

**SPECIAL MEETING OF THE COMMON COUNCIL
OF THE CITY OF EL MIRAGE
EL MIRAGE CITY COUNCIL CHAMBERS
14010 N. EL MIRAGE ROAD
5:00 PM – THURSDAY, November 19, 2015**

Members of the El Mirage City Council will attend either in person or by telephone conference call. Please silence all electronic communication devices (including cell phones and pagers) before the meeting is called to order. Thank you.

Note: The Common Council of the City of El Mirage, by a duly passed motion, may vote in public session to adjourn to executive session on any agenda item in conformation with A.R.S. Section 38.431.03 including legal advice from the City Attorney.

Agenda

I. ROLL CALL

Mayor Lana Mook
Councilmember Roy Delgado
Councilmember Jack Palladino
Councilmember David Shapera

Vice Mayor Joe Ramirez
Councilmember Bob Jones
Councilmember Lynn Selby

II. CALL TO ORDER

Pledge of Allegiance
Moment of Silence
Silence Cell Phones & Pagers

III. SPECIAL AGENDA

- A.** Consideration and action to accept a grant award in the amount of \$71,503.35 from the Tohono O’odham Nation to fund the City Hall Veteran’s Memorial Project and authorize execution of a Grant-in-Aid Agreement with the Tohono O’odham Nation as required by Article VI, Section 1(f) of the Constitution of the Tohono O’odham Nation. (Administration)

IV. EXECUTIVE SESSION

- B.** For discussion and consultation with the City Attorney, pursuant to A.R.S. § 38-431.03, regarding a legal demand on a zoning issue. (Administration)

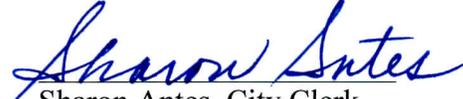
V. SPECIAL AGENDA (RESUMED)

- C.** Consideration and action to affirm the City’s position relative to a legal demand on a zoning issue. (Administration)

VI. ADJOURNMENT

Accommodations for Individuals with Disabilities - Alternative format materials, sign language interpretation, assistive listening devices or interpretation in languages other than English are available upon 72 hours advance notice through the Office of the City Clerk, 12145 NW Grand Avenue, El Mirage, Arizona, (623) 876-2943, TDD (623)933-3258, or FAX (623) 876-4603. To the extent possible, additional reasonable accommodations will be made available within the time constraints of the request.

AFFIDAVIT OF POSTING – CITY COUNCIL SPECIAL MEETING OF NOVEMBER 19, 2015
I hereby certify that this agenda was posted by 4:00 p.m. on November 18, 2015 at the following locations:
1) City of El Mirage Exterior Bulletin Board, 12145 N.W. Grand Avenue and 2) the City of El Mirage website at www.cityofelmirage.org.


Sharon Antes, City Clerk

REQUEST FOR COUNCIL ACTION

DATE SUBMITTED: <u>11/13/2015</u> DATE ACTION REQUESTED: <u>11/18/2015</u> <input type="checkbox"/> REGULAR <input type="checkbox"/> CONSENT <input type="checkbox"/> WORK STUDY <input checked="" type="checkbox"/> SPECIAL	TYPE OF ACTION: <input type="checkbox"/> RESOLUTION # _____ <input type="checkbox"/> ORDINANCE # _____ <input checked="" type="checkbox"/> OTHER: Grant-in-Aid Agreement	SUBJECT: Consideration and action to accept a grant award in the amount of \$71,503.35 from the Tohono O’odham Nation to fund the City Hall Veteran’s Memorial Project and authorize execution of a Grand-in-Aid Agreement with the Tohono O’odham Nation as required by Article VI, Section 1(f) of the Constitution of the Tohono O’odham Nation.
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TO: Mayor and Council
FROM: Janeen K. Gaskins, Grant Writer, Assistant to the City Manager 
RECOMMENDATION: IGA approval, grant award acceptance, and permission to implement the project.
PROPOSED MOTION: I move to approve the Grant-in-Aid Agreement between the Tohono O’odham Nation and the City of El Mirage as presented.
ATTACHMENTS: Grant Application, Amended Grant Budget, Grant-in-Aid Agreement

DISCUSSION: The City’s grant application to fund the City Hall Veteran’s Memorial Project was approved by the Tohono O’odham Nation and a Grant-in-Aid Agreement is required by the Nation’s Constitution to implement and release funds in the amount of \$71, 503.35.

FISCAL IMPACT: \$0 (total project cost is \$97,755 - \$71,503.35 grant funding cash award and \$26,251.65 staff in-kind).

DEPARTMENT LINE ITEM ACCOUNT: N/A

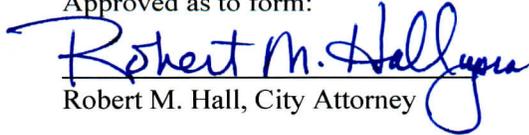
BALANCE IN LINE ITEM IF APPROVED: \$0

Finance Director:


 Robert Nilles

11/18/15
 Date

Approved as to form:

 11/18/2015
 Robert M. Hall, City Attorney Date

City Manager:


 Dr. Spencer A. Isom

11/18/15
 Date

October 29, 2015

Chairman Edward D. Manuel
Tohono O'odham Nation
P.O. Box 837
Sells, Arizona 85634

RE: El Mirage Veteran's Memorial Project – Request to Reallocate 12% Grant Funding

Honorable Chairman Edward D. Manuel,

Please consider this letter as a formal request to reallocate the previously awarded 12% grant award in the amount of \$49,100 to El Mirage's City Hall Veteran's Memorial Project. Since submitting the original application for the Pueblo Futuro Neighborhood Park Improvements; the El Mirage City Council has observed a measure of instability within the Pueblo Futuro HOA Board and therefore does not consider the project a viable endeavor at this time. The City has an alternative need related to funding a Veteran's Memorial as the centerpiece for the plaza at the new El Mirage City Hall. It is the City's hope that using 12% funds to construct a veteran's memorial aligns with the intent of the Tohono O'odham Legislative Council's Resolution #15-341 relating the distribution gaming revenues to West Valley cities.

The project budget is detailed in the attached Gaming Distribution Fund Request. A portion of the funds will be used to engage Dysart Unified School District students in a persuasive essay contest on military heroes like Arthur J. Hubbard, Dorie Miller, and other military service men and women with strong connections to Arizona. The essay competition meets the grant program's education priority by promoting, social studies, reading and research. Six (6) students with winning essays will each receive a \$1,000 applied to classroom project or a college scholarship.

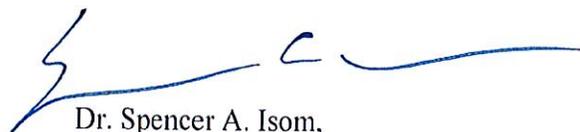
The memorial is a boulder of significant size (approximately 9' x 12') situated in El Mirage's new City Hall plaza, slated to begin construction in 2016. It will be designed in a manner that showcases contributions made by the Native American Code Talkers, African American Buffalo Soldiers, Latino Hero's on the Home Front, and other military groups with a strong Arizona connection. The area will become a quiet place for daily visits to pay tribute to veterans. It will also be used for community events that honor veterans throughout the year. The Tohono O'odham's contribution will be part of the groundbreaking and grand-opening ceremonies to include a memorialized plaque for the public to view.

I submit this request, on behalf of the City of El Mirage, and commit to meeting the obligation of executing the IGA in November 2015. Additionally, please know the El Mirage City Council truly appreciates the relationship it has developed with the Tohono O'odham Nation. If you have any questions, please contact Assistant to the City Manager, Janeen Gaskins at 623-876-2973 or via email at jgaskins@cityofelmirage.org.

Sincerely,



The Honorable Lana Mook
Mayor, City of El Mirage
lmook@cityofelmirage.org



Dr. Spencer A. Isom,
City Manager, City of El Mirage
sisom@cityofelmirage.org

Tohono O'odham Nation's 12% Gaming Distribution Fund Request 2015

Requested by the City of El Mirage, Arizona

The City of El Mirage prides itself on being home to more than 1,680 veterans. El Mirage's Mayor and City Council are partners of the USA Vietnam War Commemoration Campaign and a proud supporter of Luke Air Force Base. The City of El Mirage is seeking to collaborate with the Tohono O'odham Nation to create a designated Veteran's Memorial to honor and reward the selflessness of military services with a lasting tribute in the form of a permanent Veterans' Memorial; to deepen youth knowledge through an essay challenge campaign that encourages a deeper understanding of the courage and team work that military members display; and, show our appreciation for the enduring generosity of the Tohono O'odham Nation by affixing a permanent plaque to the memorial.

a) Explain the perceived need and explain how the proposal will address that need.

The City of El Mirage has six schools in the Dysart School District. Two of the schools ranked 3.5; one ranked 3 and the remaining ranked at 2.5 out of a 5 point scale. All of the schools located in El Mirage are at the lower end of the district's academic achievements. The City's public school rank is 49 out of 100 and minority students have disparagingly lower grades and alarming lower aptitude test scores that may hinder the ability to succeed in college (<http://public-schools.startclass.com/1/3063/Dysart-High-School>). The proposed project would engage students through an educational campaign that requires students to submit an essay on three or more individuals from different ethnicities that they would nominate for recognition at the monument site. The students would have to research Arizona Military Veterans and provide a compelling essay to be ranked by the Mayor for consideration. Students would learn about Arizona History and Military History, while exercising research skills and developing persuasive essay writing techniques. Language from the student's essays will be etched into bench seating as a testament to the work that they accomplished. The average student will spend no more than 150 hours to complete the project. Winning essays will be read at the celebratory event for the unveiling of the project and approximately six students will benefit from a college scholarship or classroom funding in the amount of \$1,000. We believe that this project is a great way to educate students and a long-term display for visitors to view, as well as a dedicated place to host veteran related events, like the Vietnam War 50th year Commemoration initiative, Memorial Day, Veterans' Day, and other engagements.

Recent media coverage throughout the nation has tragically focused on hate crimes related to cultural differences. The City of El Mirage is a diverse community with 56.3% minorities and an Arizona diversity index of 82% (<http://arizona.hometownlocator.com/census/sorted-demographics.cfm>). Local schools and businesses make every effort to acknowledge, respect, appreciate, and celebrate differences. Our Hate Crime Rate index is 4.14% and is far less than the State's 29.13% or the National Hate Crime Rate of 24%. (<http://www.usa.com/el-mirage-az-crime-and-crime-rate.htm>). El Mirage's methods of cultural inclusion can be a model for other cities and towns. This project would provide a destination place for educating visitors and residents about how our Veteran's served alongside one another for the greater good of the community. Teachers will be encouraged to discuss diversity with students and to emphasize why the essays focus on three people from different backgrounds fighting for the same cause and compare that to today's political climates and their own feelings on diversity.

b) Describe the population who will benefit from the proposal if approved.

El Mirage has 1,657 students enrolled in the Dysart School District. The schools will be formally invited to participate in the project. There are six schools and each school will submit one essay per grade. Small awards will be issued to students along the way. The City of El Mirage's Grant Writer will work with the Mayor to rank the essays and determine who will be recognized at the ceremony. The final Military Veterans to be honored will be determined by the Mayor. Students, teachers, parents, and other community leaders will be invited to the unveiling ceremony. If an honoree is still living, that person will be invited to the celebration. An estimated 5,000 people will immediately benefit from the project. The City of El Mirage is home to approximately 32,000 residents with 1,680 veterans living within the city limits. All of these people and others throughout the state can visit the site and enjoy a peaceful sanctuary to spend quiet time in remembrance of veteran services. The project will be constructed at the El Mirage's New City Hall Building and open to the general public.

c) Include and budget of the requested funds, with the total amount requested clearly notated.

BUDGET	Tohono O'odham Nation	El Mirage In-Kind	TOTALS
School Campaign, media and website (staff time travel time, literature and coordination efforts (\$45x111 hours)		\$5,000	\$5,000
Student awards (6x\$1,000) and small awards/certificates	\$7,000	\$0	\$7,000
Memorial's donated land (45x35 feet)	\$0	\$10,000	\$10,000
Site Design and implementation plan to include renderings and acquisition (Staff time \$45 x 111 hours)	\$0	\$5,000	\$5,000
60-90 ton Rock (Permits hauling, crane etc.)	\$17,000	\$0	\$17,000
Commission Rock Design which may include etched writing/painting on each side of the rock (Native American Code Talkers; African American Buffalo Soldiers; Latino Hero's on the Home Front and other groups	\$5,000	\$0	\$5,000
Individual Military Hero Acknowledgement concrete bench displays at the project site (12 x 700 to include etching, pictures, tax shipping etc.)	\$8,400	\$0	\$8,400
CEPTED lighting and accent lighting	\$5,000	\$12,000	\$17,000
Landscaping, turf, irrigation and maintenance	\$0	\$15,155	\$15,155
Unveiling event honoring veterans and thank you plaque to Tohono O'odham Nation for funding the project	\$3,000	\$1,500	\$4,500
Pathway bricks (high quality bricks \$.50 x 6,000)	\$3,000	\$0	\$3,000
Etching of bricks for honoree at the event \$100 x 7. (Requesting family members if available to attend to place brick in setting during event. One going purchase of bricks will be used to sustain the project and go toward maintenance and replacement costs.)	\$700	\$0	\$700
TOTALS	\$49,100	\$48,655	\$97,755

Time	Goal	Description
November 2015	Contract Signature	Internal contract goes to City Council for approval. Invite Tohono O'odham Nation to attend.
December 2015	Full Site Design	City to design and set up implementation time line
January 2016	Start Campaign	Open up campaign on national reading day (1/22/2016)
February 2016	Design Approval	Mayor to approve final design
March 2016	End Campaign	Mayor to review winners
May 2016	Winner Announced	Announce the winner of the campaign
June 2016	RFQ and Ordering	Procure items and establish delivery by September
Fall 2016	Installation	Install project
Fall/Winter 2016	Unveiling Event	Unveiling event

d) List any other funding requests that have been made for this or substantially related proposals and provide the status of those requests.

The City of El Mirage requested \$55,000 from a similar project from Gila River Indian Community in 2015. This application was denied.

e) Indicate whether the entity has already received 12% distribution from the Tohono O'odham Nation or other Arizona tribes, along with the amount and date awarded.

The City of El Mirage received \$32,280 from the Tohono O'odham Nation in 2010 for the Women's Energy Efficiency Training Program. The City of El Mirage received the Gila River Indian Community award in 2013 in the amount of \$32,789 to fund the children's section of the El Mirage Community Garden. The City was denied funding from four grant submittals to the Tohono O'odham Nation between 2011 and 2014.

f) Identify a designated contact person and alternate contact person for follow-up, including e-mail address, phone number, mailing address, and fax number for these persons.

Janeen Gaskins, Grant Writer
 E: Jgaskins@cityofelmirage.org
 P: 623-876-2973 F: 623-876-4603
 12145 NW Grand Avenue
 El Mirage, Arizona 85335

or

Dr. Spencer A. Isom, City Manager
 E: Sisom@cityofelmirage.org
 P: 623-876-2940 F: 623-876-4603
 12145 NW Grand Avenue
 El Mirage, Arizona 85335

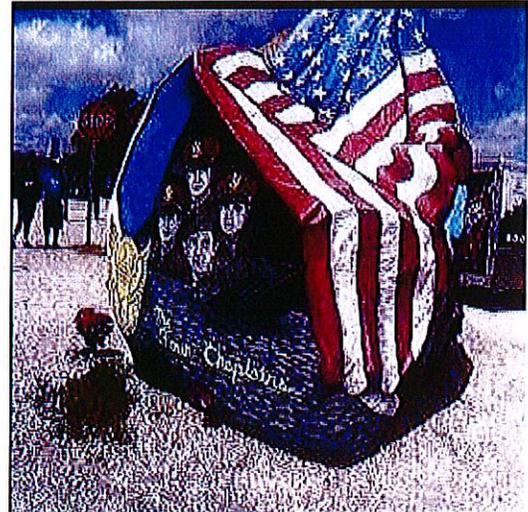
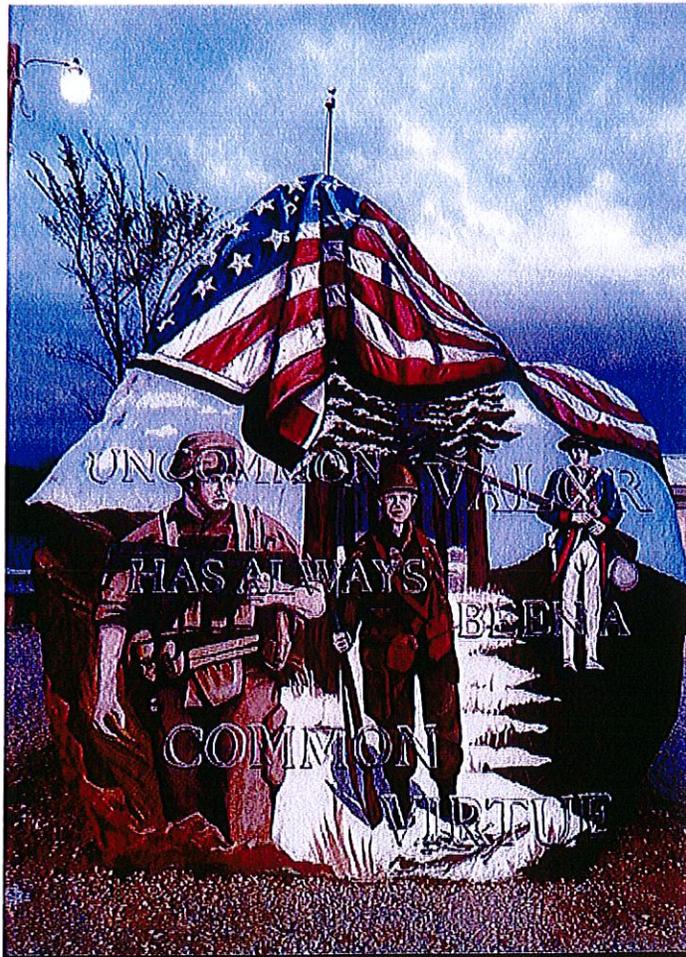
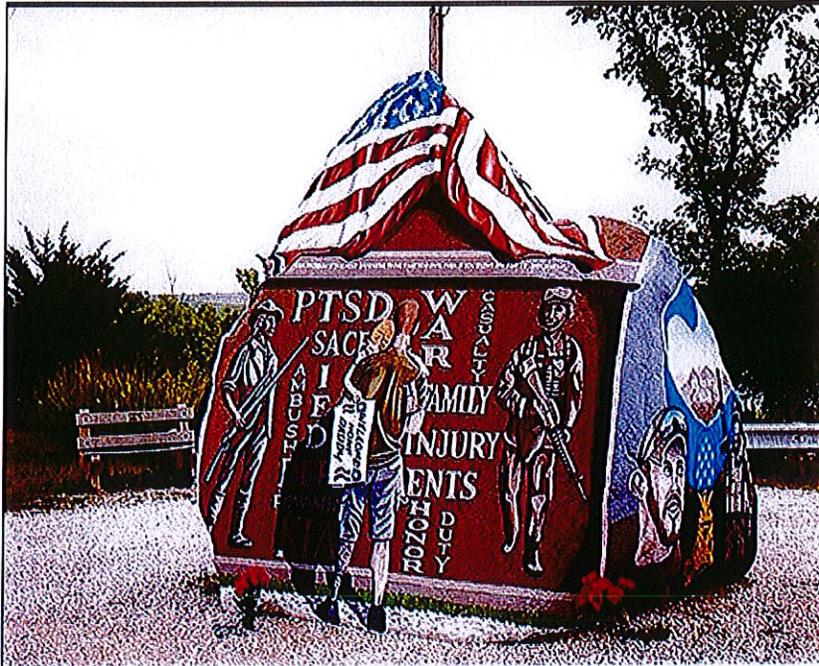
g) Indicate which priority area (from the above list) the proposal falls under.

This project falls in line with the Tohono O'odham priority area for Education.

h) If the proposal is from a non-profit organization, include the name of the city, town, or county and agreement will be made with if funds are granted. A letter for the governmental entity acknowledging its agreement to work with the non-profit is not necessary for the initial proposals. However, it is necessary for those non-profits selected to receive funds.

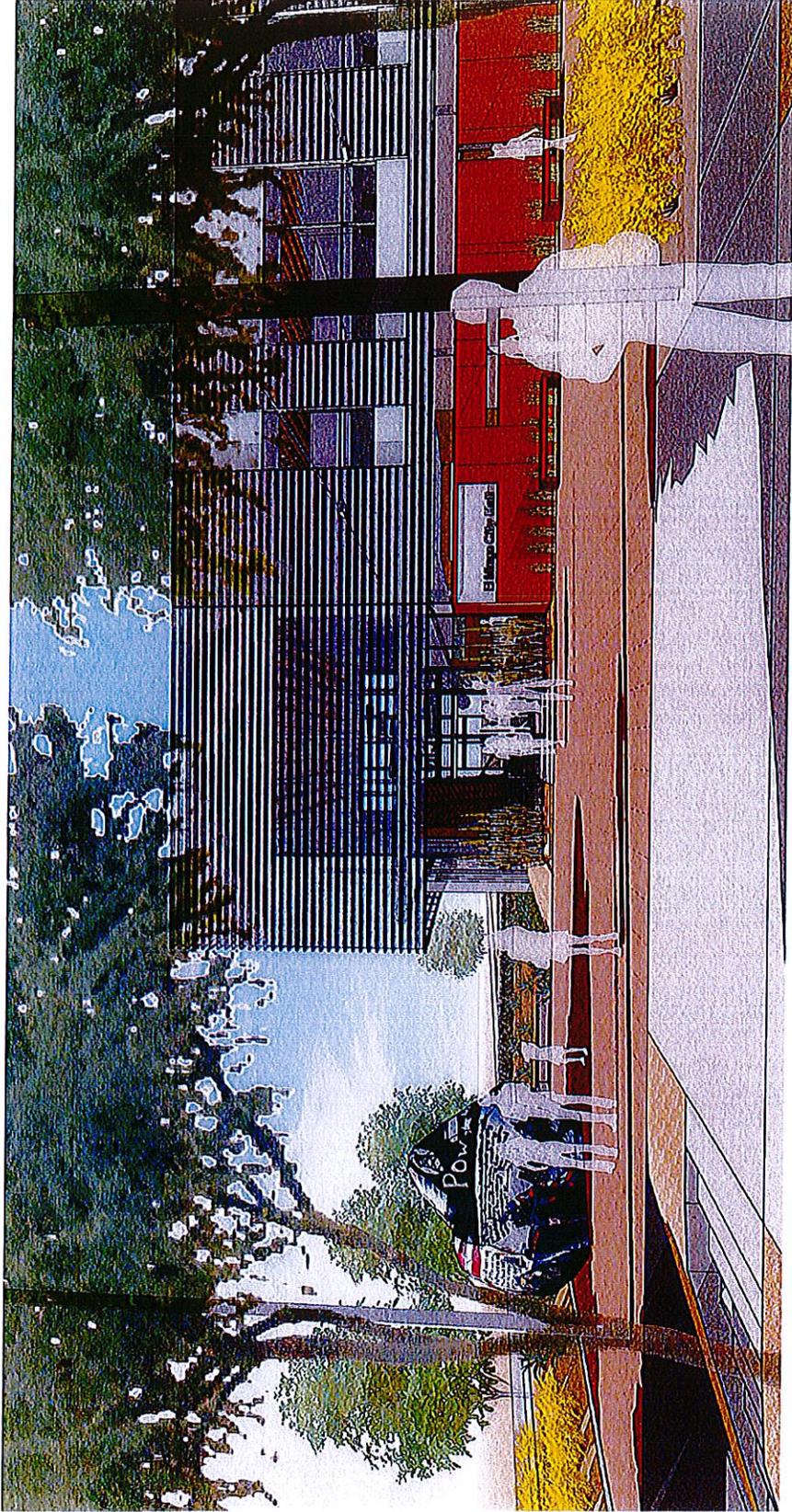
Not applicable

Veteran Memorial Boulders





City Hall rendering with Memorial



City Hall rendering with Memorial

Site Design options to include memorial platform, lighting, seating and walkways



Five concrete bench style seating with etched writing about an individual veteran that will be honored at the site



Concrete Radius Bench - 6'3



© Balmain & Team



www.bigstock.com - 98142218

Brick walkway with removable bricks for future etchings



Thank you to the Tohono O'odham Nation's grant











**CITY OF EL MIRAGE
REVISED BUDGET**

Please note that the budget has been revised to clearly itemize the funding award amount of \$71,503.35

c) Include and budget of the requested funds, with the total amount requested clearly notated.

BUDGET	Tohono O'odham Nation	El Mirage In-Kind	TOTALS
School Campaign, media and website (staff time travel time, literature and coordination efforts (\$45x111 hours)	\$5,000	\$0	\$5,000
Student awards (6x\$1,000) and small awards/certificates	\$7,000	\$0	\$7,000
Memorial's donated land (45x35 feet)	\$0	\$10,000	\$10,000
Site Design and implementation plan to include renderings and acquisition (Staff time \$45 x 111 hours)	\$0	\$5,000	\$5,000
60-90 ton Rock (Permits hauling, crane etc.)	\$17,000	\$0	\$17,000
Commission Rock Design which may include etched writing/painting on each side of the rock (Native American Code Talkers; African American Buffalo Soldiers; Latino Hero's on the Home Front and other groups	\$5,000	\$0	\$5,000
Individual Military Hero Acknowledgement concrete bench displays at the project site (17 x 700 to include etching, pictures, tax shipping etc.)	\$11,900	\$0	\$11,900
CEPTED lighting and accent lighting	\$17,000	\$0	\$17,000
Landscaping, turf, irrigation and maintenance	\$0	\$11,251.65	\$11,251.65
Unveiling event honoring veterans and thank you plaque to Tohono O'odham Nation for funding the project	\$4,500	\$0	\$4,500
Pathway bricks (high quality bricks \$.50 x 6,000)	\$3,000	\$0	\$3,000
Etching of bricks for honoree at the event \$100 x 11. (Requesting family members if available to attend to place brick in setting during event. One going purchase of bricks will be used to sustain the project and go toward maintenance and replacement costs.)	\$1,103.35	\$0	\$1,103.35
TOTALS	\$71,503.35	\$26,251.65	\$97,755

**Grant-in-Aid Agreement
between
the Tohono O’odham Nation
and
the City of El Mirage**

THIS GRANT-IN-AID AGREEMENT (“Grant”) is entered into as of the _____ day of _____, 2015, by and between the Tohono O’odham Nation, a federally recognized Indian tribe (the “Nation”), and the City of El Mirage, a municipal corporation of the State of Arizona.

RECITALS

A. The Constitution of the Tohono O’odham Nation, Article VI, Section 1(f) provides that the Tohono O’odham Legislative Council is authorized to negotiate and conclude agreements on behalf of the Tohono O’odham Nation with Federal, State, and local governments.

B. The Constitution of the Tohono O’odham Nation Article VII, Section 2(f) provides that the Chairman of the Nation is the official representative of the Tohono O’odham Nation; and as such, upon passage of a Resolution by the Legislative Council approving of any agreement with Federal, State and local governments, the Chairman is authorized to sign such agreements on behalf of the Nation.

C. The City of El Mirage is a municipal corporation of the State of Arizona and is authorized as the fiscal agent to accept and disburse any and all funds related to this grant from Tohono O’odham Nation.

Now, therefore, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

PROVISIONS

1. Purpose. The purpose of this Grant is to set forth the rights and responsibilities of the parties with respect to the payment and distribution of the Contribution, as hereinafter defined. The Grantee may not change the scope of the project or use the funds for a project other than that explained in Exhibit “A” without the written consent of the Nation.

2. Contribution. The Nation shall issue payment to the City of El Mirage in the amount described in Exhibit “A” (the “Contribution”) for the purpose(s) detailed in Exhibit “A” on or about November 30, 2015.

3. Funding. The Contribution payment shall be delivered to the City of El Mirage, without any further notice or invoice required, at the address set forth in Paragraph 7 below, upon the complete execution of this Grant.

4. Money Unclaimed. In the event that the City of El Mirage fails to accept the grant funding on or before January 1, 2016, this Grant will be deemed to have been terminated by the City of El Mirage and the Nation will award the grant funding to another applicant.

5. Dispute Resolution. The parties mutually agree that any disputes arising pursuant to this Grant shall be resolved through informal dispute resolution. For all disputes arising under this agreement the Nation and the City of El Mirage shall first attempt to negotiate a resolution. All disputes that cannot be resolved through informal dispute resolution shall be resolved in the Courts of the Nation, subject to the laws of the Nation.

6. Reports: Unless otherwise extended by the Nation upon request of the City of El Mirage, no later than July 31, 2016, the City of El Mirage shall provide a report to the Nation explaining how and when the funds provided under this Grant were used. This report may be in the form of an affidavit signed by an officer of the City of El Mirage and may be accompanied by supporting documentation. The report shall address: (i) changes in the scope of the project or purchase funded under this grant, (ii) the total expenses under the project or purchase funded by the Grant, (iii) a brief description of who has benefited from this Grant, and (iv) the Grantee's next steps with regard to the project or purchase made under this Grant. The Grantee will submit a final report to the Nation within 30 days of the end of this Agreement.

7. Notices. Any notice, consent or other communication required or permitted under this Grant shall be in writing and shall be deemed received at the time it is personally delivered, on the day it is sent by facsimile transmission, on the second day after its deposit with any commercial air courier or express service or if mailed, three (3) days after the notice is deposited in the United States mail addressed as follows:

If to the Nation: Edward D. Manuel
Chairman
P.O. Box 837
Sells, Arizona 85634
Fax: 520-383-3379

and

Roberta Tekala
Chief Administrative Officer
P.O. Box 837
Sells, Arizona 85634
Fax: 520-383-3379

If to the City of El Mirage:

Lana Mook, Mayor
12145 NW Grand Avenue
El Mirage, Arizona 85335

Email: lmook@cityofelmirage.org
Phone: 623-876-2924

Dr. Spencer Isom, City Manager
12145 NW Grand Avenue
El Mirage, Arizona 85335
Email: sisom@cityofelmirage.org
Phone: 623-876-2970

Any time period stated in a notice shall be computed from the time the notice is deemed received. Either party may change its mailing address or the person to receive notice by notifying the other party as provided in this paragraph.

8. Term of Grant. The term of this Grant shall begin on the date of execution and shall terminate on the one-year anniversary of this Grant.

9. Entire Grant, Waivers and Amendments. This Grant is executed in three (3) duplicate originals, each of which is deemed to be an original. This Grant constitutes the entire understanding and agreement of the parties. This Grant integrates all of the terms and conditions mentioned herein or incident hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Grant and all amendments hereto must be in writing and signed by the appropriate authorities of each of the parties to this Grant.

10. No Waiver. Except as otherwise expressly provided in this Grant, any failure or delay by any party in asserting any of its rights or remedies as to any default, shall not operate as a waiver of any default, or of any such rights or remedies, or deprive any such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

11. Severability. If any provision of this Grant shall be found invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this Grant shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

12. Sovereign Immunity. Nothing in this Grant shall be deemed a waiver of either party's sovereign immunity in any forum or jurisdiction.

TOHONO O'ODHAM NATION

Edward D. Manuel, Chairman
Tohono O'odham Nation

Dated _____

City of El Mirage

Title

Dated _____

Attest:

Approved as to form:

Laura Berglan, Acting Attorney General
Tohono O'odham Nation

Dated _____

EXHIBIT "A"

<u>Program</u>	<u>Contribution</u>
City Hall Veteran's Memorial Project	\$71,503.35
TOTAL	<u>\$71,503.35</u>



REQUEST FOR COUNCIL ACTION

DATE SUBMITTED: <u>11/13/2015</u> DATE ACTION REQUESTED: <u>11/19/2015</u> <input checked="" type="checkbox"/> REGULAR <input type="checkbox"/> CONSENT	TYPE OF ACTION: <input type="checkbox"/> RESOLUTION # _____ <input type="checkbox"/> ORDINANCE # _____ <input checked="" type="checkbox"/> OTHER: Direction regarding legal issue with zoning matter	SUBJECT: Consideration and action to affirm the City's position relative to a legal demand on a zoning issue. (Council)
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TO: Mayor and Council
FROM: Mayor Mook
RECOMMENDATION: Approve
PROPOSED MOTION: I move to affirm
ATTACHMENTS:

DISCUSSION: Upon a public majority vote of the members constituting a quorum, pursuant to A.R.S. § 38-431.03, a public body may hold an executive session to consult and discuss with the City Attorney for legal advice regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation.

FISCAL IMPACT: N/A

DEPARTMENT LINE ITEM ACCOUNT: N/A

BALANCE IN LINE ITEM IF APPROVED: N/A

Finance Director:

 11/18/15
 Robert Nilles Date

Approved as to form:

 11/18/15
 Robert M. Hall, City Attorney Date

City Manager:

 11/18/15
 Dr. Spencer A. Isom Date