



Requesting Department

Town Manager

**TO:** HONORABLE MAYOR AND TOWN COUNCIL

**THROUGH:** JOHN KROSS, TOWN MANAGER, ICMA-CM

**FROM:** TRACY CORMAN, ASSISTANT TO THE TOWN MANAGER

**RE:** Consideration and possible approval of Resolution 1228-18 approving a Southeast Valley Regional Cooperative Intergovernmental Agreement for the Management, Operation and Planning for Effluent, Water and Wastewater Treatment Services in the Regions between the Town of Florence and the Town of Queen Creek.

**DATE:** July 18, 2018

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**Staff Recommendation:**

Staff recommends the approval of Resolution 1228-18 approving a Southeast Valley Regional Cooperative Intergovernmental Agreement for the Management, Operation and Planning for Effluent, Water and Wastewater Treatment Services in the Regions between the Town of Florence and the Town of Queen Creek

**Relevant Council Goal(s):**



Superior Infrastructure - Capital Improvement Program

**Proposed Motion:**

Motion to approve Resolution 1228-18 approving a Southeast Valley Regional Cooperative Intergovernmental Agreement for the Management, Operation and Planning for Effluent, Water and Wastewater Treatment Services in the Regions between the Town of Florence and the Town of Queen Creek

**Discussion:**

Resolution 1228-18 approves an intergovernmental agreement with the Town of Florence to act as Regional Partners to submit an application to the Arizona Corporation Commission to be designated as the interim manager for Johnson Utilities L.L.C and, if designated as interim manager, to act jointly to provide management services for operation, maintenance and planning for the effluent, water and wastewater systems.

As you know, the Arizona Corporate Commission has been holding public hearings investigating the billing and water quality issues of Johnson Utilities, as well as the

water outages. On July 12, 2018 the Administrative Law Judge, Judge Harping, issued a Recommended Order and Opinion that concluded that the evidence presented in the Arizona Corporation commission hearings support a decision to appoint an interim manager at Johnson Utilities.

The Town received a letter from the Arizona Corporation Commission (ACC) as an interested party and Interim Manager candidate requesting submittal of an application and proposal. Approval of the resolution would establish Queen Creek and Florence as Regional Partners, and both Towns would work together in a collaborative partnership to submit a proposal to the ACC.

In the event Queen Creek and Florence are appointed Interim Manager, consultants would be utilized to provide technical and financial services to bring the utility into compliance. The Town has received notices of interest from Wildan Consulting, Jacobs, EUSI, and Carollo to serve in this capacity. Annual expenditures under these contracts cannot be determined in advance since the Town has yet to be named as Interim Manager.

**Fiscal Impact:**

The approval of Resolution 1228-18 does not obligate any dollar amount. Annual expenditures, if any, cannot be determined in advance since the Regional Partners have yet to be named as Interim Manager. However, staff will try to minimize the work and contract expenses and make every effort necessary for all work to be reimbursable through the reimbursement under the ACC's order.

**Alternatives:**

- a. Town Council could decide not to partner with the Town of Florence, and apply to be Interim Manager independently.
- b. The Town Council may decide to direct staff not to apply to be Interim Manager and work with the awarded Interim Manager to ensure the Town residents that live within the Johnson Utilities service delivery area have sufficient water and waste-water services.

**Attachment(s):**

- a. Resolution 1228-18
- b. Southeast Valley Regional Cooperative Intergovernmental Agreement
- c. Letter from ACC to potential Interim Manager candidates

**RESOLUTION 1228-18**

**A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF QUEEN CREEK, MARICOPA COUNTY, ARIZONA, APROVING A SOUTHEAST VALLEY REGIONAL COOPERATIVE INTERGOVERNMENTAL AGREEMENT FOR THE MANAGEMENT, OPERATION AND PLANNING FOR EFFLUENT, WATER AND WASTEWATER TREATMENT SERVICES IN THE REGION BETWEEN THE TOWN OF FLORENCE AND THE TOWN OF QUEEN CREEK .**

**WHEREAS**, the Town Councils of both Queen Creek and Florence authorized their representatives to intervene in the matter of the Arizona Corporation Commission’s investigation into billing practices and water quality issues of Johnson Utilities, LLC (Docket No. WS-02987A-18-0050) and in the matter of water outages (Docket No. WS-02987A-18-0151); and

**WHEREAS**, Administrative Law Judge Harping issued a Recommended Order and Opinion that concluded that the evidence presented in the Arizona Corporation Commission Hearings support a decision to appoint an interim manager at Johnson Utilities; and

**WHEREAS**, water supply is essential not only to everyday life and health in Arizona, but for effective fire service as well. In order to provide the most efficient level of fire service protection all fire service agencies within the Phoenix Metropolitan area operate within an automatic/mutual aid environment - this includes area serviced by the Johnson Utility System; and

**WHEREAS**, an improperly managed wastewater collection and treatment system puts the public at risk to adverse health effects, including Johnson Utilities customers, commuters, business patrons and school children; and that the potential health impacts are not only limited to the customers of the Johnson Utility System but have the potential to impact the entire region; and

**WHEREAS**, the Town of Queen Creek and the Town of Florence desire to protect the health, safety and welfare of their citizens and other residents in the Southeast Valley Region by acting as Regional Partners to take the reasonable and necessary actions to prevent the negative impacts suffered by Johnson Utilities customers in the Southeast Valley Region; and

**WHEREAS**, the Regional Partners desire to share equally in decisions affecting utility services provided to their residents and the residents of Pinal County in the Southeast Valley Region; and

**WHEREAS**, the Regional Partners desire to provide needed management services for operation, maintenance and planning for Johnson Utilities’ effluent,

Attachment: a. Resolution 1228-18 (IGA for water and wastewater)

water and wastewater systems at a reasonable charge established by the Arizona Corporation Commission and subject to the Commission’s oversight through the Consent Order, but the Regional Partners do not desire to assume any obligations of the Company or its affiliates; and

**WHEREAS**, Regional Partners desire to cooperate in and support a regional solution with the Commission and other stakeholders to operate and manage the Johnson Utilities effluent, water and wastewater systems in the Southeast Valley Region; and

**WHEREAS**, the Mayor and Common Council of the Town of Queen Creek understands and agrees that the interim manager would be subject to Arizona Corporation Commission regulation; and

**WHEREAS**, it is necessary for the preservation of the peace, health and safety of the town of Queen Creek, Arizona, an emergency is declared to exist, and this Resolution shall become immediately operative and in force from and after the date of posting hereof; and

**NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF QUEEN CREEK, ARIZONA, AS FOLLOWS:**

Section 1. The Town of Queen Creek will partner with the Town of Florence to submit an application to the Arizona Corporation Commission to be installed as the interim manager for Johnson Utilities, L.L.C., with the Town of Queen Creek acting in the lead role.

Section 2. In the event that the Town of Queen Creek and the Town of Florence are appointed Interim Manager, outside consultants would be engaged to provide technical and financial services. Notice of Interest letters have been received from Wildan Consulting, Jacobs, EUSI, and Carollo Engineers.

**PASSED AND ADOPTED** by the Mayor and Common Council of the Town of Queen Creek, Arizona, this 18<sup>th</sup> day of July 2018.

FOR THE TOWN OF QUEEN CREEK:

\_\_\_\_\_  
Gail Barney, Mayor

\_\_\_\_\_  
Jennifer F. Robinson, Town Clerk

Attachment: a. Resolution 1228-18 (IGA for water and wastewater)

REVIEWED BY:

APPROVED AS TO FORM:

\_\_\_\_\_  
John Kross, Town Manager

\_\_\_\_\_  
Scott Holcomb, Town Attorney

Attachment: a. Resolution 1228-18 (IGA for water and wastewater)

**SOUTHEAST VALLEY REGIONAL COOPERATIVE INTERGOVERNMENTAL  
AGREEMENT FOR THE MANAGEMENT, OPERATION AND PLANNING FOR  
EFFLUENT, WATER AND WASTEWATER TREATMENT SERVICES IN THE REGION  
BETWEEN  
THE TOWN OF FLORENCE  
AND  
THE TOWN OF QUEEN CREEK**

THIS INTERGOVERNMENTAL AGREEMENT (this "Agreement") is made as of July 18, 2018 (the "Effective Date"), by and between The Town of Florence, an Arizona municipal corporation ("Florence") and the Town of Queen Creek, an Arizona municipal corporation ("Queen Creek"). Florence and Queen Creek are from time to time referred herein individually as a "party," and collectively as the "parties", or "Regional Partners".

RECITALS

A. ARIZ. REV. STAT. §§ 11-951 and 11-952 authorize intergovernmental agreements by and between political subdivisions and political agencies such as the Regional Partners.

B. The Town Councils of the Regional Partners authorized their representatives to intervene In The Matter of the Commission's Investigation Into Billing Practices and Water Quality Issues of Johnson Utilities, LLC (Docket No. WS-02987A-18-0050) and In the matter of the Commission's Investigation of Johnson Utilities, LLC water outages (Docket No. WS-02987A-18-0151) (collectively, the "proceeding(s)") before the Administrative Law Judge and the Arizona Corporation Commission (the "ACC" or "Commission") which involve an extensive evidentiary hearing and public meeting and in which the Regional Partners have participated by submitting testimony and filing documentary evidence regarding the effluent, water and wastewater treatment services (the "Services") provided by Johnson Utilities LLC ("Johnson Utilities" or the "Company") to the citizens of the Regional Partners.

C. The Proceedings required Johnson Utilities to show cause why the Commission should not appoint an interim manager to operate the Company's effluent, water and wastewater treatment facilities (the "System" or "Facilities") until the Commission determines otherwise ("Interim Manager").

D. The Regional Partners desire to cooperate with and support the Commission, the Arizona Department of Environmental Quality ("ADEQ"), the Arizona Department of Water Resources ("ADWR"), the ACC Staff, Pinal County, the Pinal County Air Quality Control District, the Residential Utility Consumer Office ("RUCO"), the citizens of the Southeast Valley Region and Johnson Utilities in providing long-term reliable, safe and industry-compliant effluent, water and wastewater Services in the areas served by Johnson Utilities pursuant to Certificates of Convenience and Necessity issued by the ACC ("CC&Ns"), known herein as the "Southeast Valley Region" and described by the attached **Exhibit "A"**, wherein thousands of citizens of the Regional

Partners are customers. Furthermore, nearly all of the Southeast Valley Region is covered by the Regional Partners' respective Municipal Planning Areas.

E. According to the filings of the ACC Staff, the proceedings have established that in the Southeast Valley Region, Johnson Utilities "has demonstrated a complete inability to operate its water and wastewater facilities in a way that does not endanger the health and safety of its customers and the public" and is asserting that the ACC has the authority to appoint an interim manager, and therefore the ACC Staff recommends, based on the evidence presented in the proceeding, that the Commission appoint an interim manager for Johnson Utilities for a period of two years or until the conclusion of the Company's pending rate case, whichever is later.

F. According to the ACC Staff, *inter alia*, "it is undisputed that Johnson Utilities has had the most Notices of Violation ("NOV") issued by the Arizona Department of Environmental Quality ("ADEQ"), second only to the City of Phoenix, which is exponentially a much larger utility" and that "these issues continue to chronically plague Johnson Utilities, despite the Company's assertion that it is using its best efforts to correct these health and safety issues. Some of these events happened during the pendency of the evidentiary hearing, and even during" the briefing stage of the proceeding.

G. In the proceedings, the RUCO and the Regional Parties are aligned with the ACC Staff's position that appointment of an Interim Manager is necessary to ensure safe, reliable and reasonable services.

H. According to the undisputed evidence in the proceedings, as illustrative examples, on March 26, 2018, a sanitary sewer overflow occurred at the Pecan Creek Wastewater Plant operated by the Company and its affiliates. According to the ADEQ SSO Report, a malfunction of the wastewater treatment plant lift station control system occurred resulting in a spill of approximately 65,000 gallons of untreated wastewater from a manhole overflow on the corner of Kelly Lane and Harold Drive in the Pecan Creek North subdivision. The wastewater traveled from the manhole to the storm water drainage channel and entered the Queen Creek Wash. Four days later the Company experienced its next SSO.

I. As further illustrative examples, according to the Director of the Pinal County Air Quality Control District, the County recorded exceedances of hydrogen sulfide on April 4, 2018 and April 9, 2018 caused by the Company and its affiliates. The Director also testified that no other utility in Pinal County has had as many exceedances as Johnson Utilities in the past. Dozens of additional exceedances have been recorded in May and June of 2018.

J. As further illustrative examples, according to the ACC Staff, Johnson Utilities has experienced at least 36 SSOs between January 1, 2015 and April 18, 2018; in the first four months of 2018 the Company experienced 5 SSOs and unauthorized discharges; and even with the scrutiny of the ongoing proceeding, the Company experienced SSOs, including discharge of 65,000 gallons of raw sewage and the Company has no standard operating practices for maintenance.

K. The record in the ACC proceeding establishes that appointment of an Interim Manager is the only appropriate measure to ensure reasonable effluent, water and wastewater services in, and to protect the health and safety of the residents of, the Southeast Valley Region, particularly considering the current manager of Johnson Utilities has no experience operating water or wastewater facilities.

L. Moreover as recognized by the Arizona Supreme Court:

The Commission ... was established to protect our citizens from the results of speculation, mismanagement, and abuse of power. ... the Commission must have the power to ... take action to prevent, unwise management or even mismanagement and to forestall its consequences in intercompany transactions significantly affecting a public service corporation's structure or capitalization.

*Ariz. Corp. Comm'n v. Ariz. ex rel. Woods*, 171 Ariz. 286, 296, 830 P.2d 807, 817 (1992). Appointment by the Commission of an interim manager for the Company under these circumstances is well within the powers granted to the Commission and recognized by the Arizona Supreme Court.

M. The Regional Partners also support the Commission's core mandate, which is to regulate public service corporations, like Johnson Utilities, such that they provide safe, reliable, and adequate service, specifically for the Regional Partners' citizens in the Southeast Valley Region.

N. The Regional Partners desire to protect the health, safety and welfare of their citizens and the other residents in the Southeast Valley Region by taking the reasonable and necessary actions to prevent the negative impacts suffered by the Company's customers in the Southeast Valley Region which include: the Company's failure to invest in and maintain its infrastructure; outdated and unmaintained facilities; excessive SSOs and NOVs; and insufficient water capacity to meet customer needs.

O. The Town Councils of the Regional Partners find that appointment of an interim manager for Johnson Utilities in the Southeast Valley Region is necessary because: (i) the current manager is not acting independently to address financial inefficiencies and mismanagement of the Company; the unabated diversion of significant amounts of payments by rate payers that are being taken from the Company through the current management and other agreements are crippling the Company and endangering the residents of the Southeast Valley Region; the current management of the Company fails to understand or acknowledge (or care about) the clear dangers resulting from its service falling below industry standards; the Company has historically failed and continues to fail to correct the causes of its repetitive regulatory noncompliance for the system; the Company fails to provide needed water service at reasonable rates; and the Company historically failed and continues to fail to properly maintain and/or upgrade the System to the detriment of its customers.

P. The Regional Partners desire to share equally in decisions affecting the utility services provided to their residents and the residents of Pinal County in the Southeast Valley Region and hereby find the arrangement under this IGA is necessary



for the continued development growth in the area, particularly since the Southeast Valley Region is the fastest growing region in Pinal County.

Q. The Regional Partners desire to provide needed management services for operation, maintenance and planning for the Company's effluent, water and wastewater systems at a reasonable charge established by the Commission and subject to the Commission's oversight through Consent Order, but the Regional Partners do not desire to assume any obligations of the Company or its affiliates.

R. The Regional Partners desire to engage outside consultants for a reasonable charge for the required management of the Company's effluent, water and wastewater Systems in the Southeast Valley Region for the period of time determined by the Commission.

S. The Regional Partners desire to cooperate in and support a regional solution with the Commission and other stakeholders to operate and manage the Company's effluent, water and wastewater Systems in the Southeast Valley Region as permitted by law and under the terms and conditions set forth herein.

### AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, and the promises and covenants set forth below, the parties hereby agree as follows:

1. Recitals. The foregoing Recitals are incorporated herein by this reference.

2. Term: Termination. This Agreement shall be effective as of the Effective Date provided that both governing bodies of the Regional Partners have approved this Agreement and shall remain in full force and effect for a period of two years thereafter, or until such time as the Commission rescinds the authority of the Interim Manager contemplated by this agreement, whichever is shorter. This Agreement may thereafter be reviewed and renewed for two additional one-year periods by appropriate act of the respective governing bodies. The parties agree that this Agreement may be terminated by either party for any reason and without the statement of cause simply upon delivery of written notice of intention to terminate delivered to the other party 180 calendar days prior to the actual date of termination. This Agreement is subject to cancellation pursuant to ARIZ. REV. STAT. § 38-511.

3. Regional Partners' Joint Designation of Professionals. If the Commission designates the Regional Partners as Interim Manager, the governing bodies of the Regional Partners shall jointly select the following professionals to assist in the management and evaluation of the Company and its System:

- 3.1. A professional administrator to assist with the operation, administration and oversight of the Johnson Utilities System as designated by the Commission through Consent Order, or other designation.
- 3.2. A professional engineer to evaluate the current status of the System and provide recommendations to the Regional Partners and ACC for required maintenance and capital improvements needed to be undertaken to bring the System up to proper standards of service, safety, regulatory compliance, capacity, and quality of facilities and infrastructure, including schedule and priorities, to be approved by the Commission. And,
- 3.3. Such other professionals as the Regional Parties deems necessary and approved by the Commission.

4. Powers of the Regional Partners. If the Commission designates the Regional Partners as Interim Manager, the Regional Partners shall exercise the powers, privileges and authority as provided by law and as delegated by the Commission pursuant to this Agreement, including, but not limited to the power to: a) jointly select and hire professional assistance as set forth in Paragraph 3 herein; b) acquire, construct, receive, own, manage, purchase, sell, and lease real, personal, and tangible property; c) operate and maintain facilities; d) enter into contracts; hire, discipline and fire personnel; e) sue and be sued; f) purchase and sell water, effluent and sewer services; g) provide services or facilities to the Southeast Valley Region subject to governance by the Commission and as defined by the Commission and the governing bodies of the Regional Partners; h) invest funds; i) establish policies, guidelines, or regulations or carry out their powers and responsibilities as an operator; j) purchase insurance, including participation in pooled insurance and self-insurance programs, and indemnify Regional Partners, consultants, elected officials and employees in accordance with law; k) intervene and participate in any Commission or related proceedings; and l) exercise all other powers within the authority of the Regional Partners.

5. Joint Supervision. If the Commission designates the Regional Partners as Interim Manager, the Town Manager for each of the Regional Partners shall be responsible for day-to-day management of the Johnson Utilities Systems and services.

6. No Assumption of Liabilities. The Regional Partners acknowledge and agree that by acting as Interim Manager of the Facilities owned by Johnson Utilities that the Regional Partners do not assume and shall not incur any of the liabilities or obligations of Johnson Utilities or its affiliates.

7. Annual Budgets. The parties agree and acknowledge that each party may have fiscal responsibilities in connection with this Agreement.

However, if the Commission designates the Regional Partners as Interim Manager, to the greatest extent possible, all costs incurred by the Regional Partners in fulfilling the obligations as the Interim Manager shall be paid by the Company, which payments shall be approved by the Commission. To the extent necessary, the Regional Parties shall, pursuant to the budget laws of the State of Arizona, make every effort to annually include in their operating budgets sufficient funds for the performance of their mutual obligations contained herein.

8. Joint Responsibility for Operation, Repair and Maintenance of the Facilities. If the Commission designates the Regional Partners as Interim Manager, operation, management and planning for the Johnson Utility effluent, water and wastewater System as defined in **Exhibit "B"** shall be accomplished jointly by the Regional Partners pursuant to the provisions of this paragraph. Such responsibility shall be carried out jointly through the Town Council of Florence and the Town Council of Queen Creek. For this purpose, the Florence Town Council and the Queen Creek Town Council shall regularly schedule joint meetings of their respective governing bodies at least quarterly to discuss and decide policy direction for the operation, repair and maintenance of the facilities. Either governing body may call a special joint meeting of the governing bodies of the Regional Partners on at least two (2) business days prior notice. Each meeting shall require a quorum of each governing body to conduct business. An agenda shall be prepared and distributed in advance of each meeting to each governing body member. The agenda shall include any policy questions or any issues concerning the operation, repair and maintenance of the jointly managed facilities raised by either Regional Partner. The agenda package shall also include a staff report from the Town Manager(s) and/or consulting professional(s) to adequately apprise the governing body members of any pertinent information concerning the facilities. Action at any such joint meeting shall be as follows: An affirmative action will be considered to be taken on any motion if it receives a majority vote of both the quorum of the Florence Council and a quorum of the Queen Creek Council. If the parties cannot agree according to the procedures specified above and if an impasse exists, the parties, by separate majority votes of a quorum of each governing body, shall agree to an engineer or other mutually agreeable individual who will present his report and have the right to vote on the disputed issue at the next joint meeting. The person selected shall not be an employee or consultant of either party. This paragraph and these procedures relate to policy considerations such as, but not limited to, annual budgets, personnel matters, property uses and leases, flow of information, purchase and maintenance of equipment etc. These procedures do not apply to an impasse as to whether this Agreement should be amended. These procedures also do not apply to interpretation of this Agreement or to enforcement of this Agreement, which matters shall be resolved pursuant to Paragraph 11 herein.

9. Regional Parties' Ongoing Cooperation, Regardless of Designation as Interim Manager. In the event that the Commission does not designate the Regional Parties as Interim Manager, this Agreement shall still remain in full force and effect, but Paragraphs 3 through 6 and 8, shall not apply. The Regional Parties will continue to cooperate and support the Commission-designated Interim Manager and all parties and regulatory agencies involved as set forth in the above Recitals.

10. Amendment or Waiver. The terms and provisions of this Agreement may be altered, amended, or varied only with the written consent and agreement of both parties hereto. Amendments to this Agreement shall become effective only when approved by the respective governing bodies of the Regional Partners and when in fact executed by the authorized members of each of the governing bodies. A waiver of any term or condition shall not establish any continuing right to such waiver.

11. Dispute Resolution. This paragraph applies solely to the procedure for interpretation and enforcement of this Agreement and not to the procedure for Agreement modifications or policy determination. The procedure for Agreement modification is provided in Paragraph 10 and the procedure for policy determination is provided for in Paragraph 8 of this Agreement.

12. Governing Law, Jurisdiction and Venue. This Agreement shall be deemed to be made under, shall be construed in accordance with, and shall be governed by the laws of the State of Arizona, without reference to choice of law or conflicts of laws principles thereof. Any action brought to interpret, enforce, or construe any provision of this Agreement shall be commenced and maintained in the Superior Court of the State of Arizona in and for Pinal County (or, as may be appropriate, in the United States District Court for the District of Arizona, if but only if, the Superior Court lacks or declines jurisdiction over such action). The Parties irrevocably consent to jurisdiction and venue in such courts for such purposes and agree not to seek transfer or removal of any action commenced in accordance with the terms of this paragraph.

13. Exhibits. All Exhibits attached hereto are incorporated herein by this reference as though fully set forth herein.

14. Counterparts. This Agreement may be executed in one or more counterparts, and each originally executed duplicate counterpart of this Agreement shall be deemed to possess the full force and effect of the original, but all of which together shall constitute one and the same instrument, binding on the Parties. The Parties agree that this Agreement may be transmitted between them via facsimile or so-called "PDF" (electronic) signature. The Parties intend that faxed or "PDF" (electronic) signatures constitute original

signatures and that a fully collated agreement containing the signatures (original, faxed or PDF) of the Parties is binding upon the Parties.

15. Construction. The terms and provisions of this Agreement represent the results of negotiations between the parties, each of which has been or has had the opportunity to be represented by counsel of its own choosing, and neither of which has acted under any duress or compulsion, whether legal, economic or otherwise. Consequently, the terms and provisions of this Agreement shall be interpreted and construed in accordance with their usual and customary meanings, and the parties each hereby waive the interpretation and construction of this Agreement that ambiguous or conflicting terms or provisions contained in this Agreement shall be interpreted or construed against the party whose attorney prepared the executed Agreement or any earlier draft of the same.

PURSUANT TO the provisions of ARIZ. REV. STAT. § 11-952.D., this Agreement has been submitted to and approved by the attorney for each of the public agencies who certify that, with respect to their respective clients only, the Agreement is in proper form and it is within the powers and authorities granted under the laws of this State to the Regional Partners.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement on the date first above written.

**THE TOWN OF QUEEN CREEK**

**THE TOWN OF FLORENCE**

By: \_\_\_\_\_  
Gail Barney, Mayor

By: \_\_\_\_\_  
Tara Walter, Mayor

**ATTEST:**

**ATTEST:**

By: \_\_\_\_\_  
Jennifer Anderson, Town Clerk

By: \_\_\_\_\_  
Lisa Garcia, Town Clerk

**APPROVED AS TO FORM:**

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Dickinson Wright, Town Attorney,  
Town of Queen Creek

By: \_\_\_\_\_  
Clifford L. Mattice,  
Florence Town Attorney

Attachment: b. Southeast Valley Regional Cooperative Intergovernmental Agreement (IGA for water and wastewater)

**EXHIBIT "A"**

**EXHIBIT "B"**

PHOENIX 53749-33 474409v3  
PHOENIX 53749-33 479584v1

**Attachment: b. Southeast Valley Regional Cooperative Intergovernmental Agreement (IGA for water and wastewater)**



Utilities Division

COMMISSIONERS

Chairman, Tom Forese  
Bob Burns  
Andy Tobin  
Boyd Dunn  
Justin Olson

July 13, 2018

Dear Sir or Madam:

RE: In the matter of the Commission's investigation of the billing and water quality issues of Johnson Utilities, LLC. (Docket No. WS-02987A-18-0050)

On July 12, 2018, the Arizona Corporation Commission's Assistant Chief Administrative Law Judge ("ALJ") issued a Recommended Opinion and Order ("ROO") in Docket No. WS-02987A-18-0050. In the ROO, the ALJ ordered "that Staff shall immediately commence efforts to obtain an agreement with an Interim Manager who shall assume operation of Johnson Utilities, L.L.C. as soon as possible on an interim basis pending further order of the Commission in this docket." This is only a recommendation to the Commission; it has not yet become an order of the Commission. The Commission can decide to accept, amend or reject the ROO.

The Commission will consider this matter at a Special Open Meeting on July 24, 2018. In the event the Commission issues a Decision directing Staff to appoint an Interim Manager, and in order to expedite the selection, Staff is in the process of gathering information that will assist Staff in the selection of an Interim Manager that has the capability of performing the scope of work in Exhibit A.

Your entity has been identified as a potential candidate. If your organization is interested in serving as an Interim Manager, please provide written responses to the following questions as well as indicating your organization's ability to fulfill the scope of work listed in Exhibit A by **July 20, 2018**:

1. Describe your organization's experience in operating a water and/or wastewater utility. Please include the number of years of your experience in such capacity, and the identities and credentials of relevant personnel and/or management, as you deem appropriate.
2. Identify the jurisdictions in which your organization operates and the length of the operation.
3. State your compliance status with the Arizona Corporation Commission; the Arizona Department of Environmental Quality; the Arizona Department of Water Resources; and any air quality divisions in the count(ies) in which you operate.

Attachment: c. Letter from ACC to potential Interim Manager candidates (IGA for water and wastewater)



Johnson Utilities L.L.C.  
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4. Describe your familiarity with Commission rules and regulations and understanding of Commission processes and reporting requirements.

Be sure to discuss your organization's ability and willingness to evaluate and correct the operational and financial problems facing Johnson Utilities. This letter is being sent to the companies listed in Exhibit B. Whoever is ultimately selected as an Interim Manager to operate Johnson Utilities, must accept the position with the understanding that, at the end of the engagement, operation and control of the utility will revert back to the owners.

Please direct your responses and any questions to the following individuals by email:

- (1) Elijah Abinah – EAbinah@azcc.gov
- (2) Robin Mitchell – RMitchell@azcc.gov
- (3) Wes Van Cleve – WVanclave@azcc.gov
- (4) Naomi Davis – NDavis@azcc.gov



Elijah O. Abinah  
Director  
Utilities Division

EOA:nr\WVC

ORIGINATOR: Elijah Abinah

Attachment: c. Letter from ACC to potential Interim Manager candidates (IGA for water and wastewater)

Johnson Utilities L.L.C.  
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On this 13th day of July, 2018, the foregoing document was filed with Docket Control as a Utilities Division Correspondence, and copies of the foregoing were mailed on behalf of the Utilities Division to the following who have not consented to email service. On this date or as soon as possible thereafter, the Commission's eDocket program will automatically email a link to the foregoing to the following who have consented to email service.

Daron Thompson  
 439 East Harold Drive  
 San Tan Valley, Arizona 85140

John Dantico  
 5597 East Dionysus Drive  
 Florence, Arizona 85132  
[jdantico@gmail.com](mailto:jdantico@gmail.com)

**Consented to Service by Email**

Kevin Costello  
 Kent Volkmer  
 Pinal County  
 30 North Florence Street  
 Florence, Arizona 85132  
[Kevin.costello@pinalcountyaz.gov](mailto:Kevin.costello@pinalcountyaz.gov)  
[Kelly.pile@pinalcountyaz.gov](mailto:Kelly.pile@pinalcountyaz.gov)  
[Kelsey.pickard@pinalcountyaz.gov](mailto:Kelsey.pickard@pinalcountyaz.gov)

**Consented to Service by Email**

Clifford Mattice  
 Town of Florence  
 775 North Main Street  
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[Clifford.Mattice@florenceaz.gov](mailto:Clifford.Mattice@florenceaz.gov)  
[Brent.Billingsley@florenceaz.gov](mailto:Brent.Billingsley@florenceaz.gov)

**Consented to Service by Email**

Albert Acken  
 Ryley Carlock & Applewhite  
 One North Central Avenue, Suite  
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[aacken@rcalaw.com](mailto:aacken@rcalaw.com)

**Consented to Service by Email**

David Ouimette  
 Scott A. Holcomb  
 Dickinson Wright PLLC  
 1850 North Central Avenue, Suite  
 1400  
 Phoenix, Arizona 85004  
[douimette@dickinsonwright.com](mailto:douimette@dickinsonwright.com)  
[sholcomb@dickinsonwright.com](mailto:sholcomb@dickinsonwright.com)

**Consented to Service by Email**

Daniel Pozefsky  
 RUCO  
 1110 West Washington, Suite 220  
 Phoenix, Arizona 85007  
[procedural@azruco.gov](mailto:procedural@azruco.gov)  
[jfuentes@azruco.gov](mailto:jfuentes@azruco.gov)  
[cfraulob@azruco.gov](mailto:cfraulob@azruco.gov)  
[dpozefsky@azruoc.gov](mailto:dpozefsky@azruoc.gov)

**Consented to Service by Email**

Warren Moffatt  
 177 West Twin Peaks Parkway  
 San Tan Valley, Arizona 85143

Catherine Labranche  
 28984 North Agave Road  
 San Tan Valley, Arizona 85143

Fernando Zapata  
 532 East Red Mesa Trail  
 San Tan Valley, Arizona 85143  
[dadzap@gmail.com](mailto:dadzap@gmail.com)

**Consented to Service by Email**

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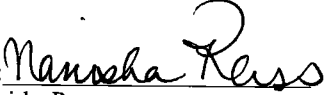
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By:   
 Nanisha Ross  
 Administrative Support Specialist

## SCOPE OF WORK

### 1. BASIC SERVICES:

#### A. ACCOUNTS RECEIVABLE / CUSTOMER RECORDS

1. Create new customer accounts as necessary.
2. General monthly billings and mail out to customers.
3. Generate the following customer account reports on a monthly basis:
  - Billing Report
  - Customer Collections Report
  - Balance Due Report
  - Shut-off Notices
  - New Customer Reports
4. Process utility payments.
5. Handle routine customer inquiries, comments and complaints.
6. Coordinate field crew activities relative to service complaints.
7. Order and maintain supplies.
8. Reconcile payments to deposits.
9. Bad debt collections.
10. Track deposits and refunds.

#### B. ACCOUNTS PAYABLE / VENDOR RELATIONSHIPS:

1. Verify and issue checks for payment of vendor invoices.
2. Update Accounts Payable Ledger.
3. Disburse payments.
4. File paid invoices.

#### C. ACCOUNTING:

1. Reconcile Bank Statements.
2. Summarize A/R, A/P to General Ledger.
3. Generate Monthly Income Reports and Balance Sheets.
4. Process and maintain all corporate tax reports.
5. General Ledger maintenance.
6. Job cost file maintenance.
7. ACC reports as required.
8. Conduct annual inventory.
9. Monitor and ensure compliance with internal controls.

#### D. GENERAL ADMINISTRATION:

1. Handle all routine regulatory interfacing.
2. Analyze insurance needs and recommend optimal insurance coverage
3. Provide management direction to Field Services activities.
4. Develop and implement policies as necessary.
5. Develop and implement standard drawings and specifications as necessary.
6. Attend Utility Coordination Committee meetings as necessary.

7. Review plans and specifications for compliance with Utility and regulatory requirements.
8. Coordinate Blue Stake activities.
9. Meet with developers regarding line extensions and related matters.
10. Manage, coordinate and engage as necessary, outside consultant's activities.
11. Represent Utility at Court proceedings relative to past due accounts as necessary.
12. Maintain corporate files.
13. Meet with homeowner's associations and other customer groups as requested.
14. Other tasks of a routine nature necessary to operation of the Utility.

E. FIELD SERVICES / MAINTENANCE

1. Perform a complete engineering review of all wastewater treatment facilities and collections systems to determine what modifications or corrections need to be made.
2. Prepare a comprehensive plan to reduce Sanitary Sewer Overflows ("SSOs") and other unauthorized discharges.
3. Conduct an odor evaluation at each wastewater treatment facility and lift station.
4. Perform a complete engineering review of all water treatment facilities and transmission and distribution systems.
5. Maintain all equipment in accordance with manufacturer's recommendations.
6. Effect routine repairs to system, with materials provided by the Utility.
7. Provide for treatment requirements of system as necessary.
8. Collect samples for compliance with ADEQ requirements.
9. Provide a Certified Operator in accordance with ADEQ requirements.
10. Effect connections as necessary.
11. Maintain sites and systems in a sanitary manner consistent with ADEQ requirements.
12. Troubleshoot system operation interruptions and correct as quickly as possible.
13. Ensure appropriate redundancies for critical assets.
14. Conduct process control testing as necessary.
15. Inspect new construction and other construction for consistency with Utility and regulatory requirements.
16. Other activities to the ongoing routine operation of the water and wastewater system.

F. MISCELLANEOUS

1. Conduct emergency after hours repairs as necessary.
2. New connections.
3. Timely serve all water and wastewater quality testing required by law.
4. Negotiating compliance matters with ADEQ and ACC and / or any other regulatory agency.
5. File and process rate increase and financing applications.
6. Any other actions necessary to provide safe and reliable services.

**POTENTIAL INTERIM MANAGER CANDIDATES  
DOCKET NUMBER WS-02987A-18-0050**

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