CITY CLERK
ORIGINAL

C-8883
04/22/2014

YOUTH AND AMATEUR SPORTS

FY 2014 BIENNIAL GRANT FUNDING AGREEMENT

By and Between

TOURISM AND SPORTS AUTHORITY d/b/a
THE ARIZONA SPORTS AND TOURISM AUTHORITY,

and

City of Glendale

Pertaining To

Thunderbird Conservation Park Trail Enhancement Project

DATE: January 14, 2014

ORIGINAL

THIS BIENNIAL GRANT FUNDING AGREEMENT (the "Agreement") is made to be effective as of the 14th day of January, 2014 by and between City of Glendale, an Arizona municipal corporation (hereinafter called the "City" or a "Party"), and the TOURISM AND SPORTS AUTHORITY d/b/a THE ARIZONA SPORTS AND TOURISM AUTHORITY ("AzSTA"), existing pursuant to the provisions of Arizona Revised Statutes ("A.R.S.") §§ 5-801 et seq., as the same may be modified or amended (collectively, the "Act"), as a corporate and political body of the State of Arizona and, except as otherwise limited, modified or provided by the Act, as a tax levying public improvement district. The City and AzSTA are sometimes collectively called the "Parties".

RECITALS

A. Under A.R.S. §5-804, AzSTA is authorized to enter into contracts and agreements as necessary to carry out the purposes and requirements of AzSTA.

B. Under A.R.S §5-809(A), AzSTA is authorized to: (i) provide funds to acquire land or construct, finance, furnish, improve, market or promote the use of community youth and amateur sports facilities, recreational facilities and other community facilities or programs in Maricopa County; and (ii) do all things necessary or convenient to accomplish those purposes.

C. The City has agreed to Thunderbird Conservation Park Trail Enhancement Project (hereinafter more particularly described and referred to as the "Project") to be used for community youth and amateur sports and recreation activities.

D. Under A.R.S. §5-809(B), the Board of Directors of AzSTA (the "AzSTA Board") must require that the City contribute to the development of the Project that amount that is equal to a minimum of one-half of the funds to be contributed, spent or distributed by AzSTA with respect to the Project.

E. The AzSTA Board has determined that AzSTA will, under this Agreement, provide partial funding for the Project.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual obligations of the Parties, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties acknowledge and agree as follows:

ARTICLE I
DEFINITIONS

Section 1.1 The following terms shall have the meanings set forth below, except where the context clearly indicates otherwise:

(a) "Act" means A.R.S. §5-801 et seq., as amended.

(b) "AzSTA Contribution" means a maximum of $23,400 based on the Project Costs. This represents approximately 66% (two thirds) of the total Project Costs of $31,122 with the remaining balance to be provided by the City (see City Contribution) provided, however, that the total AzSTA Contribution shall not exceed the dollar amount equal to 66% (two thirds) of the Project Costs (as defined in subsection (i) below). A reduction in the Project Costs will reduce the AzSTA Contribution on a pro-rata basis. An increase in the Project Costs will not increase the AzSTA Contribution but will be an obligation of the City. _____ (Grantee Initials)

(c) "AzSTA Representative" means the person or persons designated by AzSTA to act on its behalf.

(d) "City Contribution" means the Project Costs less the AzSTA Contribution.

(e) "City Representative" means the person or persons designated by the City to act on its behalf.

(f) "Contractor" means any person or entity entering into a Project Contract or other agreement associated with development of the Project.

(g) "Event of Default" means any one of the events described in Sections 9.1 and 9.2.

(h) "Project Scope" means the plans and specifications or other descriptions for the Project, as set forth on Exhibit A attached hereto and made a part hereof, together with such other plans and specifications or other descriptions which are hereafter prepared by and for the City and approved by AzSTA under Section 4.2(a) of this Agreement.

(i) "Project" means the project undertaken by the City for or in connection with a youth and amateur sports and recreational facility consisting generally of landscape and trails enhancements, and trail signage, all as more particularly set forth and described in the Project Scope.

(j) "Project Contract" means any agreement or agreements for the design, development, acquisition, installation, implementation and construction of all or a substantial part of the Project by and between a Contractor and the City.

(k) "Project Costs" means the total costs for development, design, survey, land acquisition, installation, construction, engineering, construction administration and expenses directly related to the Project, all as set forth on Exhibit B attached hereto and made a part hereof together with such costs as may result from a change of plans under Section 4.2 of this Agreement.

(l) "Project Start and Completion Dates" means the anticipated or, if known, actual start and completion dates for the Project.

(m) "YAS Account" means the youth and amateur sports facilities account created pursuant to A.R.S. § 5-838 and maintained by AzSTA.

ARTICLE II
PURPOSE; EFFECTIVE DATE; TERM

Section 2.1 Purpose. The purpose of this Agreement is to provide for the following:

(a) The design, development, acquisition, installation, implementation and construction of the Project; and

(b) The respective rights and obligations of the Parties with respect to the Project.

Section 2.2 Effective Date; Term; Automatic Termination. This Agreement shall be in full force and effect upon the date hereof and shall continue in full force and effect and shall be binding on the Parties until completion of the Project. Provided further that, notwithstanding anything contained in this Agreement to the contrary, the Parties agree that the rights and obligations of the Parties contained in Article 6 hereof shall survive termination of this Agreement.

Section 2.3 Notice of Award. The City shall promptly notify AzSTA in writing and provide written evidence of the award of the first Project Contract.

ARTICLE III
OBLIGATIONS OF THE PARTIES

Section 3.1 City Contribution. The City shall fully fund or cause to be funded the City Contribution before the execution of this Agreement and before the actual expenditure of any funds or use of any in-kind contributions toward the Project and the Project Costs. The City shall document and provide evidence as part of Exhibit C from all sources totaling the City Contribution.

Section 3.2 City Representative. The City shall designate Michael Gregory, Parks and Recreation Manager, (or his designee) City of Glendale Parks, Recreation, and Library Services Department, 5970 W. Brown Street, Glendale, AZ 85302, at mgregory@glendaleaz.com as the City Representative.

Section 3.3 AzSTA Contribution; Payments.

(a) From funds lawfully deposited or to be deposited in the YAS Account AzSTA shall deliver the AzSTA Contribution to the City on a pro-rata, reimbursement basis as expenditures for Project Costs are incurred. Before AzSTA delivers funds, the City shall provide to AzSTA sufficient documentary evidence of all expenditures requiring reimbursement. The City shall use the form "Project Cost Reimbursement Request Form" (Exhibit E) to create the reimbursement request. This form may also be available for download at **www.az-sta.com**

(b) The AzSTA Contribution shall not be used for expenditures related to fixed overhead/administrative expenses (e.g. salaries, rent, utilities, etc.), loans or endowments, conferences, individuals, golf tournaments or benefit tables, travel expenses outside of Maricopa County, capital campaigns, funding to maintain the sustainability of an organization or program, or anything else deemed by AzSTA, in its sole and absolute discretion, as not serving the youth and amateur sports community within Maricopa County.

(c) Except as otherwise provided herein, no obligation of AzSTA under or arising out of this Agreement or any document executed by AzSTA in connection with the Project shall impose, give rise to, or be construed to authorize or permit a debt, pecuniary liability, or a charge against the general credit of AzSTA. After AzSTA has delivered to the City the AzSTA Contribution as required by Section 3.3(a) above, AzSTA shall have no further obligation to contribute to payment of the Project Costs. AzSTA makes no representation or warranty express or implied that the AzSTA Contribution together with the City Contribution will be sufficient to pay the Project Costs.

(d) A reduction in the Project Costs shall proportionately reduce the AzSTA Contribution. An increase in the Project Costs shall not increase the AzSTA Contribution but will be the City's obligation. The City must provide evidence to AzSTA that these funds have been secured before the work related to the increase is performed. BK (Grantee Initials)

Section 3.4 AzSTA Representative. AzSTA shall designate Robin Lea-Amos, Grants Program Coordinator, as the AzSTA Representative. Her contact information is One Cardinals Drive, Glendale, AZ 85305 or ***robin@az-sta.com.***

Section 3.5 City's Obligation to Complete the Project. The City shall complete the Project in accordance with the Project Scope (as such Project Scope may be modified or amended pursuant to Section 4.2 hereof).

ARTICLE IV
PROJECT COSTS AND PROJECT SCOPE

Section 4.1 Changes in Project Costs. Any increase in the Project Costs because of a change in Project Scope provided by Section 4.2 shall not increase AzSTA's financial obligation beyond the AzSTA Contribution in any manner.

Section 4.2 Project Scope.

(a) Changes to Project Scope. Any Project Scope not finalized or completed as of the effective date and any change in the Project Scope, shall be submitted (upon their completion) to AzSTA for review and written approval of the AzSTA Representative. Notwithstanding the foregoing, minor changes to the Project Scope shall not be subject to approval of AzSTA. Minor changes are defined as ten percent of the Project Costs or $10,000, whichever is smaller.

(b) Changes to Project Start and Completion Dates. The Project must be completed within 12 months of the funding agreement's execution unless otherwise agreed to by AzSTA and documented in the funding agreement. Any change to the Project which will delay the Completion Date by more than thirty (30) days shall be submitted to AzSTA for review and written approval by the AzSTA Representative. Included in the extension request should be the revised projected completion date and explanation of delay. BK (Grantee Initials)

ARTICLE V
DEVELOPMENT OF THE PROJECT

Section 5.1 Development of the Project. The City shall promptly commence and diligently pursue the Project to completion in accordance with the development schedule described to AzSTA. The City shall perform such duties as may be necessary to complete development of the Project pursuant to the Project Scope and in a good and workmanlike manner and all in full compliance with all applicable laws, zoning ordinances, municipal ordinances, regulations and orders of Federal, State, County, local and regulatory authorities of every kind and with all covenants, conditions and restrictions affecting the Project.

Section 5.2 Acknowledgement of AzSTA Contribution. The City will indicate or will cause to be indicated, on all construction and permanent signage at the Project, that AzSTA has provided partial funding for construction of the Project.

Section 5.3 Owner's Policy. The City shall maintain an "Owners and Contractors Protective Liability" insurance policy or some other appropriate insurance policy with a coverage amount equal to the full amount of the estimated Project Costs (the "City's Policy"). AzSTA shall be named as an additional insured under the City's Policy. _____ (Grantee Initials)

ARTICLE VI
MANAGEMENT, OPERATION AND MAINTENANCE

Section 6.1 City Management, Operation and Maintenance. The City, at its own cost and expense, shall manage, operate, maintain and insure the Project in a manner in compliance with law and good operating practices over the course of the useful life of the Project. This Project is determined to have a minimum useful life of 25 years.

Section 6.2 Reimbursement of the AzSTA Contribution. If AzSTA reasonably determines that the City has not, or is not able, to maintain and preserve the Project so that the minimum useful life is achieved, AzSTA has the right to be reimbursed, on a straight-line, pro-rata basis, for its AzSTA Contribution. AzSTA must notify the City in writing of its determination and its request for reimbursement. The City will be granted up to sixty (60) days to remedy the situation after which AzSTA will reasonably determine whether or not a remedy has been implemented or to require reimbursement. If reimbursement is required, the AzSTA reimbursement amount will be calculated as the AzSTA Contribution less the AzSTA Contribution divided by the minimum useful life in years times the number of actual years of useful life achieved (based on the Completion date of the Project). The City shall deliver the reimbursement to AzSTA within thirty (30) days of AzSTA's final written decision.

Section 6.3 Maintenance of Required Insurance. The City shall maintain insurance in an amount and with the terms and conditions sufficient to fully cover all losses related to the Project. The City shall name AzSTA as an additional insured for all such policies.

Section 6.4 City's Books and Records. Subject to applicable law, during development of the Project and for a period of five (5) years after completion of the Project, City shall at all times keep accurate and complete books, records and accounts with respect to all of City's activities related to

the Project; the books, records and accounts to be maintained at City Hall. Subject to applicable laws, during development of the Project and for a period of five (5) years after completion of the Project, AzSTA, or any persons designated by it, shall have the right, without hindrance or delay, but only upon three (3) days prior written notice and during normal business hours, to inspect, audit, check and make extracts from the City's books, records and accounts, including, without limitation, all journals, orders, receipts and any correspondence and other data relating to the books, records and accounts related to the Project as may be maintained, generated or stored; provided, however, that at any time after such five (5) year period AzSTA requests reasonable access to the City's books, records and accounts, the City shall not deny AzSTA reasonable access. City hereby irrevocably authorizes any person, including, without limitation, any of City's employees or agents, having possession or control of any such books, records and accounts to make them available for AzSTA's inspection upon AzSTA's request or, at the option of AzSTA, make any computer programs or mechanical devices or program related thereto and related to the Project available to AzSTA.

Section 6.5 No Assignments or Changes in Use. The City shall not sell, convey, transfer, assign, dispose of or further encumber the Project or any part thereof or any interest therein or enter into any lease covering all or any portion thereof or an undivided interest therein, either voluntarily, involuntarily or otherwise, or enter into an agreement or contract to do so that would materially affect the City's ability to fulfill its obligations under or carry out the transactions contemplated by this Agreement or operate and maintain the Project as a youth and amateur sports and recreational facility or that would materially affect AzSTA's ability to exercise any of its rights set forth in this Agreement, without the prior consent of AzSTA which consent shall be at AzSTA's sole and absolute discretion. The City shall give AzSTA at least thirty (30) days prior written notice of any transaction that would require AzSTA's consent under this Section 6.5.

Section 6.6 No Liens on the Project. With the exception of liens which the City is actively contesting or which allow periodic payments leading to their complete satisfaction so long as such payments are not in default, if any, the City shall not create or place, permit to be created or placed or, through any act or failure to act, acquiesce in the creation or placing of, or allow to remain, any mortgage, lien (statutory, constitutional or contractual), pledge, security interest, encumbrance or charge or conditional sale or other title retention agreement on the property, either real or personal, comprising the Project other than liens, encumbrances or conveyances consented to by AzSTA which consent shall be at the sole and absolute discretion of AzSTA.

Section 6.7 Monitoring and Reporting Requirements. The AzSTA Representative, or its duly appointed agent, shall monitor and inspect the progress of the Project during the course of development and construction as well as during the expected useful life of the Project.

(a) Monthly Report. The City shall, during the course of development and construction and/or acquisition of the Project, provide AzSTA with a monthly progress report. The report shall be provided to AzSTA by no later than the fifteenth of the following month. The City shall use the Project Progress Reporting Form as defined in Exhibit D and may be made available through AzSTA's website (www.az-sta.com) in order to provide the Project progress information as defined in the template in addition to digital photographs. AzSTA may withhold payment of reimbursement requests if complete and accurate Monthly Reports are not filed as required. _____ (Grantee Initials)

(b) Wrap-Up Report. The City shall provide a final report using the Project Progress Reporting Form (Exhibit D) at the completion of the Project. This report shall be provided to AzSTA within thirty (30) days of the completion of the Project and coincide with the final reimbursement request to AzSTA.

(c) Sending the Monthly and Wrap-Up Reports. The monthly and wrap-up reports shall be transmitted electronically to AzSTA along with applicable digital photographs to the following email address: **robin@az-sta.com**, or to such other address as described by AzSTA.

ARTICLE VII
WARRANTIES, REPRESENTATIONS AND COVENANTS

Section 7.1 City's Representations, Warranties and Covenants. The undersigned, on behalf of the City, but not individually, represents and warrants to, and covenants with, AzSTA that:

(a) The City is an Arizona municipal corporation duly organized and existing under the laws of the State of Arizona, and has full legal right, power and authority to: (i) enter into this Agreement and (ii) carry out and consummate the transactions contemplated by this Agreement;

(b) The City Council (i) has duly authorized and approved the execution and delivery of, and the performance of its obligations under this Agreement and (ii) has duly authorized and approved the consummation of all other transactions contemplated by this Agreement and any and all hearings, ordinances and approvals prerequisite to the execution and delivery of this Agreement have been held, enacted or granted and in the processing thereof all notice and hearing requirements under applicable law have been fully complied with, including, but not limited to, open meeting laws of the State of Arizona;

(c) This Agreement has been duly executed and delivered by the City and is a legal, valid and binding agreement of the City enforceable in accordance with its terms, subject as to enforcement of remedies to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws in effect from time to time affecting the rights of creditors generally and subject to the availability of equitable relief;

(d) To City's knowledge, the consummation of the transactions contemplated in this Agreement do not conflict with, or constitute a material breach of, or material default under, any provision of applicable law or administrative regulation of the State of Arizona or the United States of America or any department, division, agency or instrumentality thereof or any applicable judgment or decree or any loan agreement, bond, note, resolution, ordinance, indenture, agreement or other instrument to which the City is a party or may be otherwise subject, to the extent that such conflict, breach or default would materially adversely affect or impact the terms or performance of this Agreement;

(e) To City's knowledge, the City is not in material breach of or material default under any loan agreement, bond, note, resolution, ordinance, indenture, agreement or other instrument to which the City is a party or may be otherwise subject and no event has occurred and is continuing that constitutes, or that with the passage of time or the giving of notice or both would constitute, a material breach of or a material default under any such agreement, to the extent that such conflict,

breach or default would materially adversely affect or impact the terms or performance of this Agreement or any of the transactions contemplated by this Agreement;

(f) To City's knowledge, there are no events or conditions, either in any single case or in the aggregate, that materially adversely affect, or in the future, might materially affect the City's condition, financial or otherwise, or materially affect the City's ability to fulfill its obligations under, or carry out, the obligations set forth in this Agreement;

(g) The City has made or will make all required filings with and has obtained all material approvals, consents and orders of any government authority, board, agency or commission having jurisdiction that would constitute a condition precedent to performance by the City of its obligations under this Agreement.

Section 7.2 AzSTA Representations, Warranties and Covenants. The undersigned, on behalf of AzSTA but not individually, represents and warrants to, and covenants with, the City as follows:

(a) Except as otherwise modified by the Act, AzSTA is organized and exists under the laws of the State of Arizona as a corporate and political body having all the rights, powers and immunities of a municipal corporation, and has full legal right, power and authority to (i) enter into this Agreement and (ii) carry out and consummate the transactions contemplated by this Agreement;

(b) Any and all hearings, ordinances and approvals prerequisite to the execution and delivery of this Agreement have been held, enacted or granted and in the processing thereof all notice and hearing requirements under applicable law have been fully complied with, including, but not limited to, open meeting laws of the State of Arizona;

(c) The AzSTA Board (i) has duly authorized and approved the execution and delivery of, and the performance of its obligations under this Agreement and (ii) has duly authorized and approved the consummation of all other transactions contemplated by this Agreement;

(d) This Agreement has been duly executed and delivered by AzSTA and is a legal, valid and binding agreement of AzSTA enforceable in accordance with its terms, subject as to enforcement of remedies to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws in effect from time to time affecting the rights of creditors generally and subject to the availability of equitable relief;

(e) To AzSTA's knowledge, the consummation of the transactions contemplated in this Agreement will not conflict with or constitute a breach of or default under any provision of applicable law or administrative regulation of the State of Arizona or the United States of America or any department, division, agency or instrumentality thereof or any applicable judgment or decree or any loan agreement, bond, note, resolution, ordinance, indenture, agreement or other instrument to which AzSTA is a party or may be otherwise subject, to the extent that such conflict, breach or default adversely affects or impacts the terms or performance of this Agreement, any of the transactions contemplated by this Agreement;

(f) To AzSTA's knowledge, AzSTA is not in material breach of or default under any such provision, and no event has occurred and is continuing that constitutes, or that with the passage of time or the giving of notice or both would constitute, a breach of or a default under any such provisions, to the extent that such conflict, breach or default adversely affects or impacts the terms or performance of this Agreement or any of the transactions contemplated by this Agreement;

(g) To AzSTA's knowledge, there are no events or conditions that, either in any single case or in the aggregate, materially adversely affect or in the future might (so far as can reasonably be foreseen) materially affect AzSTA's condition, financial or otherwise, or materially affect AzSTA's ability to fulfill its obligations under or carry out the transactions contemplated by this Agreement;

(h) AzSTA has made or will make all required filings with and has obtained all material approvals, consents and orders of any government authority, board, agency or commission having jurisdiction that would constitute a condition precedent to performance by AzSTA of its obligations under this Agreement.

ARTICLE VIII
ASSIGNMENT

Section 8.1 Neither AzSTA nor the City may assign this Agreement without the prior written consent of the other Party.

ARTICLE IX
EVENTS OF DEFAULT

Section 9.1 City Events of Default. The following shall be "Events of Default" by the City under this Agreement:

(a) If any City warranty or representation proves to be false, misleading, untrue or incorrect in any material respect.

(b) If the City breaches or defaults in the performance or observance of any material covenant, promise, undertaking or agreement contained in this Agreement and fails to cure the same or fails to diligently and continuously pursue or perform the actions necessary to cure the same within thirty (30) days after written notice to the City of such breach or default; provided, however, if the failure stated in the written notice cannot be corrected within the applicable period, AzSTA may consent to an extension of such time if corrective action is instituted by the City as appropriate, within the applicable period and diligently pursued until the default is corrected. In no event shall the cure period set forth in this Section 9.1(b) be longer than one hundred eighty (180) days from the City's receipt of AzSTA's notice.

(c) If the City (i) files a voluntary petition in bankruptcy, (ii) fails to promptly lift any execution, garnishment or attachment, (iii) is adjudicated as a bankrupt, (iv) fails or is unable to pay its debts generally as they become due, (v) admits in writing its inability to pay its debts, (vi) makes a general assignment for the benefit of creditors, (vii) enters into an agreement of composition with creditors, or files a petition applicable to the City in any proceedings instituted under the provisions of the Federal Bankruptcy statute, as amended, or under any similar acts that may hereafter be enacted,

and such petition is not dismissed within sixty (60) days after service on the City; or if a receiver or trustee or custodian has been appointed in any proceeding for all or substantially all of the City's property or assets; or if the City has requested the appointment of such receiver, trustee or custodian; or if the City is adjudged insolvent under any state insolvency law.

(d) If any suit or legal action materially affecting the Project, the construction of the Project or the operation and use of the Project is filed and the City fails to take steps that AzSTA, in its sole and absolute discretion, determines is satisfactory to defend or resolve such action within ninety (90) days after AzSTA written notice to the City.

(e) If the Project shall be damaged or destroyed by fire or other casualty. However, this shall not be an Event of Default if the City receives insurance proceeds or uses other funds sufficient to repair or restore the Project to its original condition and quality and the City promptly repairs or restores the Project. In no event shall such repair or restoration commence later than sixty (60) days after receipt of said funds.

Section 9.2 AzSTA Events of Default. The following shall be "Events of Default" by AzSTA under this Agreement:

(a) If any AzSTA warranty or representation proves to be false, misleading, untrue or incorrect in any material respect.

(b) If AzSTA breaches or defaults in the performance or observance of any of its covenants, promises, undertakings or agreements contained in this Agreement or fails to perform any requirements under the Act necessary to the satisfaction of its requirements hereunder and shall fail to cure the same or fails to diligently and continuously pursue or perform the actions necessary to cure the same within thirty (30) days after City's written notice to AzSTA of such breach or default; provided, however, if the failure stated in the written notice cannot be corrected within the applicable period, the City shall not unreasonably withhold its consent to an extension of such time if corrective action is instituted by AzSTA, as appropriate, within the applicable period and diligently pursued until the default is corrected. In no event shall the cure period set forth in this Section 9.2(b) be longer than one hundred eighty (180) days from AzSTA's receipt of City's notice.

(c) If AzSTA (i) files a voluntary petition in bankruptcy, (ii) fails promptly to lift any execution, garnishment or attachment, (iii) is adjudicated as a bankrupt, (iv) fails or is unable to pay its debts generally as they become due, (v) admits in writing its inability to pay its debts, (vi) makes a general assignment for the benefit of creditors, (vii) enters into an agreement of composition with creditors, or files of a petition applicable to AzSTA in any proceedings instituted under the provisions of the Federal Bankruptcy statutes, as amended, or under any similar acts that may hereafter be enacted, and such petition is not dismissed within sixty (60) days after service on AzSTA; or if a receiver or trustee or custodian has been appointed in any proceeding for all or substantially all of AzSTA's property or assets; or if AzSTA has requested the appointment of such receiver, trustee or custodian; or if AzSTA is adjudged insolvent under any state insolvency law.

Section 9.3 Termination Related to Severed Provision. If any action, rule, law or decision of any legislative or administrative body or of any court should materially impair or materially and adversely affect the enforceability of any term or provision of this Agreement, AzSTA and the City shall take all steps necessary to contest the same and, if not successful in such contest, to extent permissible under applicable law, shall amend this Agreement to further the purpose and intent hereof.

ARTICLE X
MISCELLANEOUS

Section 10.1 Waiver. In the event any agreement contained in this Agreement should be breached by any Party and thereafter waived by the other Party, such waiver shall be in writing and signed by an authorized representative of the Party granting the waiver and shall not be deemed to waive any other breach hereunder.

Section 10.2 Accuracy of Representations and Warranties. The Parties acknowledge that each and every representation and warranty in this Agreement shall be true and accurate as of the date of execution of this Agreement, shall constitute a material part of the consideration hereunder and shall survive the execution of this Agreement.

Section 10.3 Amendments. This Agreement may not be changed, modified or rescinded, except in writing, signed by the Parties hereto, and any attempt at oral modification of this Agreement shall be void.

Section 10.4 Notices.

(a) AzSTA and the City shall notify each other in writing:

(i) Promptly of any claim, demand, action, or dispute that involves the rights, interests, properties or obligations of the Parties, particularly those which involves the interpretation of any of the provision of, or the rights of the Parties under, this Agreement or any other claim, demand, action or dispute that may, directly or indirectly, materially affect the Project.

(ii) Immediately of the attachment or seizure, by process of law or otherwise, the Project or any monies held by either Party for the purpose of funding the Project.

(b) Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (i) delivered to the party at the address set forth below, (ii) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below, (iii) given to a recognized and reputable overnight delivery service, to the address set forth below or (iv) delivered by facsimile transmission to the number set forth below:

As to AzSTA:	President, Chief Executive Officer Tourism and Sports Authority 1 Cardinals Drive Glendale, Arizona 85305 Attention: Thomas R. Sadler Facsimile: (623) 433.7510
With a copy to:	General Counsel Tourism and Sports Authority c/o Fennemore Craig, P.C. 2394 East Camelback, Suite 600 Phoenix, Arizona 85016 Attention: Sarah A. Strunk, Esq. Facsimile: (602) 916-5527
As to the City:	City Manager Brenda S. Fischer, ICMA-CM City of Glendale 5850 W. Glendale Ave., Ste. 431 Glendale, Arizona 85301

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this Section. Notices shall be deemed received (i) when delivered to the party, (ii) three (3) business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (iii) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day, or (iv) when received by facsimile transmission during the normal business hours of the recipient. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

Section 10.5 Entire Agreement. This Agreement represents the entire agreement of the Parties with respect to its subject matter, and all agreements, oral or written, entered into prior to this Agreement are revoked and superseded by this Agreement.

Section 10.6 Severability. If any provision of this Agreement is declared void or unenforceable, such provision shall be deemed severed from this Agreement and this Agreement shall otherwise remain in full force and effect.

Section 10.7 Time is of the Essence. Time is of the essence of this Agreement in each and all of its provisions.

Section 10.8 Governing Law. This Agreement shall be construed in accordance with the law of the State of Arizona.

Section 10.9 Disadvantaged Business Entities. AzSTA has a strong desire and interest in encouraging disadvantaged business enterprises in the same manner and respect as for the multipurpose facility as contemplated by A.R.S. §5-813. Therefore, AzSTA strongly encourages the City to consider implementing disadvantaged business enterprise participation goals for the design, engineering, construction and operation of the Project.

Section 10.10 Conflicts of Interest. The provisions of A.R.S. §38-511 (cancellation of contracts with State or political subdivisions for conflict of interest) are applicable to this Agreement and the terms thereof are incorporated herein by this reference.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of this 24th day of April, 2014.

"City"

An Arizona municipal corporation

By: B Fischer

Brenda S. Fischer, ICMA-CM

APPROVED AS TO FORM AND IN ACCORDANCE WITH A.R.S. §11-952(D)

ATTEST:

City Clerk

By:
City Attorney

"AzSTA"

TOURISM AND SPORTS AUTHORITY d/b/a THE ARIZONA SPORTS AND TOURISM AUTHORITY RLA 4/9/14

By: Thomas R Sadler
Name: Thomas R. Sadler
Title: President, Chief Executive Officer

APPROVED AS TO FORM AND IN ACCORDANCE WITH A.R.S. §11-952(D)

By:
General Counsel

ORIGINAL

EXHIBIT A

PROJECT SCOPE

Must be completed by Grantee

Estimated Project start date: January 2014

Estimated completion date: June 2014

Description (scope) of Project:

Scope #1 – Install new, up to date park and trail signage. Examples of signs to be fabricated and installed include fire danger, park closure, directional and wayfinder, trail head identification, difficulty, and safety tips.

- The fire danger signs will be installed at the three main entrances and will provide park visitors daily updates on the level of fire danger.
- Park hours at Thunderbird Conservation Park vary throughout the year. The signage will help enhance customer service by allowing staff to adjust the "park opening" clock on the sign as needed. This creates less ambiguity so park patrons have an actual time to reference.
- Directional signage is one of the more important signs as they are placed at various locations of the trail and provide trail distance and difficulty.
- Trail head signs summarize the trail difficulty and provide vital information to advise the trail user what to expect.

Scope #2 – This portion of the Project involves providing sustainable rest nodes. The improvements will include:

- Introduce native trees, boulders, and benches at the trail heads and other areas of the trails to provide natural shade and rest nodes. Enhanced landscape architecture, safety, and functionality will be the priorities.
- Running water is not available to sustain new plant material. Where potable water is not available, staff will engage a contractor to fabricate a watering basin or trough system that will capture rain water and allow staff to import water to the new rest nodes.
- The rest nodes will include interpretative signage to help trail and park users identify the native plant material and wildlife. Trails are great opportunities to teach the public about the environment and natural history. Wildlife refuges and protected public lands provide interpretive facilities to teach about critical habitat issues and the many varieties of ecosystems. Attractive graphics and photos involved.
- Trail kiosks are a common sight at many trailheads. The large, covered bulletin boards provide a variety of information for trail users, including upcoming events and global perspective of the trails.

By completing the Project and creating a safer urban hiking environment, we will successfully embrace our goal to provide safe and aesthetically pleasing parks and facilities. We also share our City Council goals of committing ourselves to public safety, enhancing economic

development; providing high-quality services for citizens, and embracing strong neighborhoods. There are nearly 500,000 visitors annually who benefit from the well maintained urban trails that help make Glendale more liveable; improve the local economy through tourism; preserve and restore open space; and provide opportunities for physical activity to improve fitness and mental health.

EXHIBIT B

PROJECT COSTS

Facility Construction/Renovation (soft costs)						
33 Architectural and engineering fees				-	-	-
34 Project coordination/oversight services				-	-	-
35 General conditions				-	-	-
36 Permits & fees				-	-	-
37 Construction contingency				-	-	-
38 Owner contingency				-	-	-
39 Insurance				-	-	-
40 Performance and payment bond				-	-	-
41 Contractor fee				-	-	-
42 Testing and inspection				-	-	-
43 Preconstruction services				-	-	-
44 Taxes				-	-	-
45 Other				-	-	-
				-	-	-
Subtotal Facility Construction/Renovation (s	$ -	$ -	$ -	$ -	$ -	$ -
PROJECT COST SUMMARY						
Land	$ -	$ -	$ -	$ -	$ -	$ -
Infrastructure and Parking	10,000	3,400	-	3,400	6,600	10,000
Site Work/Landscaping/Irrigation	13,000	2,300	1,100	3,400	9,600	13,000
Facility Construction/Renovation (hard costs	9,850	3,050	1,550	4,600	5,250	9,850
Equipment	-	-	-	-	-	-
Facility Construction/Renovation (soft costs)	-	-	-	-	-	-
Total Project Cost	$ 32,850	$ 8,750	$ 2,650	$ 11,400	$ 21,450	$ 32,850

Maximum In-Kind Contribution Allowed $ 2,850.00 *(Lesser of 10% of Total Project or 25% of Contri*

Status of Actual In-Kind Contribution **Okay**

	Applicant	*AZSTA*
Applicant and AZSTA Contribution as % of Total Project Cost	*35%*	*65%*
Status of Applicant Contribution vs Total Project Cost	**Okay**	

EXHIBIT C

CITY CONTRIBUTION SOURCES

A portion of the Project will be funded through the capital improvement plan; fund 1580-73704, fund 2060-70515, and through Parks Maintenance General Fund Operations; 1000-13040.

EXHIBIT D

SAMPLE PROGRESS REPORTING FORM

(can be downloaded at: http://www.az-sta.com/)

ARIZONA SPORTS AND TOURISM AUTHORITY
YOUTH AND AMATEUR SPORTS
Project Progress Reporting Form

NOTE: This report is to be submitted to the Arizona Sports and Tourism Authority by the fifteenth of each month during the project's implementation phase (please keep your report to a maximum of two pages). This report and related digital photographs are to be transmitted electronically to the following email address: robin@az-sta.com

If you have questions about the use of this form, please email Robin Lee-Amos at robin@az-sta.com *A current Project Progress Report must be submitted to the Authority prior to a Project Cost Reimbursement being fulfilled by AZSTA.*

Organization Name:	
Person Submitting the Report:	
Program Name and Brief Description:	
Period being Reported on:	
Program Start Date:	
Program Completion Date:	
Total Program $ Value:	
Program $ Value Completed:	
% of Program Value Completed:	
Describe the work that was completed/implemented during the reporting period:	
At project completion please describe how successful the project was in meeting the goals and objectives stated in the original grant application:	
Other comments:	
# of Photographs Submitted:	
Subject Matter of Photographs:	

EXHIBIT E

Project Cost Reimbursement Request Form

(can be downloaded at: http://www.az-sta.com)

Arizona Sports and Tourism Authority

Youth and Amateur Sports

2014 Biennial Grant - Project Cost Reimbursement Request Form

(Reimbursements will not be processed without a current Project Progress Report and copies of receipts or invoices)

Organization Name	
Organization Mailing Address	
Project Name	
Date of Request	

List of Reimbursable Project Costs

Instructions: Complete the information requested and highlighted in yellow. Under the "Organization" enter your pro rata percentage of the project per the funding agreement. This document must be emailed to robin@az-sta.com for processing of payment.

Vendor Name	Description	Invoice No	Amount	Organization		AZSTA	
				%	$	%	$
					$ -		$ -

Requested by: _____
Name and Title

Received _____
Date

AZSTA Approved by/Date _____
Name and Date

AZSTA Approved by CEO / Date _____
Name and Title

Return this form along with copies of the invoices and checks or other evidence of payment to the vendor(s) to the Authority at:
Arizona Sports and Tourism Authority
One Cardinals Drive
Glendale, AZ 85305
Send your documentation to: Robin Lee-Amos
robin@az-sta.com