



Contract Number: CT-CD-15\* 013  
Effective Date: 8-1-14  
Term Date: 7-31-15  
Cost: \$30,000.00  
Revenue: \_\_\_\_\_  
Total: \_\_\_\_\_ NTE: \_\_\_\_\_  
Action: \_\_\_\_\_  
Renewal By: 5-1-15  
Term: 7-31-15  
Reviewed by: SR

**BOARD OF SUPERVISORS AGENDA ITEM SUMMARY**

Requested Board Meeting Date: August 05, 2014

**ITEM SUMMARY, JUSTIFICATION &/or SPECIAL CONSIDERATIONS:**

Authorization of contract CT-CD 1500000000000000013 between The Good Shepherd United Church of Christ and Pima County Community Development and Neighborhood Conservation Department (CDNC) to approve the Contract award of \$30,000.00 for the purchase of a commercial walk-in cooler for the Sahuarita Food Bank covered by the grant made available from HUD funds.

CONTRACT NUMBER (if applicable): 1500000000000000013

**STAFF RECOMMENDATION(S):**

Staff recommends approval by the Board of Supervisors

CORPORATE HEADQUARTERS: Tucson, Arizona

Ver. 1  
vend. 1  
21 pgs (2)

Procure Dept 07/10/14 09:40

CLERK OF BOARD USE ONLY: BOS MTG. \_\_\_\_\_

ITEM NO. \_\_\_\_\_

PIMA COUNTY COST: 30,000.00 and/or REVENUE TO PIMA COUNTY: \$

FUNDING SOURCE(S): CDBG/Federal - HUD  
(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	X	3	X	4	X	5		All	
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**IMPACT:**

**IF APPROVED:**

County shall authorize contract CT-CD 15000000000000000013 between The Good Shepherd United Church of Christ and Pima County Community Development and Neighborhood Conservation Department (CDNC) to approve the Contract award of \$30,000.00 for the purchase of a commercial walk-in cooler for the Sahuarita Food Bank covered by the grant made available from HUD funds.

**IF DENIED:**

County shall not authorize contract CT-CD 15000000000000000013 between The Good Shepherd United Church of Christ and Pima County Community Development and Neighborhood Conservation Department (CDNC) to approve the Contract award of \$30,000.00 for the purchase of a commercial walk-in cooler for the Sahuarita Food Bank covered by the grant made available from HUD funds.

DEPARTMENT NAME: Community Development and Neighborhood Conservation

CONTACT PERSON: Gloria Soto TELEPHONE NO.: 243-6751



- 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 CDBG funding to SUBGRANTEE to purchase an outdoor commercial walk-in refrigerator for use in the operation of The Sahuarita Food Bank, 17750 S. La Canada Drive, Sahuarita Arizona 85629 ("Facility").

**Pursuant to 24 CFR § 1003.600 SUBGRANTEE may not use CDBG funds to support inherently religious activities such as worship or religious instruction. Any such activities conducted by SUBGRANTEE must be offered separately in both time and location than activities funded by the CDBG program. SUBGRANTEE shall ensure that the Sahuarita Food Bank will be operated exclusively for secular purposes and will be available to all persons regardless of religion.**

B. Activities:

1. In consideration for the CDBG funds provided pursuant to this Grant Agreement, SUBGRANTEE shall perform the following work to the satisfaction of COUNTY:
  - a. Purchase an outdoor commercial walk-in refrigerator of approximately 336 sq. foot capacity ("the refrigerator").
  - b. Procure such refrigerator by competitive bidding, assuring that the lowest bid that meets specifications is selected for the purchase and service required. All documents must be approved by the Community Development and Neighborhood Conservation Department (CDNC) before bids are solicited.
  - c. Determine the size and strength of concrete slab necessary to support the refrigerator. Prior to the final purchase of the refrigerator, SUBGRANTEE shall construct and complete the concrete slab. CDBG funds may not be used for the construction of the concrete slab or any other necessary structural components.
  - d. Utilize the refrigerator for the safe storage of foods being provided low-income families and individuals seeking assistance from The Sahuarita Food Bank operated by SUBGRANTEE.
  - e. Retain all records associated with the purchase of the refrigerator for the retention period set forth in ARTICLE XXI.
  - f. Submit invoice to COUNTY for reimbursement.
  - g. Comply with the Special Agency Conditions set forth in Exhibit A.
  - h. Certify that the activities carried out under this Grant Agreement meet the CDBG Program's National Objective to benefit low- and moderate-income persons.
  - i. 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 progress made pertaining to the improvements of the facility. SUBGRANTEE shall submit the annual report no later than December 31 of the Grant year.
  - j. Warrant compliance with Subgrantee's Certification set forth in Exhibit B.

- k. Maintain and protect from deterioration, and as necessary, repair the refrigerator.
  - l. Assist households to total a minimum of 800 individuals during the twelve months following installation of the refrigerator.
2. SUGRANTEE shall retain title to and operate a food bank utilizing the commercial refrigerator for the benefit of low- and moderate-income families or individuals for a period of five (5) years following the execution of this Grant Agreement and the recording of the Deed of Trust attached as Exhibit C. This provision shall survive the termination of this Grant Agreement.
- a. In the event SUBGRANTEE fails to adhere to this provision, SUBGRANTEE shall be required to reimburse COUNTY for the funds provided under this Grant Agreement, up to \$30,000.00.
  - b. SUBGRANTEE shall execute the Deed of Trust attached as Exhibit C. in the amount of \$30,000.00 to secure performance under this Grant Agreement. The executed Deed of Trust shall be 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 \$30,000.00 to purchase an outdoor commercial walk-in refrigerator. **SUBGRANTEE shall be responsible for any amount in excess of \$30,000.00.**

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 sixty (60) days after the end of the month in which the expenses were incurred in the months of January through March;
    - ii. After June 15 for expenses incurred in April and May;
    - iii. After July 6 for expenses incurred in June;
    - iv. More than sixty (60) days for expenses incurred in July to November; and
    - v. After January 31 for expenses incurred in December.
  - e. All requests for payments shall be made on the form set forth in Exhibit C. 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. 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.

- D. 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.
- E. 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.
- F. SUBGRANTEE shall have an accounting manual that describes its financial procedures in sufficient detail to allow reasonable understanding of financial practices.
- G. 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.
- H. 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. Pima County in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Agreement by the Contractor, his agents, representatives, employees or subcontractors, and Contractor is free to purchase additional insurance.
- B. Minimum Scope and Limits of Insurance: Contractor shall provide coverage with limits of liability not less than those stated below.
  - 1. Commercial General Liability – Occurrence Form
    - a. Policy shall include bodily injury, property damage, personal injury and broad form contractual liability:
      - i. General Aggregate \$2,000,000.00
      - ii. Products – Completed Operations Aggregate \$1,000,000.00
      - iii. Personal and Advertising Injury \$1,000,000.00
      - iv. Blanket Contractual Liability – Written and Oral \$1,000,000.00
      - v. Fire Legal Liability \$ 50,000.00
      - vi. Each Occurrence \$1,000,000.00
    - b. The policy shall be endorsed to **include coverage for sexual abuse and molestation.**
    - c. The policy shall be endorsed to include the following additional insured language: **“Pima County is named an additional insured with respect to liability arising out of the activities performed by or on behalf of the Contractor”.**

- d. Policy shall contain a waiver of subrogation against Pima County, its departments, agencies, boards, commissions, and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
2. Automobile Liability Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Agreement.
- a. Combined Single Limit (CSL) \$1,000,000.00
- b. The policy shall be endorsed to include the following additional insured language: **"Pima County is named an additional insured with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor"**.
- c. Policy shall contain a waiver of subrogation against Pima County, its departments, agencies, boards, commissions and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
3. Worker's Compensation and Employers' Liability
- a. Workers' Compensation Statutory
- b. Employers' Liability:
- |                             |                |
|-----------------------------|----------------|
| i. Each Accident            | \$ 500,000.00  |
| ii. Disease – Each Employee | \$ 500,000.00  |
| iii. Disease – Policy Limit | \$1,000,000.00 |
- c. Policy shall contain a waiver of subrogation against Pima County, its departments, agencies, boards, commissions and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- d. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.
- C. Additional Insurance Requirements: The policies shall contain, or be endorsed to contain, the following provisions:
1. Pima County, wherever additional insured status is required, shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Agreement.
  2. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.
  3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Agreement.
- D. Notice of Cancellation: Each insurance policy required by the insurance provisions of this Agreement shall provide the required coverage and shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been given to Pima County. Such notice shall be sent directly to the **Department Director at 2797 E. Ajo Way, 3<sup>rd</sup> Floor, Tucson, AZ 85713** and shall be sent by certified mail, return receipt requested. The Project Name/Contract Number and project description shall be noted on the Certificate of Insurance.
- E. Acceptability of Insurers: Insurance is to be placed with duly licensed or approved non-admitted insurers in the state of Arizona with an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer

insolvency. All Certificates of Insurance are to be received and approved by Pima County before work commences.

#### **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](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.
- C. 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**

- 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 XVI - 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:**

Beverly Travers, Moderator  
The Good Shepherd United Church of Christ  
17750 S. La Canada Drive  
Sahuarita, AZ 85629

#### **ARTICLE XVII - 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 XVIII - 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 2013-2014 annual CDBG proposal process solicitation number CDNC-12-31-12-CDBG-ESG. 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 XIX - 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 XX - 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 XXI – 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 XXII– 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 XXIII – 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 XXIV – 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.

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**ARTICLE XXV - 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.

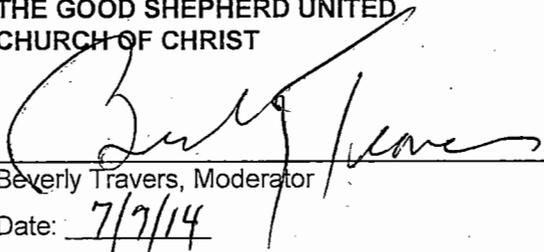
IN WITNESS THEREOF, the parties have affixed their signatures to this Grant Agreement on the date written below.

**PIMA COUNTY**

**THE GOOD SHEPHERD UNITED  
CHURCH OF CHRIST**

\_\_\_\_\_  
Chairman, Board of Supervisors

Date: \_\_\_\_\_

  
\_\_\_\_\_  
Beverly Travers, Moderator

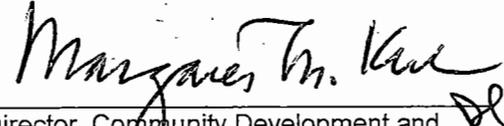
Date: 7/9/14

ATTEST:

\_\_\_\_\_  
Clerk of the Board

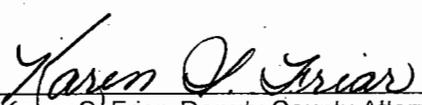
Date: \_\_\_\_\_

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Director, Community Development and  
Neighborhood Conservation

Date: 06/19/2014

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Karen S. Friar, Deputy County Attorney

Date: 6-4-14

**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 commercial refrigerator at The Good Shepherd United Church of Christ.

**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:

John Matheny  
Community Development and Neighborhood Conservation Dept.  
2797 E. Ajo Way, 3<sup>rd</sup> 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.

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When recorded, return to:

Pima County Community Development and Neighborhood Conservation  
Kino Service Center  
2797 East Ajo Way 3<sup>rd</sup> Floor  
Tucson, AZ 85713

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**DEED OF TRUST AND ASSIGNMENT OF RENTS**  
Food Bank Operations -- Commercial Refrigerator

**DATE:** \_\_\_\_\_, 2014

**TRUSTOR:** **The Good Shepherd United Church of Christ**, an Arizona non-profit religious corporation  
whose mailing address is:

17750 S. La Cañada Drive  
Sahuarita, AZ 85629

**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: Director and Pima County CDBG Program  
2797 E. Ajo Way, 3<sup>rd</sup> Floor  
Tucson, Arizona 85713

**TRUST PROPERTY:** The property situated in Pima County, Arizona, described as follows:

**See Exhibit A**

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

Street addresses, if any, or identifiable location of these properties:

LA CANADA NORTE II LOT 53 & NLY TRI PTN LOT 52  
Tax Parcel No. 303-49-108A

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 **\$30,000.00** of CDBG funds for the purchase of a walk-in commercial refrigerator to be used for the operation of a food bank to serve low- and moderate-income individuals and families.
- B. Trustor's obligation pursuant to Article II, Subparagraph B(2) of the **Grant Agreement** to retain title to the commercial refrigerator and the property utilized for the food bank at 17750 S. La Cañada Drive, Sahuarita, AZ and to provide food to low-to-moderate income persons for a period of five (5) years following the recording of this Deed of Trust in the Office of the Pima County Recorder.

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

1. To keep the Trust 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 properties 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 properties 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.

13. That this Deed of Trust applies to, inures to the benefit of, and binds all parties thereto, their heirs, legatees, devisees, administrators, executors, successors, and assigns. The term "Beneficiary" means the owner and holder of the promissory note or notes secured hereby, whether or not named as Beneficiary herein. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and neuter, and the singular number includes the plural.

14. That Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary, or Trustee is a party unless brought by Trustee.

Trustor requests that a copy of any notice of Trustee's sale hereunder be mailed to Trustor at Trustor's address hereinbefore set forth.

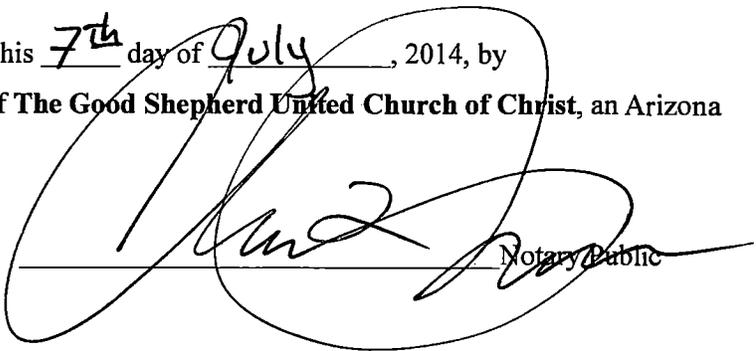
TRUSTOR:

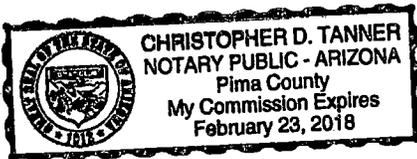
**The Good Shepherd United Church of Christ, an Arizona non-profit religious corporation**

By: Christopher D. Tanner  
Title: Personal Banker

State of Arizona )  
) ss.  
County of Pima )

This instrument was acknowledged before me this 7<sup>th</sup> day of July, 2014, by Beverly Travers, as Moderator of **The Good Shepherd United Church of Christ, an Arizona non-profit religious corporation.**

  
\_\_\_\_\_  
Notary Public



My commission will expire: 2/23/2018

ACCEPTED AND APPROVED BY:

Margaret M. Kline  
\_\_\_\_\_  
Director, Pima County Community Development  
and Neighborhood Conservation Department

## Exhibit A

### Parcel 1:

Lot 53 of La Cañada Norte II, a subdivision recorded in Book 46 of Maps at Page 54, records of Pima County, Arizona;

Except all coal and other minerals as reserved in the Patent from the United States of America.

### Parcel 2:

Portion of Lot 52 to be transferred to Lot 53/OPW Project No. 89085.003-102

All that portion of Lot 52 of La Cañada Norte II, Lots 51-119 and Common Area "A" (buffer and landscaping), a subdivision of record in the office of the County Recorder of Pima County, Arizona in Book 46 of Maps and Plats at page 54 thereof, more particularly described as follows:

COMMENCING at the Northwest corner of said Lot 52, adjoining the East right-of-way line of Placita De Magia, as shown on said plat, said point being the TRUE POINT OF BEGINNING;

Thence South  $65^{\circ} 41' 46''$  East, along the North line of said Lot 52, a distance of 160.21 feet to the Northeast corner of said Lot 52;

Thence North  $72^{\circ} 50' 53''$  West, 160.43 feet to a point on the East right-of-way line of said Placita De Magia;

Thence North  $21^{\circ} 21' 29''$  East, along said East right-of-way line, 20.00 feet to the TRUE POINT OF BEGINNING;

Except all coal and other minerals as reserved in the Patent from the United States of America;

Said parcel containing 1,600 square feet or 0.037 acres.