



Contract Number: CTCD-13 * 519
 Effective Date: 5-1-12
 Term Date: 4-30-13
 Cost: \$96,649.00
 Revenue: _____
 Total: _____ NTE: _____
 Renewal By: _____
 Term: _____
 Reviewed by: DL 4-30-13

BOARD OF SUPERVISORS AGENDA ITEM SUMMARY

Requested Board Meeting Date: May 07, 2013

ITEM SUMMARY, JUSTIFICATION &/or SPECIAL CONSIDERATIONS:

Authorization of Contract # **CTCD13*0000000000000000519** between Rillito Water Users Association and Pima County Community Development and Neighborhood Conservation Department for the Water System Improvements Project for CDBG funding of \$96,649.00.

CONTRACT NUMBER (If applicable):

STAFF RECOMMENDATION(S):

Staff recommends approval by the Board of Supervisors.

CORPORATE HEADQUARTERS: Rillito, Arizona

Procure Dept 04/09/13 PM02:38

To: COB - 4-24-13
 Agenda 5-7-13
 (2)

CLERK OF BOARD USE ONLY: BOS MTG. _____

ITEM NO. _____

PIMA COUNTY COST: \$ 96,649.00 and/or REVENUE TO PIMA COUNTY: \$0.00

FUNDING SOURCE(S): CDBG, US FEDERAL HUD FUNDS

(i.e. General Fund, State Grant Fund, Federal Fund, Stadium D. Fund, etc.)

Advertised Public Hearing:

		YES	X	NO
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Board of Supervisors District:

1		2		3	XX	4		5		All	
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IMPACT:

IF APPROVED:

Authorization of Contract # CTCD13*00000000000000000519 between Rillito Water Users Association and Pima County Community Development and Neighborhood Conservation Department for the Water System Improvements Project for CDBG funding of \$\$96,649.00. To procure the engineer and water system improvements and services by competitive bidding.

IF DENIED:

Shall not Authorize Contract # CTCD13*00000000000000000519 between Rillito Water Users Association and Pima County Community Development and Neighborhood Conservation Department for the Water System Improvements Project for CDBG funding of \$\$96,649.00 and shall not procure the engineering and water system improvements nor services by competitive bidding .

DEPARTMENT NAME: Community Development and Neighborhood Conservation

CONTACT PERSON: DEWEY COOPER TELEPHONE NO.: 243-6779

PIMA COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT AND NEIGHBORHOOD CONSERVATION		<table border="1"> <tr> <td colspan="2" style="text-align: center;">CONTRACT</td> </tr> <tr> <td colspan="2">NO. <u>CD. 1300000 00000 00000 519</u></td> </tr> <tr> <td colspan="2">AMENDMENT NO. _____</td> </tr> <tr> <td colspan="2">This number must appear on all invoices, correspondence and documents pertaining to this contract.</td> </tr> </table>	CONTRACT		NO. <u>CD. 1300000 00000 00000 519</u>		AMENDMENT NO. _____		This number must appear on all invoices, correspondence and documents pertaining to this contract.	
CONTRACT										
NO. <u>CD. 1300000 00000 00000 519</u>										
AMENDMENT NO. _____										
This number must appear on all invoices, correspondence and documents pertaining to this contract.										
PROJECT NAME:	Water System Improvements									
SUBGRANTEE:	Rillito Water Users Association P O Box 668 Rillito, AZ 85654									
PURPOSE:	Provide funds to upgrade the water system for Rillito residents									
FUNDING:	COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)									
DISTRICT NO:	3									
GRANT AGREEMENT TERM:	May 1, 2012 to April 30, 2013									
GRANT AGREEMENT AMOUNT:	\$96,649.00									

GRANT AGREEMENT

THIS Grant Agreement entered between Pima County, a body politic and corporate of the State of Arizona, hereinafter called COUNTY; and Rillito Water Users Association, a non-profit corporation, hereinafter called SUBGRANTEE.

WITNESSETH

WHEREAS, COUNTY is authorized by A.R.S. §§ 11-254.04, 11-251 (5) and 11-251 (17), to spend public monies to improve and enhance the economic welfare and health of the inhabitants of the COUNTY; and,

WHEREAS, COUNTY applied for and received Community Development Block Grant ("CDBG") funds in the amount of \$2,860,697 from the U.S. Department of Housing and Urban Development ("HUD"), under Title I of the Housing and Community Development Act of 1974, as amended (Public Law 93-383); and,

WHEREAS, COUNTY, sought proposals from local agencies for Federal Year 2010-2011 for programs that would qualify for CDBG funds under solicitation CDNC-12-7-09-CDBG-ESG-OA; and,

WHEREAS, SUBGRANTEE submitted a response to this COUNTY solicitation; and,

WHEREAS, COUNTY has determined that the SUBGRANTEE is qualified to provide the services proposed in its response to solicitation number CDNC-12-7-09-CDBG-ESG-OA; and,

WHEREAS, SUBGRANTEE'S program was determined to be in the best interest of the residents of the COUNTY; and

WHEREAS, the 2010-2011 Annual Action Plan COUNTY submitted to HUD to obtain CDBG funds, included the SUBGRANTEE'S proposal; and,

WHEREAS, COUNTY finds that it is appropriate to provide CDBG funds for SUBGRANTEE'S program.

NOW THEREFORE, the Parties hereto agree as follows:

ARTICLE I - TERM AND EXTENSION/RENEWAL

- A. This Grant Agreement shall start on the 1st day of May, 2012, and shall terminate on the 30th day of April, 2013 unless sooner terminated or further extended pursuant to the provisions of this Grant Agreement. The parties may renew this Grant Agreement for up to one (1) additional one-year period or any portion thereof.

B Any modification, or extension of the Grant Agreement termination date shall comply with the modification provisions contained in Exhibit A.

ARTICLE II - SCOPE

A. Purpose:

This Grant Agreement establishes the rights and responsibilities of the Parties for the provision of funding for SUBGRANTEE'S use of CDBG funds to make improvements to the water system which are necessary for the domestic water service of the residents of Rillito.

B. Activities:

1. In consideration for the CDBG funds provided pursuant to this Grant Agreement, SUBGRANTEE shall:
 - a. Perform the following work to the satisfaction of COUNTY:
 - i. Procure the engineer and water system improvements by competitive bidding, assuring that the lowest bid meeting specifications is selected for the licensed contractor to perform the work, and for each piece of equipment purchased and service required. All documents must be approved by the Community Development and Neighborhood Conservation Department (CDNC) before bids are solicited.
 - ii. Hire engineer to:
 - (a) Design complete drawings of the new hydropneumatic tank that includes:
 - (i) Hydraulic calculations for hydropneumatic tank sizing;
 - (ii) Details and specifications for the replacement of the hydropneumatic tank. Specifications will be shown on the construction drawings;
 - (iii) Site layout and piping/valving plan, including tie-ins between the hydropneumatic tank, booster station, stand pipe and the distribution system piping; and
 - (iv) Hydropneumatic tank as part of the bid document for the bidding of the improvements at the water plant site, and assistance in the acquisition of bids for the hydropneumatic tank as part of the overall bid.
 - (b) Design drawing of standpipe that shall be used to provide water to Northwest Fire District (NFD) including connecting both storage tanks (new and old) to the stand pipe via a 6-inch water line.
 - (c) Provide inspection services during construction of the hydropneumatic tank and fire flow standpipe for approval of construction with Pima County Department of Environmental Quality (PDEQ) that consists of the following:
 - (i) Review shop drawing submittals and cut-sheets for hydropneumatic tank;
 - (ii) Field inspection during construction to verify compliance with plans and shop drawing submittals;
 - (iii) Witness pressure testing, vacuum testing, chlorination residual tests, and perform bacteriological testing;
 - (iv) Prepare as-build record drawings;
 - (v) Provide Operations & Maintenance Manual; and
 - (vi) Complete and stamp Engineer's Certificate of Completion and prepare Application for approval of construction for submittal to PDEQ.
 - iii. Obtain all necessary permits to upgrade water system improvements in compliance with all applicable codes, regulations and laws.
 - iv. Retain copies of all executed contracts associated with the design and upgrade of the improvements to the water system.
 - v. Retain record of disbursements made for all work undertaken and submit invoices to COUNTY for work completed.

- b. Comply with the Special Agency Conditions set forth in Exhibit A.
- c. Certify that the activities carried out under this Grant Agreement meet the CDBG Program's National Objective to benefit low- and moderate-income persons.
- d. Provide an annual program report on the COUNTY web based reporting system at <http://www.pima.gov/CED/Data/forms.html>. Reports provided in any other form shall be accepted only after written approval is provided by the Community Development and Neighborhood Conservation director or authorized representative. The annual report shall include an annual community impact narrative, demographic information and a financial report. In addition, an output and outcome report shall be submitted. The report shall include an update on the increased safety of the clients/participants experience due to the improved rescue operations. SUBGRANTEE shall submit the annual report no later than October 31 of the Grant year.
- e. Warrant compliance with Subgrantee's Certification set forth in Exhibit B.
- f. Employ suitable trained and skilled personnel to perform all services under this Grant Agreement.
- g. Retain title to, and operate and maintain the water system improvements for Rilltio residents for a period of five (5) years following the execution of this Grant Agreement.
 - i. In the event SUBGRANTEE fails to adhere to this provision, SUBGRANTEE shall be required to reimburse COUNTY for the costs of the work done under this Grant Agreement, up to \$96,649.00.
 - ii. SUBGRANTEE shall execute the Deed of Trust contained in Exhibit C in the amount of \$96,649.00 to secure performance under this Grant Agreement. The executed Deed of Trust is incorporated into and made a part of this Grant Agreement as if set forth in full herein.

ARTICLE III – COMPENSATION AND PAYMENT

A. This is a cost reimbursement Grant Agreement. In consideration for the services specified in this Grant Agreement, COUNTY agrees to pay SUBGRANTEE in an amount not to exceed \$96,649.00:

1. BUDGET:

- a. Design and Engineer Costs \$15,300.00
- b. Water Systems Improvements \$81,349.00

2. The total amount of this Grant Agreement is \$96,649.00.

B. PAYMENTS:

- 1. Payments and allocation by COUNTY will not exceed the amount allocated for this project by the U.S. Department of Housing and Urban Development under the Community Development Block Grant Program administered by Pima County. The following conditions shall apply:
 - a. All of SUBGRANTEE'S drawdowns for the payment of eligible expenses shall be made against the line item budget specified in Paragraph A above.
 - b. Requests for payment shall include all claims and invoices of every kind and nature against COUNTY arising under this Grant Agreement or any portion thereof.
 - c. SUBGRANTEE shall submit monthly requests for payment no more than 30 calendar days following the expenditure month except requests for payment for expenses occurring in May must be submitted by June 15 and expenses occurring in June must be submitted prior to July 7.

- d. Further, COUNTY may, at its sole discretion, deny payment completely for requests for payment that are submitted to COUNTY within the following time frames:
 - i. After June 15 for expenses incurred in May;
 - iii. After July 6 for expenses incurred in June;
 - iv. More than sixty (60) days for expenses incurred in July through March; and
 - v. After May31 for expenses incurred in April.
 - e. All requests for payments shall be made on the form set forth in Exhibit D. Each monthly request for payment shall include copies of all receipts and checks (front and back) and general ledger to support all purchased goods or services.
- C. SUBGRANTEE may use funding provided under this Grant Agreement to purchase the required insurance prescribed in Article IV of this Grant Agreement. COUNTY shall approve no other requests for funds until the required insurance certificate is delivered and approved by COUNTY.
 - D. If SUBGRANTEE requests payment for invoiced bills, rather than a reimbursement, SUBGRANTEE must submit evidence that the invoiced bill was paid by SUBGRANTEE within (30) thirty calendar days. Future payments to SUBGRANTEE may be withheld until this evidence of payment is received and approved by COUNTY.
 - E. Payment by COUNTY will generally occur thirty (30) days from the date the submission is received by the Pima County Finance Department. SUBGRANTEE should budget their cash needs accordingly.
 - F. SUBGRANTEE may not bill the COUNTY for costs which are paid by another source. SUBGRANTEE must notify the COUNTY within thirty (30) days notification of receipt of alternative funding for costs which would otherwise be subject to payment pursuant to this Grant Agreement.
 - G. SUBGRANTEE shall have an accounting manual that describes its financial procedures in sufficient detail to allow reasonable understanding of financial practices.
 - H. Payment received by SUBGRANTEE shall be reconciled with actual costs incurred by SUBGRANTEE either before the final payment is made under this Grant Agreement or through a subsequent audit after final payment. If payment received exceeds actual costs, COUNTY shall, at its sole discretion, determine whether it will require SUBGRANTEE to:
 - 1. Refund to COUNTY the excess amount received. SUBGRANTEE shall refund the excess amount received to COUNTY within thirty (30) days of receipt of the request from COUNTY; or,
 - 2. Provide, for no additional reimbursement, additional units of Grant Agreement services during the following Grant Agreement term, if any. Such additional units of service must be provided in a number equal to the excess amount received by SUBGRANTEE divided by the unit fee in effect at the time the excess funds were provided to SUBGRANTEE.
 - I. For the period of record retention required under Article XXII, COUNTY reserved the right to question any payment made under this Article and to require reimbursement therefore by setoff or otherwise for payments determined to be improper or contrary to the Grant Agreement or law.

ARTICLE IV - INSURANCE

- A. SUBGRANTEE shall obtain and maintain at its own expense, during the entire term of this Grant Agreement the following type(s) and amounts of insurance:
 - 1. Commercial General Liability in the amount of \$2,000,000.00 combined, single limit Bodily Injury and Property Damage. Pima County is to be named as an additional insured for all operations performed within the scope of the Grant Agreement between Pima County and SUBGRANTEE;
 - 2. Commercial or Business automobile liability coverage for owned, non-owned and hired vehicles used in the performance of this Grant Agreement with limits in the amount of \$1,000,000.00 combined single limit or \$1,000,000.00 Bodily Injury, \$1,000,000.00 Property Damage;

3. If this Grant Agreement involves professional services, professional liability insurance in the amount of \$1,000,000.00; and,
 4. If required by law, workers compensation coverage including employees liability coverage.
- B. SUBGRANTEE shall provide COUNTY with current certificates of insurance. All certificates of insurance must provide for guaranteed thirty (30) days written notice to the COUNTY of cancellation, non-renewal or material change.

ARTICLE V - INDEMNIFICATION

- A. SUBGRANTEE shall indemnify, defend, and hold harmless COUNTY, its officers, employees and agents from and against any and all suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, arising out of any act, omission, fault or negligence by the SUBGRANTEE, its agents, employees or anyone under its direction or control or on its behalf in connection with performance of this Grant Agreement.
- B. SUBGRANTEE warrants that all products and services provided under this Grant Agreement are non-infringing. SUBGRANTEE will indemnify, defend and hold COUNTY harmless from any claim or infringement arising from services provided under this Grant Agreement or from the provision, license, transfer or use for their intended purpose of any products provided under this Grant Agreement.

ARTICLE VI - COMPLIANCE WITH LAWS

SUBGRANTEE shall comply with all federal, state, and local laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this Grant Agreement. The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this Grant Agreement, and any disputes hereunder. Any action relating to this Grant Agreement shall be brought in a court of the State of Arizona in Pima County. Any changes in the governing laws, rules, and regulations during the terms of this Grant Agreement shall apply, but do not require an amendment.

ARTICLE VII - INDEPENDENT CONTRACTOR

The status of the SUBGRANTEE shall be that of an independent contractor. Neither SUBGRANTEE, nor SUBGRANTEE'S officers, agents or employees shall be considered an employee of Pima County or be entitled to receive any employment-related fringe benefits under the Pima County Merit System. SUBGRANTEE shall be responsible for payment of all federal, state and local taxes associated with the compensation received pursuant to this Grant Agreement and shall indemnify and hold COUNTY harmless from any and all liability which COUNTY may incur because of contractor's failure to pay such taxes. SUBGRANTEE shall be solely responsible for program development and operation.

ARTICLE VIII - SUBCONTRACTOR

- A. SUBGRANTEE shall not enter into any subcontracts for any services to be performed under this Grant Agreement unless it received prior written approval of the subcontract by the COUNTY. SUBGRANTEE shall follow applicable Federal, State, and County rules for obtaining subcontractor services. Prior written approval shall not be required for the purchase of supplies that are necessary and incidental to SUBGRANTEE'S performance under this Grant Agreement.
- B. SUBGRANTEE will be fully responsible for all acts and omissions of any subcontractor and of persons directly or indirectly employed by any subcontractor and of persons for whose acts any of them may be liable to the same extent that the SUBGRANTEE is responsible for the acts and omissions of persons directly employed by it. Nothing in this Grant Agreement shall create any obligation on the part of COUNTY to pay or see to the payment of any money due any subcontractor, except as may be required by law.

ARTICLE IX - ASSIGNMENT

SUBGRANTEE shall not assign its rights to this Grant Agreement, in whole or in part, without prior written approval of the COUNTY. Approval may be withheld at the sole discretion of COUNTY, provided that such approval shall not be unreasonably withheld.

ARTICLE X - NON-DISCRIMINATION

SUBGRANTEE agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09 **including flow down of all provisions and requirements to any subcontractors**. Executive Order 2009-09 supersedes Executive order 99-4 and amends Executive order 75-5 and may be viewed and downloaded at the Governor of the State of Arizona's website http://www.azgovernor.gov/dms/upload/EO_2009_09.pdf.

These documents are hereby incorporated into this contract as if set forth in full herein. During the performance of this contract, SUBGRANTEE shall not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.

ARTICLE XI - AMERICANS WITH DISABILITIES ACT

- A. SUBGRANTEE shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.
- B. If SUBGRANTEE is carrying out a government program or service on behalf of COUNTY, then SUBGRANTEE shall maintain accessibility to the program to the same extent and degree that would be required of COUNTY under 28 CFR Sections 35.130, 35.133, 35.149 through 35.151, 35.160, 35.161, and 35.163. Failure to do so could result in the termination of this Grant Agreement.

ARTICLE XII - AUTHORITY TO CONTRACT

- A. SUBGRANTEE warrants its right and power to enter into this Grant Agreement. If any court or administrative agency determines that COUNTY does not have authority to enter into this Grant Agreement, COUNTY shall not be liable to SUBGRANTEE or any third party by reason of such determination or by reason of this Grant Agreement.
- B. Nothing in the provisions of this Grant Agreement is intended to create duties or obligations to or rights in third parties not parties to this Grant Agreement or affects the legal liability of either party to the Grant Agreement by imposing any standard of care different from the standard of care imposed by law.

ARTICLE XIII - FULL AND COMPLETE PERFORMANCE

The failure of either party to insist on one or more instances upon the full and complete performance with any of the terms or conditions of this Grant Agreement to be performed on the part of the other, or to take any action permitted as a result thereof, shall not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of the same, or any other covenant or condition, either in the past or in the future. The acceptance by either party of sums less than may be due and owing at any time shall not be construed as an accord and satisfaction.

ARTICLE XIV - CANCELLATION FOR CONFLICT OF INTEREST

This Grant Agreement is subject to cancellation for conflict of interest pursuant to ARS § 38-511, the pertinent provisions of which are incorporated into this Grant Agreement by reference.

ARTICLE XV – TERMINATION OF CONTRACT FOR DEFAULT

- A. Upon a failure by SUBGRANTEE to cure a default under this Grant Agreement within 10 days of receipt of notice from COUNTY of the default, COUNTY may, in its sole discretion, terminate this Grant Agreement for default by written notice to SUBGRANTEE. In this event, COUNTY may take over the work and complete it by contract or otherwise and SUBGRANTEE shall be liable for any damage to the COUNTY resulting from SUBGRANTEE'S default, including any increased costs incurred by COUNTY in completing the work.
- B. The occurrence of any of the following, without limitation to the named events, shall constitute an event of default:
 - 1. Abandonment of or failure by SUBGRANTEE to observe, perform or comply with any material term, covenant, agreement or condition of this Grant Agreement, or to prosecute the work or any separable part thereof with the diligence that will insure completion within the time specified in this contract, including any extension, or a failure to complete the work (or the separable part of the work) within the specified time;
 - 2. Persistent or repeated refusal or failure to supply adequate staff, resources or direction to perform the work on

schedule or at an acceptable level of quality;

3. Refusal or failure to remedy defective or deficient work within a reasonable time;
4. Loss of professional registration or business or other required license or authority, or any curtailment or cessation for any reason of business or business operations that would substantially impair or preclude SUBGRANTEE'S performance of this Grant Agreement;
5. Disregard of laws, ordinances, or the instructions of COUNTY or its representatives, or any otherwise substantial violation of any provision of the contract;
6. Performance of work hereunder by personnel that are not qualified or permitted under state law or local law to perform such services;
7. Commission of any act of fraud, misrepresentation, willful misconduct, or intentional breach of any provision of this Grant Agreement; or
8. If a voluntary or involuntary action for bankruptcy is commenced with respect to SUBGRANTEE, or SUBGRANTEE becomes insolvent, makes a general assignment for the benefit of creditors, or has a receiver or liquidator appointed in respect of its assets.

C. In the event of a termination for default:

1. All finished and unfinished drawings, specifications, documents, data, studies, surveys, drawings, photographs, reports and other information in whatever form, including electronic, acquired or prepared by SUBGRANTEE for this project shall become COUNTY'S property and shall be delivered to COUNTY not later than five (5) business days after the effective date of the termination;
2. COUNTY may withhold payments to SUBGRANTEE arising under this or any other Grant Agreement for the purpose of set-off until such time as the exact amount of damage due COUNTY from SUBGRANTEE is determined; and
3. Subject to the immediately preceding subparagraph (2), COUNTY'S liability to SUBGRANTEE shall not exceed the Grant Agreement value of work satisfactorily performed prior to the date of termination for which payment has not been previously made.

D. The Grant Agreement will not be terminated for default nor the SUBGRANTEE charged with damages under this Article, if:

1. Excepting item (8) in paragraph B above, the event of default or delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of SUBGRANTEE. Examples of such causes include:
 - a. Acts of God or of the public enemy;
 - b. Acts of the COUNTY in either its sovereign or contractual capacity;
 - c. Acts of another Contractor in the performance of a contract with the COUNTY;
 - d. Fires;
 - e. Floods;
 - f. Epidemics;
 - g. Quarantine restrictions
 - h. Strikes;
 - i. Freight embargoes;
 - j. Unusually severe weather; or
 - k. Delays of subcontractors at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both SUBGRANTEE and the subcontractor(s); and
2. The SUBGRANTEE, within seven (7) days from the beginning of any event of default or delay (unless extended by COUNTY), notifies the COUNTY in writing of the cause(s) therefor. In this circumstance, the COUNTY shall ascertain the facts and the extent of the resulting delay. If, in the reasonable judgment of COUNTY, the findings warrant such action, the time for completing the work may be extended.

E. For the purposes of paragraph A above, "receipt of notice" shall include receipt by hand by SUBGRANTEE'S project manager, by facsimile transmission with notice of receipt, or under the Notices clause of this Grant Agreement.

F. If, after termination of the Grant Agreement for default, it is determined that the SUBGRANTEE was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the COUNTY.

- G. The rights and remedies of COUNTY in this Article are cumulative and in addition to any other rights and remedies provided by law or under this Grant Agreement.

ARTICLE XVI – TERMINATION FOR CONVENIENCE

- A. COUNTY reserves the right to terminate this Grant Agreement at any time and without cause by serving upon SUBGRANTEE 30 days advance written notice of such intent to terminate. In the event of such termination, the COUNTY'S only obligation to SUBGRANTEE shall be payment for services rendered prior to the date of termination.
- B. Notwithstanding Paragraph A above, if any state or federal grant monies used to pay for performance under this Grant Agreement are either reduced or withdrawn, COUNTY shall have the right to either reduce the services to be provided and the total dollar amount payable under this Grant Agreement or terminate the Grant Agreement. To the extent possible, COUNTY will endeavor to provide fifteen (15) days written notice of such reduction or termination. In the event of a reduction in the amount payable, COUNTY shall not be liable to SUBGRANTEE for more than the reduced amount. In the event of a termination under this paragraph, COUNTY'S only obligation to SUBGRANTEE shall be payment for services rendered prior to the date of termination to the extent that grant funds are available.
- C. Notwithstanding any other provision in this Grant Agreement, this Grant Agreement may be terminated if for any reason, there are not sufficient appropriated and available monies for the purpose of maintaining COUNTY or other public entity obligations under this Grant Agreement. In the event of such termination, COUNTY shall have no further obligation to SUBGRANTEE, other than to pay for services rendered prior to termination.

ARTICLE XVII - NOTICE

Any notice required or permitted to be given under this Grant Agreement shall be in writing and shall be served by personal delivery or by certified mail upon the other party as follows:

COUNTY:
Margaret Kish, Director
Pima County Community Development and Neighborhood Conservation Dept.
2797 East Ajo Way, 3rd Floor
Tucson, AZ. 85713

SUBGRANTEE:
Kirby Colter
Rillito Water Users Association
P.O. Box 668
Rillito, AZ 85654

ARTICLE XVIII - NON-EXCLUSIVE GRANT AGREEMENT

SUBGRANTEE understands that this Grant Agreement is nonexclusive and is for the sole convenience of COUNTY. COUNTY reserves the right to obtain like services from other sources for any reason.

ARTICLE XIX - OTHER DOCUMENTS

SUBGRANTEE and COUNTY in entering into this Grant Agreement have relied upon information provided in the SUBGRANTEE'S proposal submitted in response to Pima County's 2010-2011 annual CDBG proposal process solicitation number CDNC-12-7-09-CDBG-ESG-OA. These documents are hereby incorporated into and made a part of this Grant Agreement as if set forth in full herein, to the extent not inconsistent with this Grant Agreement. To the extent of any inconsistency among the Grant Agreement documents, the Special Agency Conditions shall govern, except as otherwise required by law.

ARTICLE XX - REMEDIES

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

ARTICLE XXI - SEVERABILITY

Each provision of this Grant Agreement stands alone, and any provision of this Grant Agreement found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of this Grant Agreement.

ARTICLE XXII – BOOKS AND RECORDS

- A. SUBGRANTEE shall keep and maintain all records required by the Federal regulations specified in 24 CFR 570.506, that are pertinent to the activities to be funded under this Grant Agreement, which shall be open at all reasonable times for inspection and audit by duly authorized representative of COUNTY. Such records shall include, but are not limited to:
1. Records providing a full description of each activity taken;
 2. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
 3. Records required to determine the eligibility of activities;
 4. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
 5. Records documenting scope of work;
 6. Records of disbursements made;
 7. Financial records as required by 24 CFR 570.502 and 24 CFR 84.21-28; and
 8. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.
- B. SUBGRANTEE shall retain all financial records, supporting documents, statistical records, and all other records relating to this Grant Agreement for a period of four (4) years from the start of the retention period or until any related-pending proceeding or litigation has been closed, whichever date is later. The retention period starts from the date of submission of the COUNTY'S annual performance and evaluation report, as prescribed in 24 CFR 91.520, in which the specific activity is reported on for the final time rather than from the date of submission of the final expenditure report for the award. SUBGRANTEE must comply with Section 570.506 "Records to be Maintained" of the Community Development Block Grant Program – Entitlement Grant Regulations.

ARTICLE XXIII– PUBLIC INFORMATION

- A. Pursuant to A.R.S. § 39-121 et seq., and A.R.S. § 34-603(G) in the case of construction or Architectural and Engineering services procured under A.R.S. Title 34, Chapter 6, all information submitted in response to this solicitation, including, but not limited to, pricing, product specifications, work plans, and any supporting data becomes public information and upon request, is subject to release and/or review by the general public including competitors.
- B. Any records submitted in response to this solicitation that respondent believes constitute proprietary, trade secret or otherwise confidential information must be appropriately and prominently marked as CONFIDENTIAL by respondent prior to the close of the solicitation.

- C. Notwithstanding the above provisions, in the event records marked CONFIDENTIAL are requested for public release pursuant to A.R.S. § 39-121 et seq., COUNTY shall release records marked CONFIDENTIAL ten (10) business days after the date of notice to the respondent of the request for release, unless respondent has, within the ten day period, secured a protective order, injunctive relief or other appropriate order from a court of competent jurisdiction, enjoining the release of the records. For the purposes of this paragraph, the day of the request for release shall not be counted in the time calculation. Respondent shall be notified of any request for such release on the same day of the request for public release or as soon thereafter as practicable.
- D. COUNTY shall not, under any circumstances, be responsible for securing a protective order or other relief enjoining the release of records marked CONFIDENTIAL, nor shall COUNTY be in any way financially responsible for any costs associated with securing such an order.

ARTICLE XXIV – LEGAL ARIZONA WORKERS ACT COMPLIANCE

- A. SUBGRANTEE hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to SUBGRANTEE'S employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). SUBGRANTEE shall further ensure that each subcontractor who performs any work for SUBGRANTEE under this contract likewise complies with the State and Federal Immigration Laws.
- B. COUNTY shall have the right at any time to inspect the books and records of SUBGRANTEE and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.
- C. Any breach of SUBGRANTEE'S or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Contract subjecting SUBGRANTEE to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, SUBGRANTEE shall be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, (subject to COUNTY approval if MWBE preferences apply) as soon as possible so as not to delay project completion.
- D. SUBGRANTEE shall advise each subcontractor of COUNTY'S rights, and the subcontractor's obligations, under this Article by including a provision in each subcontract substantially in the following form:

"SUBCONTRACTOR hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to SUBCONTRACTOR'S employees, and with the requirements of A.R.S. § 23-214 (A). SUBCONTRACTOR further agrees that COUNTY may inspect the SUBCONTRACTOR'S books and records to insure that SUBCONTRACTOR is in compliance with these requirements. Any breach of this paragraph by SUBCONTRACTOR will be deemed to be a material breach of this contract subjecting SUBCONTRACTOR to penalties up to and including suspension or termination of this contract."

- E. Any additional costs attributable directly or indirectly to remedial action under this Article shall be the responsibility of SUBGRANTEE. In the event that remedial action under this Article results in delay to one or more tasks on the critical path of SUBGRANTEE'S approved construction or critical milestones schedule, such period of delay shall be deemed excusable delay for which SUBGRANTEE shall be entitled to an extension of time, but not costs.

ARTICLE XXV – SCRUTINIZED BUSINESS OPERATIONS

Pursuant to A.R.S. §§ 35-391.06 and 35-393.06, SUBGRANTEE hereby certifies that it does not have scrutinized business operations in Iran or Sudan. The submission of a false certification by SUBGRANTEE may result in action up to and including termination of this Grant Agreement.

ARTICLE XXVI – ELIGIBILITY FOR PUBLIC BENEFITS

SUBGRANTEE shall comply with applicable provisions of A.R.S. §§ 1-501 and 1-502 regarding public benefits, which are hereby incorporated as provisions of this Grant Agreement to the extent such provisions, are applicable.

ARTICLE XXVII - ENTIRE AGREEMENT

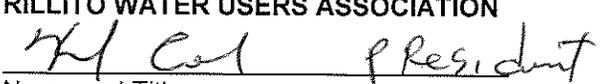
This document constitutes the entire agreement between the parties pertaining to the subject matter hereof, and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein. This Grant Agreement may be modified, amended, altered or extended only by a written amendment signed by the parties.

IN WITNESS THEREOF, the parties have affixed their signatures to this Grant Agreement on the date written below.

PIMA COUNTY


Chairman, Board of Supervisors
Date: MAY 07 2013

RILLITO WATER USERS ASSOCIATION


Name and Title
Date: 2-28-2013

ATTEST


Clerk of the Board
Date: MAY 07 2013

APPROVED AS TO CONTENT


Community Development and Neighborhood Conservation Director
Date: 03/12/2013 

APPROVED AS TO FORM

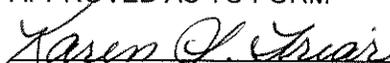

Deputy County Attorney
Date: 3-35-13

EXHIBIT A

SPECIAL AGENCY CONDITIONS

A. Modification

- 1) Modifications may be made to this Grant Agreement in accordance with the following provisions:
- 2) All modifications shall be in writing and shall conform to applicable law, Federal and State regulations and County policies and directives. Approval of modifications is at the sole discretion of COUNTY.
- 3) Major modifications shall be by written amendment signed by both parties. Major modifications include any which do the following:
 - a) Change the purpose of the Grant Agreement;
 - b) Increase or decrease the compensation provided for in the Grant Agreement;
 - c) Change the term of the Grant Agreement;
 - d) Change the scope or assurances of the Grant Agreement;
 - e) Change any section of the Grant Agreement other than the Scope of Work or budget;
 - f) Any change that is not a minor modification as described below.
- 4) Minor modifications may be made by written memorandum and must be approved and signed by the Director of the Pima County Community Development and Neighborhood Conservation Department or authorized representative to be effective. Minor modifications are changes in the Scope of Work or budget that do not change the purpose or total compensation of this Grant Agreement and do not in any way increase the direct or indirect liability of the COUNTY under this Grant Agreement.

B. Procurement of Goods and Services:

SUBGRANTEE is not the agent of COUNTY for any purpose and shall not purchase any materials, equipment, or supplies on the credit of the COUNTY. SUBGRANTEE shall comply with OMB Circular No. A-122 "Cost Principals for Non-Profit Organizations", (if SUBGRANTEE is a non-profit corporation); OMB Circular No. A-110 and 24 CFR Part 84 "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations."

C. Monitoring and Evaluation:

- 1) COUNTY shall monitor all activities and information sources in the management, fiscal, and service systems of SUBGRANTEE and any subcontracted parties, relating to performance of duties and obligations under this GRANT AGREEMENT, to assure that SUBGRANTEE is maintaining adequate and acceptable progress and systems, and to ensure that the funds provided to SUBGRANTEE by COUNTY are being used effectively and efficiently to accomplish the purposes for which funds were made available.
- 2) SUBGRANTEE shall provide payroll information consisting of source documentation that can include employment letters, authorization for rates of pay, benefits, and employee withholding, minutes from Board of Directors' meetings where salary schedules and benefit packages are established, copies of written policies, W-4 forms in conjunction with time and attendance records. If an employee works solely on the CDBG funded services, a statement to that effect should be signed by the applicable employee and supervisor. Such statement should be certified semi-annually. If an employee's time is split between CDBG and another funding source, SUBGRANTEE must have time distribution records supporting the allocation of charges among the sources.
- 3) COUNTY in cooperation with SUBGRANTEE shall evaluate products, services, and performance under the terms of this GRANT AGREEMENT. Substandard performance as determined by the COUNTY will constitute noncompliance with this GRANT AGREEMENT. If action to correct such substandard performance is not

taken by the SUBGRANTEE within a reasonable period of time after being notified by the COUNTY, contract suspension or termination procedures will be initiated.

- 4) SUBGRANTEE shall assist COUNTY in providing to the U.S. Department of Housing and Urban Development reports and other communications relating to the performance and impact of the operating costs of the Reverse Mortgage Program.

D. Client Fees and Program Income:

- 1) Any program income generated and received by SUBGRANTEE as a result of GRANT AGREEMENT services shall be kept by SUBGRANTEE, used for the purpose of this GRANT AGREEMENT, and reported to COUNTY.
- 2) SUBGRANTEE shall comply with Section 570.504 "Program Income", and Section 570.503 "Agreements with Subrecipients" of the Community Development Block Grant Program Entitlement Grant Regulations.

E. Identification Of Funding and Copyrights:

- 1) All advertisements, real property, publications, printed and other materials which are produced by the SUBGRANTEE and refer to services funded under this Grant Agreement shall clearly attribute "PIMA COUNTY" and the Community Development Block Grant Program in the following suggested format:

Funded by: Pima County
and
Community Development Block Grant Program

- 2) Reference to Pima County shall be displayed at least as prominently as other credited funding sources.
- 3) SUBGRANTEE shall not copyright any materials or products developed through GRANT AGREEMENT services or GRANT AGREEMENT expenditures without prior written approval by the County. Upon approval, the federal government and Pima County shall have a non-exclusive and irrevocable license to reproduce, publish or otherwise use or authorize the use of any copyrighted material.

F. Nepotism

- 1) Agency shall not employ relatives in positions where one is in supervisory chain of the other, nor where one is in daily working contact with the other.
 - a) "Relative" means the spouse, child, child's child, parent, grandparent, brother or sister of whole or half blood or child of a spouse.
 - b) COUNTY may grant temporary waiver of this policy where relative employment situation already exists at the time of execution of this GRANT AGREEMENT.

G. Audit Requirements:

- 1) SUBGRANTEE shall:
 - a) Establish and maintain a separate and identifiable account of all funds provided by County pursuant to this GRANT AGREEMENT.
 - b) Provide financial statement audits as required by law.
 - c) Upon written notice from County provide a program-specific audit. Such notice from County will specify the period to be covered by the audit and the deadline for completion and submission of the audit.

- d) Assure that any audit conducted pursuant to this GRANT AGREEMENT is performed by an independent certified public accountant and submitted to County within six (6) months of completion of SUBGRANTEE'S fiscal year, unless a different time is specified by County. The audit submitted must include SUBGRANTEE'S responses, if any, concerning any audit findings.
- e) Pay all costs for any audit required or requested pursuant to this Article, unless the cost was specifically included in the SUBGRANTEE'S budget approved by County and the cost is an allowable charge for payment under applicable law or regulation.
- f) Timely submit the required or requested audit(s) to:

Dewey Cooper
Community Development and Neighborhood Conservation Dept.
2797 E. Ajo Way, 3rd Floor
Tucson, AZ 85713

- 2) If SUBGRANTEE is a "nonprofit corporation" that meets the definition of "corporation" in A.R.S. §10-3140, SUBGRANTEE shall comply with the applicable audit requirements set forth in A.R.S. § 11-624.
- 3) If SUBGRANTEE is receiving federal funds under this GRANT AGREEMENT, and SUBGRANTEE is a state or local government or non-profit organization, SUBGRANTEE shall provide an annual audit which complies with the requirements of the most recent version of OMB Circular A-133, "Audits of State and Local Governments and Non-Profit Organizations."

END OF SPECIAL AGENCY CONDITIONS

EXHIBIT B

SUBGRANTEE'S CERTIFICATION

SUBGRANTEE hereby certifies it will comply with:

- 1) HUD Community Development Block Grant Regulations at 24 CFR Part 570.
- 2) Title I of the Housing and Community Development Act of 1974.
- 3) 24 CFI Part 85, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" (if Agency is local government).
- 4) Title VI of the Civil Rights Act of 1964.
- 5) Section 109 of the Housing and Community Development Act of 1974.
- 6) Executive Order 11246 - Equal Employment Opportunity.
- 7) Section 3 of the Housing and Urban Development Act of 1968.
- 8) Flood Disaster Protection Act of 1973.
- 9) National Environment Policy Act of 1969:
Section 106 of the National Historic Preservation Act of 1966, Executive Order 11593.
- 10) Federal Labor Standards Provisions.
- 11) OMB Circular A-133, "Audits of States and Local Governments and Non-Profit Organizations".
- 12) OMB Circular A-122, "Cost Principals for Non-Profit Organizations" (if agency is non-profit organization).
- 13) OMB Circular A-110 and A-87
- 14) A-21 "Cost Principals for Educational Institutions".
- 15) Subpart K of the Community Development Block Grant Program Entitlement Regulations.
- 16) 570.200(J) First Amendment Church/State Principles of the Community Development Block Grant Program Entitlement Regulations.
- 17) 570.503(b)(6) Prohibition Against Religious Activities.
- 18) 570.503(b)(8) Reversion of Assets.

EXHIBIT C

When recorded, return to:

Pima County Community Development and Neighborhood Conservation
801 W. Congress St.
Tucson, AZ 85745

DEED OF TRUST AND ASSIGNMENT OF RENTS

Water System Improvements

DATE: _____, 2013

TRUSTOR: **Rillito Water Users, Inc.**, an Arizona non-profit corporation
whose mailing address is:

P.O. Box 668
Rillito, AZ 85654

TRUSTEE: **Lawyers Title of Arizona, Inc.**, an Arizona corporation
whose mailing address is:

450 W. Redondo
Tucson, AZ 85701

BENEFICIARY: **Pima County**, a political subdivision of the State of Arizona,
whose mailing address is:

Pima County Community Development & Neighborhood Conservation
Attention Pima County CDBG Program
2797 E. Ajo Way, 3rd Floor
Tucson, Arizona 85713

TRUST PROPERTY: Property situated in Pima County, Arizona, described as follows:

Rillito Vista Lot 60 Wellsite

Together with all buildings, improvements and fixtures thereon or hereafter
erected thereon.

Street address, if any, or identifiable location of this property:

8840 W. Robinson Street, Marana, AZ 85653, which is comprised of Pima County Tax Parcel ID No. 216-13-1250.

This Deed of Trust is made on the above date, by and between and among the Trustor, Trustee and Beneficiary above named.

Trustor hereby irrevocably grants, conveys, transfers and assigns to the Trustee in Trust, with Power of Sale, the Property, together with leases, issues, profits, or income therefrom (all of which are hereinafter called "**Property Income**");

SUBJECT, however, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such Property Income, and further subject to current taxes and other assessments, reservations in patents and all easements, rights of way, encumbrances, liens, covenants, conditions, restrictions, obligations, and liabilities as may appear of record.

FOR THE PURPOSE OF SECURING:

- A. Performance of the terms of the Pima County CDBG Program funding contract, Pima County Contract No. _____, between Beneficiary and Trustor (the "**Grant Agreement**"), pursuant to which County will provide up to **\$96,649.00** of CDBG funds for improvements to the water system to improve domestic water service to residents.
- B. Trustor's obligation pursuant to Article II, Paragraph B(1)(g) of the Grant Agreement to retain title to and operate the property as a facility to provide services for low-to-moderate income persons for a period of five (5) years following the execution of the Grant Agreement.

TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR AGREES:

- 1. To keep the Property in good condition and repair, not to remove or demolish any building, thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged, or destroyed thereon, and to pay when due all claims for labor performed and materials furnished therefor, to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer, or permit any action upon the Property in violation of law; and to do all other acts which from the character or use of the Property may be reasonably necessary, the specific enumerations herein not excluding the general.
- 2. To provide, maintain, and deliver to Beneficiary fire and other property insurance satisfactory to and with loss payable to Beneficiary. Beneficiary may apply any amounts collected under any fire or other insurance policy to any indebtedness secured hereby and in such order as Beneficiary may determine, or at the sole option of Beneficiary all or any portion of the amount so collected may be released to Trustor. Such application or release does not cure or waive any default or notice of Trustee's sale hereunder or invalidate any act done pursuant to such notice.
- 3. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses of Beneficiary and Trustee, including cost of evidence of title and attorney's fees and costs in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear or be named, and in any suit brought by Beneficiary or Trustee to foreclose this Deed of Trust.

4. To pay, before delinquent, all taxes and assessments affecting the Property, all encumbrances, charges, and liens, with interest, on the Property or any part thereof, which appear to be prior or superior hereto; all costs, fees, and expenses of this Trust, including, without limiting the generality of the foregoing, the fees of Trustee for issuance of any Deed of Partial Release and Partial Reconveyance or Deed of Release and Full Reconveyance, and all lawful charges, costs, and expenses in the event of reinstatement of, following default in, this Deed of Trust or the obligations secured hereby.

Should Trustor fail to make any payment or to do any action herein provided, Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as either may believe necessary to protect the security hereof. Beneficiary or Trustee are authorized to enter upon the Property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest, or compromise any encumbrance, charge, or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel, and pay reasonable attorney's fees and costs and recover the same from Trustor.

5. To pay immediately and without demand all sums expended by Beneficiary or Trustee pursuant to the provisions hereof, together with interest from date of expenditure at the same rate as is provided for in the note or notes secured by this Deed of Trust or at the legal rate if it secures a contract or contracts other than a promissory note or notes secured by this Deed of Trust. Any amounts so paid by Beneficiary or Trustee shall become a part of the debt secured by this Deed of Trust and a lien on the Property or immediately due and payable at option of Beneficiary or Trustee.

6. That any award of damages in connection with any direct or indirect exercise of governmental police power or eminent domain, or for injury to the Property by reason of public use, or for damages for private trespass or injury thereto, is assigned and will be paid to Beneficiary as further security for all obligations secured hereby (reserving unto the Trustor, however, the right to sue therefor and the ownership thereof subject to this Deed of Trust). Upon receipt of such moneys Beneficiary may hold the same as such further security, or apply or release the same in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

7. That time is of the essence of this Deed of Trust, and that by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

8. That at any time or from time to time, and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and said note(s) for endorsement, and without liability therefor, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, and without affecting the security hereof for the full amount secured hereby on all property remaining subject hereto, and without the necessity that any sum representing the value or any portion thereof of the Property affected by the Trustee's action be credited on the indebtedness, the Trustee may: (a) release and reconvey all or any part of the Property; (b) consent to the making and recording, or either, of any map or plat of the Property or any part thereof; (c) join in granting any easement thereon; (d) join in or consent to any extension agreement or any agreement subordinating the lien, encumbrance, or charge hereof.

9. That upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust and said note(s) to Trustee for cancellation, and upon payment of its fees, Trustee will release and reconvey, without covenant or warranty, express or implied, the Property then held hereunder. The recitals in such reconveyance of any matters or facts are conclusive proof of the

truthfulness thereof. The grantee in such reconveyance may be described as “the person or persons legally entitled thereto”.

10. That as additional security, Trustor hereby gives to and confers upon Beneficiary the right, power, and authority, during the continuance of this Trust, to collect the Property Income, reserving to Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such Property Income as it becomes due and payable. Upon any such default, Beneficiary may at any time, without notice, either in person, by agent, or by a receiver appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the Property or any part thereof, in its own name sue for or otherwise collect such Property Income, including that past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney’s fees and costs, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of the Property, the collection of such Property Income, and the application thereof as aforesaid, does not cure or waive any default or notice of Trustee’s sale hereunder or invalidate any act done pursuant to such notice.

11. That upon default by Trustor in (a) the payment of any indebtedness secured hereby, (b) the performance of any obligation in the **Grant Agreement**, or (c) in performance of any agreement hereunder, Beneficiary may, after giving written notice of default to Beneficiary and upon Beneficiary’s failure to cure such default within ten (10) days of such notice for nonpayment of any amount due or within sixty (60) days of such notice for any other default, declare all sums secured hereunder immediately due and payable by delivery to Trustee of written notice thereof, setting forth the nature of the default, and of election to cause the Property to be sold under this Deed of Trust.

Trustee will record and give notice of Trustee’s sale in the manner required by law. After the lapse of such time as may then be required by law, subject to the statutory rights of reinstatement, the Trustee will sell, in the manner required by law, the Property at public auction at the time and place stated in the notice of Trustee’s sale. Trustee may postpone or continue the sale by giving notice of postponement or continuance by public declaration at the time and place last appointed for the sale. Trustee will deliver to any purchaser its Deed conveying the Property so sold, but without any covenant or warranty, expressed or implied. Any person, including Trustor, Trustee, or Beneficiary, may purchase the Property at such sale.

After deducting all costs, fees, and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale and reasonable attorney’s fees and costs, Trustee will apply the proceeds of sale to payment of all sums then secured hereby and all other sums due under the terms hereof, with accrued interest; and the remainder, if any, to the person or persons legally entitled thereto, or as provided in A.R.S. § 33-812. In lieu of sale pursuant to the power of sale conferred hereby, this Deed of Trust may be foreclosed in the same manner provided by law for the foreclosure of mortgages on real property. Beneficiary also has all other rights and remedies available hereunder and at law or in equity. All rights and remedies under this Deed of Trust are cumulative.

12. That Beneficiary may appoint a successor Trustee in the manner prescribed by law. A successor Trustee herein will, without conveyance from the predecessor Trustee, succeed to all the predecessor Trustee’s title, estate, rights, powers, and duties. Trustee may resign by mailing or delivering notice thereof to Beneficiary and Trustor, by registered or certified mail, and by recordation of a Notice of Resignation of Trustee in the Office of the County Recorder in each county in which the Property or some part thereof is situated.

EXHIBIT D

PIMA COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

FY2010-2011 CONTRACT #

**RILLITO WATER USERS ASSOCIATION
WATER SYSTEM IMPROVEMENTS**

FINANCIAL STATUS REPORT AND REQUEST FOR FUNDS FOR THE MONTH OF

_____ 20 _____

REQUEST # _____

Activity	Budgeted	Expenditures This Month	Cumulative Expenditures	Balance Available
Design/Engineer Costs	\$15,300.00			
Water system improvements	\$81,349.00			
Total Budget	\$96,649.00			

Funds requested this month \$ _____ (this line must equal the GRAND TOTAL column for "EXPENDITURES THIS MONTH")

I hereby certify that to the best of my knowledge, the date reported represents actual receipts and actual expenditures which have been incurred in accordance with the agreement for management and implementation of the CDBG Program and are based on official accounting records and supporting documents which will be maintained by us for purposes of audit.

REVIEWED BY

PREPARED BY

TITLE

TITLE PHONE NUMBER

DATE

DATE