



Contract Number: CT-CED-14*030
Effective Date: 2-1-13
Term Date: 6-30-14
Cost: \$40,000.00
Revenue: _____
Total: _____ NTE: _____
Action: 4-1-14
Renewal By: _____
Term: 6-30-14
Reviewed by: [Signature]

BOARD OF SUPERVISORS AGENDA ITEM SUMMARY

Requested Board Meeting Date: August 19, 2013

ITEM SUMMARY, JUSTIFICATION &/or SPECIAL CONSIDERATIONS:

Requesting approval of a Professional Services Contract with Mr. Gabe Loyola in the amount of \$40,000.00 for Technical Assistance, Consultation, Facilitation, Coordination and Marketing Services in Community, Economic and Workforce Development.

CONTRACT NUMBER (If applicable): CT #14*030

STAFF RECOMMENDATION(S):

Approval of Professional Services Contract for Mr. Gabe Loyola to provide Technical Assistance, Consultation, Facilitation, Coordination and Marketing Services.

CORPORATE HEADQUARTERS: Pima County – Tucson, Arizona

To: COB - 8-7-13
Agenda - 8-19-13
(2)

Procure Dept 07/25/13 PM 01:13

CLERK OF BOARD USE ONLY: BOS MTG. _____

ITEM NO. _____

PIMA COUNTY COST: \$40,000.00 **and/or REVENUE TO PIMA COUNTY:** \$

FUNDING SOURCE(S): General Fund – Community & Economic Development Administration
(i.e. General Fund, State Grant Fund, Federal Fund, Stadium D. Fund, etc.)

Advertised Public Hearing:

<input type="checkbox"/>	<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO
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Board of Supervisors District:

1	<input type="checkbox"/>	2	<input type="checkbox"/>	3	<input type="checkbox"/>	4	<input type="checkbox"/>	5	<input type="checkbox"/>	All	<input checked="" type="checkbox"/>
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IMPACT:

IF APPROVED:

Mr. Gabe Loyola will continue to provide Technical Assistance, Consultation, Facilitation, Coordination and Marketing Services in Community, Economic and Workforce Development.

IF DENIED:

Pima County will miss the opportunity to have Mr. Gabe Loyola continue to provide Technical Assistance, Consultation, Facilitation, Coordination and Marketing Services in Community, Economic and Workforce Development.

DEPARTMENT NAME: Community & Economic Development Administration

CONTACT PERSON: Celina Cuaron for Hank Atha **TELEPHONE NO.:** 724-8228/724-3992

PIMA COUNTY DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT ADMINISTRATION

PROJECT: Community & Economic Development
Technical Assistance, Consultation, Facilitation,
Coordination and Marketing Service

CONTRACTOR: Jose Gabriel Loyola

AMOUNT: \$40,000.00

FUNDING: Pima County General Fund
CED Administration Budget

CONTRACT

NO. CF CED - H/0000000000000000030

AMENDMENT NO. _____

This number must appear on all
invoices, correspondence and
documents pertaining to this
contract.

PROFESSIONAL SERVICES CONTRACT - Board of Supervisors

THIS CONTRACT is entered into by and between Pima County, a body politic and corporate of the State of Arizona, hereinafter called COUNTY; and Jose Gabriel Loyola, hereinafter called CONTRACTOR.

W I T N E S S E T H

WHEREAS, COUNTY requires the services of a CONTRACTOR to provide consultation, facilitation, coordination and marketing service in Community, Economic and Workforce Development; and

WHEREAS, pursuant to Board of Supervisors policy D-29.6(III)(C) the County Administrator has approved direct selection of this CONTRACTOR; and

WHEREAS, utilizing the services of CONTRACTOR is in the best interests of the COUNTY.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I - TERM AND EXTENSION/RENEWAL/CHANGES

- A. This Contract, as awarded by the Board of Supervisors, shall commence on February 1, 2013 and shall terminate on June 30, 2014, unless sooner terminated or further extended pursuant to the provisions of this Contract.
- B. The parties may renew this Contract for up to an additional forty-four (44) months in one-year periods or any portion thereof. Any modification, or extension of the contract termination date, shall be by formal written amendment executed by the parties hereto.
- C. Amendments to the Contract must be approved by the Board of Supervisors or the Procurement Director, as required by the Pima County Procurement code, before any work or deliveries under the Amendment commences.

ARTICLE II - PAYMENT

- A. Prior to the initiation of each project requested by COUNTY, CONTRACTOR shall submit a project schedule and estimated cost to be approved by the Deputy County Administrator for Community and Economic Development. CONTRACTOR shall be paid \$90.00 per hour inclusive of all activities.
- B. Total payment of this Contract shall not exceed **\$40,000.00**.

C. Requests for payment for services under this Contract must be:

1. Submitted monthly or quarterly;
2. Certified on invoices signed by CONTRACTOR or an authorized representative of CONTRACTOR; and
3. Supported by documentation that shows, date, hours of service, location and nature of work billed.

ARTICLE III – SCOPE OF SERVICES

A. This Contract sets forth the terms and conditions under which CONTRACTOR will provide consulting and technical expertise regarding the organization, funding, economic and social development of communities. Areas of focus will include, but are not limited to:

1. Aiding disadvantaged communities;
2. Planning and organizing community neighborhoods to participate in and benefit from economic and workforce development projects in the County; and
3. Coordination of County and community projects with state and federal agencies and funding resources.

B. The Deputy County Administrator for Community and Economic Development shall specify and schedule the services to be provided by CONTRACTOR. During the term of this Contract, CONTRACTOR may be required to provide any or all of the following services:

1. Planning. The development of strategic plans, reports, policies and priorities. Activities include, but are not limited to:
 - a. Planning process design;
 - b. Gathering community and/or stakeholder input, conducting surveys and facilitating focus groups, meetings or public hearing;
 - c. Research and reports;
 - d. Developing draft narratives and integrating comments; and
 - e. Producing finished documents.
2. Event planning. Activities include, but are not limited to, coordinating, implementing and overseeing planning efforts for large events such as conferences, seminars and trainings.
3. Community development and facilitation. Activities include, but are not limited to:
 - a. Identifying community issues;
 - b. Identifying key stakeholders;
 - c. Providing community education and public presentations;
 - d. Developing community based strategies;
 - e. Identifying outside resources;
 - f. Facilitating group discussions among stakeholders;
 - g. Implementing strategies; and
 - h. Monitoring results.

4. Research. Activities include, but are not limited to:
 - a. Literature reviews to identify research findings, best practices or ideas for innovation, policy trends and other planning-related information;
 - b. Data collection and analysis to assess community need in local, regional, state or national context;
 - c. Resource identification, especially of local and state economic development programs;
 - d. Data mapping;
 - e. Focus groups to determine particular industry or community need; and
 - f. Legislative changes and impact on program strategies.
 5. Developing program strategies. Activities include, but are not limited to:
 - a. Responding to changes in federal legislation and in local and state development programs; and
 - b. Helping county departments and communities to understand state and federal changes and their impact on their communities.
 6. Evaluation. The conduct of formative and summative evaluation of projects, programs and/or systems. Activities include, but are not limited to:
 - a. Developing evaluation plans and continuous improvement processes;
 - b. Identifying and designing appropriate process, outcome and customer satisfaction measures;
 - c. Conducting surveys, interviews, testing and other data collection methods;
 - d. Developing longitudinal studies to evaluate program impacts;
 - e. Designing community data management systems;
 - f. Providing statistical analysis;
 - g. Writing and presenting reports on findings and recommendations; and
 - h. Consulting on continuous improvement, design changes and corrective action.
- C. For each of the assigned activities and projects, CONTRACTOR shall:
1. Make requests for information, supporting documents, or other items through the assigned County contact person.
 2. Provide written updates on progress to County on a monthly basis or upon request.
 3. Perform the work in accordance with the terms of this Contract and to the best of CONTRACTOR's ability.
 4. Employ suitably trained and skilled professional personnel to perform all services under this Contract.
 5. Provide the following to the assigned County contact person:
 - a. Electronic copy of all submitted documents;
 - b. Documentation of submittal and receipt of activities; and
 - c. Additional copies of submittals upon request.
- D. All documents, correspondence, and supporting material prepared and/or received in the course of providing services pursuant to this Contract, shall be the sole property of the County.

ARTICLE IV - INSURANCE

- A. CONTRACTOR shall obtain and maintain at its own expense, during the entire term of this Contract the following type(s) and amounts of insurance:
1. Commercial General Liability in the amount of \$1,000,000.00 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 Contract between Pima County and CONTRACTOR;
 2. Commercial or Business automobile liability coverage for owned, non-owned and hired vehicles used in the performance of this Contract 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 Contract 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. CONTRACTOR 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. CONTRACTOR 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 CONTRACTOR, its agents, employees or anyone under its direction or control or on its behalf in connection with performance of this Contract.
- B. CONTRACTOR warrants that all products and services provided under this contract are non-infringing. CONTRACTOR will indemnify, defend and hold COUNTY harmless from any claim of infringement arising from services provided under this contract or from the provision, license, transfer or use for their intended purpose of any products provided under this Contract.

ARTICLE VI - COMPLIANCE WITH LAWS

CONTRACTOR shall comply with all federal, state, and local laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this Contract. The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this Contract, and any disputes hereunder. Any action relating to this Contract 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 Contract shall apply, but do not require an amendment.

ARTICLE VII - INDEPENDENT CONTRACTOR

The status of the CONTRACTOR shall be that of an independent contractor. Neither CONTRACTOR, nor CONTRACTOR'S officer's 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. CONTRACTOR shall be responsible for payment of all federal, state and local taxes associated with the compensation received pursuant to this Contract 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. CONTRACTOR shall be solely responsible for program development and operation.

ARTICLE VIII - SUBCONTRACTOR

CONTRACTOR 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 CONTRACTOR is responsible for the acts and omissions of persons directly employed by it. Nothing in this contract 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

CONTRACTOR shall not assign its rights to this Contract, 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

CONTRACTOR 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 which is hereby incorporated into this contract as if set forth in full herein. During the performance of this contract, CONTRACTOR 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

CONTRACTOR 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.

ARTICLE XII - AUTHORITY TO CONTRACT

CONTRACTOR warrants its right and power to enter into this Contract. If any court or administrative agency determines that COUNTY does not have authority to enter into this Contract, COUNTY shall not be liable to CONTRACTOR or any third party by reason of such determination or by reason of this Contract.

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 Contract 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 it at any time shall not be construed as an accord and satisfaction.

ARTICLE XIV - CANCELLATION FOR CONFLICT OF INTEREST

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

ARTICLE XV – TERMINATION OF CONTRACT FOR DEFAULT

- A. Upon a failure by CONTRACTOR to cure a default under this Contract within 10 days of receipt of notice from COUNTY of the default, COUNTY may, in its sole discretion, terminate this Contract for default by written notice to CONTRACTOR. In this event, COUNTY may take over the work and complete it by contract or otherwise. In such event, CONTRACTOR shall be liable for any damage to the COUNTY resulting from CONTRACTOR'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 CONTRACTOR to observe, perform or comply with any material term, covenant, agreement or condition of this Contract, 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 CONTRACTOR's performance of this Contract;
 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 Contract; or
 8. If a voluntary or involuntary action for bankruptcy is commenced with respect to CONTRACTOR, or CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR arising under this or any other Contract for the purpose of set-off until such time as the exact amount of damage due COUNTY from CONTRACTOR is determined; and
 3. Subject to the immediately preceding subparagraph (2), COUNTY's liability to CONTRACTOR shall not exceed the Contract value of work satisfactorily performed prior to the date of termination for which payment has not been previously made.

- D. The Contract will not be terminated for default nor the CONTRACTOR 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 CONTRACTOR. 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 CONTRACTOR and the subcontractor(s); and
 2. The CONTRACTOR, 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 CONTRACTOR's project manager, by facsimile transmission with notice of receipt, or under the Notices clause of this Contract.
- F. If, after termination of the Contract for default, it is determined that the CONTRACTOR 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 contract.

ARTICLE XVI – TERMINATION FOR CONVENIENCE

- A. COUNTY reserves the right to terminate this Contract at any time and without cause by serving upon CONTRACTOR 30 days advance written notice of such intent to terminate. In the event of such termination, the COUNTY'S only obligation to CONTRACTOR shall be payment for services rendered prior to the date of termination.
- B. Notwithstanding any other provision in this Contract, this Contract 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 Contract. In the event of such termination, COUNTY shall have no further obligation to CONTRACTOR, other than to pay for services rendered prior to termination.

ARTICLE XVII - NOTICE

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

COUNTY:

Mr. Hank Atha
Deputy County Administrator
Pima County Administration Office
130 West Congress Street, 10th Floor
Tucson, AZ 85701

CONTRACTOR:

Mr. Jose Gabriel Loyola
EIN 43-1986257
Loyola Associates
1310 West Campbell Avenue
Phoenix, AZ 85013

ARTICLE XVIII - NON-EXCLUSIVE CONTRACT

CONTRACTOR understands that this Contract is non-exclusive and is for the sole convenience of COUNTY. COUNTY reserves the right to obtain like services from other sources for any reason.

ARTICLE XIX - REMEDIES

Either party may pursue any remedies provided by law for the breach of this Contract. 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 Contract.

ARTICLE XX - SEVERABILITY

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

ARTICLE XXI - BOOKS AND RECORDS

CONTRACTOR shall keep and maintain proper and complete books, records and accounts, which shall be open at all reasonable times for inspection and audit by duly authorized representatives of COUNTY.

In addition, CONTRACTOR shall retain all records relating to this contract at least 5 years after its termination or cancellation or, if later, until any related pending proceeding or litigation has been closed.

ARTICLE XXII- PUBLIC INFORMATION

- A. Pursuant to A.R.S. § 39-121 et seq., and A.R.S. § 34-603(H) 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 reasonably 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. CONTRACTOR hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to CONTRACTOR'S employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). CONTRACTOR shall further ensure that each subcontractor who performs any work for CONTRACTOR 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 CONTRACTOR and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.
- C. Any breach of CONTRACTOR'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 CONTRACTOR 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, CONTRACTOR 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, as soon as possible so as not to delay project completion.
- D. CONTRACTOR 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 CONTRACTOR. In the event that remedial action under this Article results in delay to one or more tasks on the critical path of CONTRACTOR's approved construction or critical milestones schedule, such period of delay shall be deemed excusable delay for which CONTRACTOR shall be entitled to an extension of time, but not costs.

ARTICLE XXIV - 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 Contract 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 Contract on the date written below.

PIMA COUNTY

CONTRACTOR – Jose Gabriel Loyola

Chairman, Board of Supervisors

Date: _____



Authorized Officer Signature

JOSE GABRIEL LOYOLA
Printed Name and Title

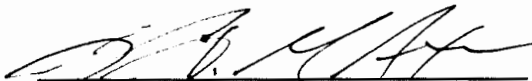
Date: 7/23/2013

ATTEST

Clerk of the Board

Date: _____

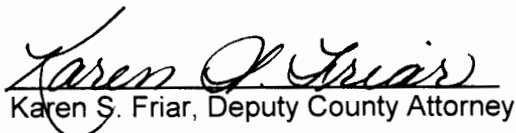
APPROVED AS TO CONTENT:



Hank Atha
Deputy County Administrator for
Community & Economic Development

Date: 7-22-13

APPROVED AS TO FORM:



Karen S. Friar, Deputy County Attorney