.
- ³² Rees, V.W., & Connolly, G.N. (2006). Measuring air quality to protect children from secondhand smoke in cars. *American Journal of Preventative Medicine*, 31(5), 363-368.
- ³³ Kum-Nji, P., Meloy, L., & Herrod, H. G. (2006).
- ³⁴ Hai, V. N. (2013).
- ³⁵ Sly, P. D., Deverell, M., Kusel, M. M., & Holt, P. G. (2007). Exposure to environmental tobacco smoke in cars increases the risk of persistent wheeze in adolescents. *Medical Journal of Australia*, 186(6), 322-322.
- ³⁶ U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Coordinating Center for Health Promotion, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. (2006).
- ³⁷ Hai, V. N. (2013).
- ³⁸ Lee, D. J., Dietz, N. A., Arheart, K. L., Wilkinson, J. D., Clark III, J. D., & Caban-Martinez, A. J. (2008). Respiratory effects of secondhand smoke exposure among young adults residing in a “clean” indoor air state. *Journal of Community Health*, 33(3), 117-125.
- ³⁹ Filippini, G., Maisonneuve, P., McCredie, M., Peris-Bonet, R., Modan, B., Preston-Martin, S., ... & Boyle, P. (2002). Relation of childhood brain tumors to exposure of parents and children to tobacco smoke: The search international case-control study. *International Journal of Cancer*, 100(2), 206-213.
- ⁴⁰ Miller, M. D., Marty, M. A., Broadwin, R., Johnson, K. C., Salmon, A. G., Winder, B., & Steinmaus, C. (2007). The association between exposure to environmental tobacco smoke and breast cancer: a review by the California Environmental Protection Agency. *Preventive Medicine*, 44(2), 93-106.
- ⁴¹ Bandiera, F. C., Richardson, A. K., Lee, D. J., He, J. P., & Merikangas, K. R. (2011). Secondhand smoke exposure and mental health among children and adolescents. *Archives of Pediatrics & Adolescent Medicine*, 165(4), 332-338.
- ⁴² Hyland, A., Higbee, C., Borland, R., Travers, M., Hastings, G., Fong, G. T., & Cummings, K. M. (2009). Attitudes and beliefs about secondhand smoke and smoke-free policies in four countries: findings from the International Tobacco Control Four Country Survey. *Nicotine & Tobacco Research*, 11(6), 642-649.
- ⁴³ Sendzik, T., Fong, G. T., Travers, M. J., & Hyland, A. (2008). An experimental investigation of tobacco smoke pollution in cars. *Nicotine & Tobacco Research*, 11(6), 627-634.

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- ⁴⁴ Public Health Law Center. (2010). *Kids, Cars, and Cigarettes: A Policy Overview*. Retrieved from http://publichealthlawcenter.org/sites/default/files/resources/phlc-fs-kidscarssmoke-2010_0.pdf
- ⁴⁵ Sendzik, T., Fong, G. T., Travers, M. J., & Hyland, A. (2008).
- ⁴⁶ Norman, G.J., Ribisl, K.M., Howard-Pitney, B., & Howard, K.A. (1999). Smoking bans in the home and car: Do those who really need them have them? *Preventive Medicine*, *29*, 582-589.
- ⁴⁷ Kegler, M.C., Escoffery, C., & Butler, S. (2008). A qualitative study on establishing and enforcing smoking rules in family cars. *Nicotine & Tobacco Research*, *10*(3), 493-497.
- ⁴⁸ Jones, M. R., Navas-Acien, A., Yuan, J., & Breyse, P. N. (2009). Secondhand tobacco smoke concentrations in motor vehicles: a pilot study. *Tobacco Control*, *18*(5), 399-404.
- ⁴⁹ Pawson, R., Wong, G., & Owen, L. (2011). Myths, facts and conditional truths: What is the evidence on the risks associated with smoking in cars carrying children?. *Canadian Medical Association Journal*, *183*(10), E680-E684.
- ⁵⁰ Semple, S., Apsley, A., Galea, K. S., MacCalman, L., Friel, B., & Snelgrove, V. (2012). 'Secondhand smoke in cars: assessing children's potential exposure during typical journey conditions. *Tobacco Control*, *21*(6), 578-583.
- ⁵¹ https://www.health.ny.gov/environmental/indoors/air/pmq_a.htm
- ⁵² https://www.health.ny.gov/environmental/indoors/air/pmq_a.htm
- ⁵³ Sohn, H., & Lee, Kiyoung. Impact of smoking on in-vehicle fine particle exposure during driving. *Atmospheric Environment*, *44*, 3465-3468.
- ⁵⁴ Rees, V.W., & Connolly, G.N. (2006). Measuring air quality to protect children from secondhand smoke in cars. *American Journal of Preventative Medicine*, *31*(5), 363-368.
- ⁵⁵ Sleiman, M., Gundel, L. A., Pankow, J. F., Jacob, P., Singer, B. C., & Destailats, H. (2010).
- ⁵⁶ Arizona Department of Health Services. (2013). *Arizona Youth Tobacco Survey: 2013 report*. Retrieved from: <http://azdhs.gov/tobaccofreeaz/reports/pdf/az-youth-tobacco-survey-report-2013.pdf>
- ⁵⁷ King, B.A., Dube, S.R., & Tynan, M.A. (2012). Secondhand smoke exposure in cars among middle and high school students—United States, 2000-2009. *Pediatrics*, *129*(3), 1-7. doi:10.1542/peds.2011-2307
- ⁵⁸ http://www.azsos.gov/public_services/Title_06/6-05.htm#Article_74
- ⁵⁹ <http://www.azleg.gov/FormatDocument.asp?inDoc=/ars/28/00701.htm&Title=28&DocType=ARS>
- ⁶⁰ <http://www.azcentral.com/story/news/arizona/2014/04/26/distracted-drivers-getting-dps-attention/8190109/>
- ⁶¹ <http://mottnpch.org/reports-surveys/broad-public-support-banning-smoking-vehicles-kids-present>
- ⁶² http://www.azsos.gov/public_services/title_09/9-02.htm
- ⁶³ <http://www.aap.org/en-us/about-the-aap/aap-press-room/Pages/Parents-Who-Smoke-Often-Expose-Children-to-Tobacco-Smoke-in-Their-Cars.aspx>

Borough of West Long Branch, NJ

3-18 SMOKING IN MOTOR VEHICLES WHEN MINORS ARE PRESENT.

3-18.1 Smoking in Motor Vehicle Prohibited.

No person shall **smoke** while occupying a motor vehicle if a person under the age of eighteen (18) years is also occupying the vehicle. (Ord. #O-07-10, S 1)

3-18.2 Definitions.

A. "Motor vehicle" under this section shall mean any self-propelled vehicle licensed for on-road usage, other than a motorcycle, moped, motor scooter or motorized bicycle, regardless of whether the motor vehicle is publicly or privately owned, leased or rented; and regardless of whether the motor vehicle is operated for public, private or commercial purposes; and regardless of whether the windows or doors of the vehicle are in an opened or closed position.

b. "**Smoke**" under this section shall mean the burning, inhaling, exhaling or being in possession of a lighted cigarette, cigar, pipe, or any other matter or substance which contains tobacco or any other matter that can be smoked.

(Ord. #O-07-10, S 2)

3-18.3 Enforcement.

This section may be enforced by the State of New Jersey or any local law enforcement officer, but only as a secondary action when the operator of a motor vehicle has been stopped or detained for a different violation of Title 39 of the Revised Statutes of the State of New Jersey, or the operator has been stopped or detained for another offense. (Ord. #O-07-10, S 3)

3-18.4 Penalty.

Any person found to have violated this section shall be fined seventy-five (\$75.00) dollars, plus court costs. (Ord. #O-07-10, S 4)

Chapter 291. Vehicles and Traffic

Article IX. Smoking in Motor Vehicles

[Added 1-8-2007 by Ord. No. 07-50]

§ 291-70. Smoking in motor vehicles with child passengers prohibited.

- A. It shall be unlawful for the operator or any passenger in a motor vehicle to smoke cigarettes, pipes, or cigars in a motor vehicle, passenger van, pick-up truck or commercial vehicle when any person under the age of 18 is present in the vehicle, regardless of whether the motor vehicle's windows are down.
- B. "Smoke" as used in this article, shall mean inhaling, exhaling, burning, or carrying any lighted cigarette, cigar, pipe, weed, plant, regulated narcotic, or other combustible substance.

§ 291-71. Violations and penalties.

- A. Whoever violates any of the provisions of this article shall be punished by a fine of \$50. In any action in which the City prevails it shall be entitled to attorneys' fees and all costs of prosecution.
- B. Subsection **A** notwithstanding, prior to citing the operator or passenger of a motor vehicle for a violation of this article, the Police Department may give written notice to said person acting in violation of this article at the time of the violation informing the person of the use of the motor vehicle in violation of this article.

Loma Linda Municipal Code

[Up](#)[Previous](#)[Next](#)[Main](#)[Search](#)[Print](#)[No Frames](#)[Title 8 HEALTH AND SAFETY](#)[Chapter 8.10 SECONDHAND SMOKE CONTROL](#)

8.10.040 Prohibition of smoking.

A. Public and Other Places Where Smoking Prohibited. Except as otherwise provided by this chapter or by state or federal law, smoking is prohibited everywhere in the city, including but not limited to:

1. Public places;
2. Places of employment;
3. Multi-unit residence common areas;
4. Enclosed and unenclosed places of hotels, businesses, restaurants, and bars, and other public accommodations; and
5. Health facilities.

B. Places Where Smoking Permitted. Notwithstanding subsection A of this section, smoking is permitted in the following locations within the city, unless otherwise provided by state or federal law:

1. Private residential property, other than: (a) those used as a child-care or health-care facility subject to licensing requirements when employees, children or patients are present, or (b) as provided in Section 8.12.051 through 8.12.055 of this chapter with respect to multi-unit residences. Nothing in this chapter shall require a person or entity who or which owns or controls a private residential property, including, but not limited to, a condominium association or an apartment owner, to permit smoking and such a person may prohibit smoking throughout the property he, she or it owns or controls.

2. In up to twenty percent of guest rooms in any hotel or motel, if the hotel or motel permanently designates at least eighty percent of its guest rooms as nonsmoking rooms, appropriately signs nonsmoking rooms and permanently removes ashtrays and matches from them. Smoking rooms shall be segregated from nonsmoking rooms on separate floors, wings, or portions of either; smoking and nonsmoking rooms shall not be interspersed. Nothing in this chapter shall require a hotel or motel to provide smoking rooms and the owner or operator of a hotel or motel may choose to prohibit smoking throughout the property.

3. Designated unenclosed areas in shopping center common areas (“smokers’ outposts”), provided that: (a) there is not more than one square foot of unenclosed area designated for smoking for every twenty thousand square feet of rentable enclosed or unenclosed space of the shopping center (provided that each shopping center may have at least one smokers’ outpost of forty or fewer square feet in area, (b) the area is prominently marked with signs, (c) it is located the greatest distance practicable, and at least five feet, from any doorway or opening into an enclosed area or any access way from parking facilities to the retail areas of the shopping center, (d) smoke is not permitted to enter adjacent area in which smoking

is prohibited by this chapter, other law or by the owner, lessee or licensee of the adjacent property, and (e) the location(s) of the smokers' outpost(s) is or are approved in writing by the city manager of the city based on the standards of this subsection and the goals of this chapter.

4. Any privately owned outdoor area in which no nonsmoker is present and, due to the time of day or other factors, it is not reasonable to expect another person to arrive.

5. Inside a private automobile when no minor child is present.

C. No person shall dispose of smoking waste or place or maintain a receptacle for smoking waste in an area in which smoking is prohibited by this chapter or other law, including within any reasonable distance required by this chapter, provided however, that a receptacle may be placed at the entry to a nonsmoking area, along with a "No Smoking" sign, in order to encourage any smokers in violation of this chapter to immediately extinguish and properly dispose of smoking materials. (Ord. 677 § 2, 2008)

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE HEALTH COMMITTEE SUBSTITUTE FOR
HOUSE BILL 148

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52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

AN ACT

RELATING TO MOTOR VEHICLES; ENACTING A SECTION OF THE MOTOR
VEHICLE CODE TO PROHIBIT SMOKING IN ANY MOTOR VEHICLE WHEN A
MINOR IS PRESENT; ESTABLISHING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Motor Vehicle Code is
enacted to read:

"~~[NEW MATERIAL]~~ SMOKING PROHIBITED--VEHICLE WHERE MINOR
PRESENT.--

A. It is unlawful for a person to smoke in any
motor vehicle when a minor is present in the vehicle.

B. A person who violates this section is guilty of
a misdemeanor and:

(1) upon a first conviction, shall pay a fine
of one hundred dollars (\$100), which the court shall waive if

1 the person completes a smoking cessation course:

2 (a) either in person or through a web
3 site;

4 (b) chosen from a list of smoking
5 cessation courses that the court has approved; and

6 (c) within a time frame that the court
7 specifies; and

8 (2) upon a second or subsequent conviction,
9 shall be fined one hundred dollars (\$100) per offense.

10 C. As used in this section:

11 (1) "electronic smoking device" means any
12 product containing or delivering nicotine or any other
13 substance intended for human consumption that can be used by a
14 person for smoking through inhalation of vapor or aerosol from
15 the product. "Electronic smoking device" includes any such
16 device, whether manufactured, distributed, marketed or sold as
17 an "e-cigarette", "e-cigar", "e-pipe", "e-hookah" or "vape pen"
18 or under any other product name or descriptor;

19 (2) "minor" means an individual who is under
20 eighteen years of age;

21 (3) "motor vehicle" means a self-propelled
22 device in, upon or by which any person or property is
23 transported upon land; and

24 (4) "smoking" means:

25 (a) inhaling, exhaling, burning or

1 carrying any lighted or heated cigar, cigarette or pipe or any
2 other lighted or heated tobacco or plant product intended for
3 inhalation, including a hookah or marijuana, whether natural or
4 synthetic, in any manner or in any form;

5 (b) using an electronic smoking device
6 that creates an aerosol or vapor, in any manner or form; or

7 (c) using any oral smoking device for
8 the purpose of circumventing the prohibition of smoking
9 established pursuant to this section."

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underscoring material = new
~~[bracketed material] = delete~~

41-6a-1717. Smoking in a vehicle prohibited when child is present --

Penalty -- Enforcement.

(1) As used in this section, "smoking" has the same meaning as defined in Section 26-38-2.

(2) (a) Except as provided in Subsection (2)(b), smoking is prohibited in a motor vehicle if a child who is 15 years of age or younger is a passenger in the vehicle.

(b) A person may smoke in a motor vehicle while a child who is 15 years of age or younger is a passenger in the vehicle if the person:

(i) is operating a convertible or open-body type motor vehicle; and

(ii) the roof on the convertible or open-body type motor vehicle is in the open-air mode.

(3) A person who violates this section is guilty of an infraction and is subject to a maximum fine of \$45.

(4) Until July 1, 2014, a peace officer may not issue a citation to an individual for a violation of this section but shall issue the individual a warning informing the individual that smoking is prohibited in a motor vehicle if a child who is 15 years of age or younger is a passenger in the vehicle.

(5) The court may suspend the fine for a violation of this section if:

(a) the person has not previously been convicted of a violation of this section;

and

(b) the person proves to the court that the person has enrolled in a smoking cessation program.

(6) Enforcement of this section by a state or local law enforcement officer shall be only as a secondary action when the vehicle has been detained for a suspected violation by any person in the vehicle of Title 41, Motor Vehicles, other than this section, or for another offense.

(7) A violation of this section may not be used as a basis for or evidence of child abuse or neglect.

Enacted by Chapter 251, 2013 General Session

CITY OF KINGMAN COMMUNICATION TO COUNCIL



TO: Honorable Mayor and Council Members

FROM: John A. Dougherty, City Manager

MEETING DATE: April 21, 2015

AGENDA SUBJECT: Discussion and possible vote on fire works on July 4.

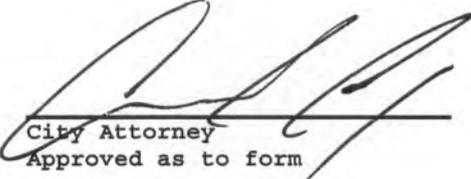
SUMMARY: Over the past few years the Boomers have raised money for City fireworks. The Boomers have disbanded and are being sued by the family of the injured worker, so there had been no interest expressed by any other group to fund raise. I have put money into the next fiscal year budget to have fireworks is Council wants to but a decision needs to be made now or the two bidders may or may not be available.

ATTACHMENT: None

STAFF RECOMMENDATION: Neutral and if Council wants to proceed than it should be paid for by TDC or similar group.

BUDGET IMPACT: Money is budgeted at \$35,000 in TDC.

Signature of Dept. Head



City Attorney
Approved as to form



City Manager's Review

AGENDA ITEM: 5b

CITY OF KINGMAN COMMUNICATION TO COUNCIL



TO: Honorable Mayor and Council Members

FROM: Public Works

MEETING DATE: April 21, 2015

AGENDA SUBJECT: Consideration of Resolution No. 4945 authorizing the Mayor to sign any and all documents to submit applications for funding of the Kingman Crossing Traffic Interchange and Rancho Santa Fe Parkway Traffic Interchange projects through the FY2015 TIGER Discretionary Grant Program.

SUMMARY: The President signed the Consolidated and Further Continuing Appropriations Act, 2015 which appropriated \$500 million dollars to be awarded by the Department of Transportation (DOT) for National Infrastructure Investments. This appropriation is similar, but not identical to the appropriation for the Transportation Investment Generating Economic Recovery (TIGER) Discretionary Grant program. Because of the similarity in program structure, DOT is referring to the grants for National Infrastructure Investments under the FY 2015 Consolidated and Further Continuing Appropriations Act simply as "TIGER Discretionary Grants". As with the previous TIGER programs, funds for the FY 2015 Tiger Discretionary Grant program are to be awarded on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area or a region. DOT is soliciting applications for TIGER Discretionary Grants.

The City submitted applications for funding for capital improvement projects of the Kingman Crossing Traffic Interchange and Rancho Santa Fe Parkway Traffic Interchange through the TIGER, TIGER II, TIGER III, TIGER IV, TIGER V, and VI Discretionary Grant programs. None of these projects were funded in any of the previous TIGER grant programs.

If the City desires to submit applications for funding of the Kingman Crossing Traffic Interchange and Rancho Santa Fe Parkway Traffic Interchange projects through the FY 2015 TIGER Discretionary Grant program, Council will need to authorize the Mayor to sign any and all documents and certifications necessary to submit these applications, including the Federal Wage Certification stating that the City of Kingman will comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code (Federal wage rate requirements), as required by the FY 2015 Consolidated and Further Continuing Appropriations Act. Applications are to be submitted by 5:00 p.m. EDT on June 5th, 2015.

ATTACHMENTS:

Resolution No. 4945

FISCAL IMPACT:

None

STAFF RECOMMENDATION:

Adoption of Resolution No. 4945

Signature of Dept. Head

City Attorney
Approved as to form

City Manager's Review

AGENDA ITEM: SC

When recorded mail to:
City Clerk
CITY OF KINGMAN
310 N. 4th Street
Kingman, AZ 86401

RESOLUTION 4945

A RESOLUTION BY THE MAYOR AND COMMON COUNCIL OF THE CITY OF KINGMAN, ARIZONA AUTHORIZING SUBMITTAL OF APPLICATIONS FOR THE FUNDING UNDER THE U.S. DEPARTMENT OF TRANSPORTATION'S NATIONAL INFRASTRUCTURE INVESTMENTS UNDER THE CONSOLIDATED AND FURTHER CONTINUING APPROPRIATIONS ACT, 2014, COMMONLY REFERRED TO AS THE "FY 2015 TIGER" DISCRETIONARY GRANT PROGRAM

WHEREAS, President Barack Obama signed the Consolidated and Further Continuing Appropriations Act, 2014(Public Law 113-235, December 16th, 2014) ("FY2015 Appropriations Act"); and

WHEREAS, The FY 2015 Appropriations Act appropriated \$500 million to be awarded by the U.S. Department of Transportation ("DOT") for National Infrastructure Investments; and

WHEREAS, This appropriation is similar, but not identical to the appropriation for the Transportation Investment Generating Economic Recovery, or "TIGER Discretionary Grant", program authorized and implemented pursuant to the American Recovery and Reinvestment Act of 2009 (the "Recovery Act"); and

WHEREAS, Because of the similarity in program structure, DOT will continue to refer to the grants for National Infrastructure Investments under the FY 2015 Appropriations Act as "TIGER Discretionary Grants"; and

WHEREAS, As with the previous TIGER programs, funds for the FY2015 Tiger program are to be awarded on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area or a region; and

WHEREAS, The City of Kingman submitted applications for funding for the capital improvement projects of the Kingman Crossing Traffic Interchange and Rancho Santa Fe Parkway Traffic Interchange through the TIGER, TIGER II, TIGER III TIGER IV, TIGER V, and VI Programs and none of these projects were funded; and

WHEREAS, The City of Kingman desires to submit applications for the funding of the capital improvement projects of the Kingman Crossing Traffic Interchange and Rancho

Santa Fe Parkway Traffic Interchange through the FY2015 TIGER Discretionary Grant Program; and

NOW THEREFORE, BE IT RESOLVED that the Mayor and Common Council of the City of Kingman, Arizona, find that the Kingman Crossing Traffic Interchange and Rancho Santa Fe Parkway Traffic Interchange Projects fully meet all the FY2015 TIGER Discretionary Grant Program long-term outcomes and selection criteria and would stimulate a rapid increase in the economic activity of the Kingman region;

AND FURTHERMORE AUTHORIZES the Mayor to sign any and all documents and certifications necessary to submit this application, including the Federal Wage Rate Certification stating that the City of Kingman will comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code (Federal wage rate requirements), as required by the FY 2015 Appropriations Act;

PASSED AND ADOPTED by the Mayor and Common Council of the City of Kingman, Arizona, on this 21th day of April, 2015.

ATTEST:

APPROVED:

Sydney Muhle, City Clerk

Richard Anderson, Mayor

APPROVED AS TO FORM:

Carl Cooper, City Attorney