

DELEGATION AGREEMENT

Between

Arizona Department of Environmental Quality

And

City of Phoenix, hereinafter, Phoenix, a political subdivision of the State of Arizona, acting by and through the Phoenix Department of Water Services and Department of Planning and Development

Delegation Agreement #ADEQ17-0008

Whereas, Arizona Revised Statutes (A.R.S.) § 49-107, authorizes the Director of the Arizona Department of Environmental Quality (ADEQ) to delegate to a local environmental agency, county health department, public health services district or municipality any functions, powers or duties, hereinafter, Functions and Duties, which the Director believes can be competently, efficiently, and properly performed by the local environmental agency or municipality and

Whereas, the City of Phoenix is a municipality, hereinafter Local Authority (LA), as set forth in A.R.S. § 49-107, and

Whereas, A.R.S. § 41-1081 sets forth the standards for delegation, and

Whereas, the Phoenix City Charter, as adopted in 1913, as amended, Chapter II. General Powers, Rights and Liabilities, authorizes the LA to enter into contracts as necessary, and

Whereas, the LA deems that it is in its best interests to accept such delegation,

Therefore, the Director of ADEQ delegates to the Department of Water Services and Department of Planning and Development within the LA, and the LA accepts the delegation of those Functions and Duties described in Appendix A (Water Quality Management) of this Delegation Agreement, hereinafter Agreement, on behalf of ADEQ and in accordance with the terms and conditions specified in this Agreement.

A. DELEGATED FUNCTIONS AND DUTIES

The Functions and Duties that are delegated to the LA by this Agreement are identified in Sections A through R, and in Appendix A of this Agreement. ADEQ statutes, rules, policies and guidance shall be used in implementing the delegated Functions and Duties. The Functions and Duties not specifically delegated by this Agreement are retained by ADEQ or by Maricopa County pursuant to its Delegation Agreement with ADEQ where noted in this Agreement. ADEQ statutes, rules, policies and guidance shall be used in implementing the delegated

Functions and Duties.

B. STANDARDS OF PERFORMANCE

1. The standards of performance required of the LA to perform the delegated Functions and Duties and to fulfill the terms of this Agreement are those provided by statute and duly adopted rule, and are generally the same as those required of ADEQ personnel. The performance of the delegated Functions and Duties by the LA shall conform to ADEQ statutes, rules, policies and guidance. Program-specific standards of performance are identified in Appendix A of this Agreement.
2. ADEQ will provide the LA with periodic training upon the request of the LA.
3. ADEQ will provide operating guidance for use in implementing the terms of this Agreement concurrent with the execution of this Agreement. ADEQ will use its best efforts to provide the LA with new and/or updated guidance prior to or shortly after the effective date of the guidance. The guidance shall, at a minimum, include Engineering Bulletins, program guidance memoranda, substantive policy statements, copies of all applicable forms, policies and procedures, and other material that may assist the LA to carry out the delegated Functions and Duties specified in this Agreement. The LA may contact ADEQ for clarification or guidance on procedural or technical issues.
4. In the event of any dispute between the LA and a third party regarding the LA's interpretation or application of ADEQ statutes, rules, policies and guidance, ADEQ shall, if requested by the LA, provide timely assistance and direction to the LA.
5. Public Disclosure of Confidential Information Prohibited. ADEQ and LA shall comply with prohibitions on public disclosure of confidential information related to critical infrastructure in A.R.S. § 41-1803(G) and drinking water system security vulnerability assessments in A.R.S. § 49-205.

C. FEE AUTHORITY AND TYPES OF FEES

1. To the extent permitted by law, ADEQ delegates the authority to collect fees under its established fee rules to assure the LA may accomplish delegated Functions and Duties according to the applicable standards.

Unless otherwise provided by statute, fees imposed by the LA shall be limited to the cost of service, including all direct and indirect costs.

2. Fees are authorized by, and shall conform to, the requirements of state laws and rules and city ordinances.
3. All fees collected by the LA pursuant to this Agreement shall be retained by the LA as consideration for performing the Functions and Duties described in this Agreement.

D. QUALIFICATIONS OF PERSONNEL RESPONSIBLE FOR EXERCISING THE DELEGATED FUNCTIONS, POWERS AND DUTIES

1. The required personnel qualifications for exercising each Program's delegated Functions and Duties are identified in Appendix A to this Agreement.
2. The LA represents that it employs or contracts with all personnel required for the performance of the services under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with, ADEQ unless otherwise specified herein.
3. All the services required hereunder shall be performed by the LA or its contractors, so long as delegated agency employees have the final signoff on any decision and do any actual enforcement work, and all personnel engaged in the work shall be fully qualified and shall be authorized under state and local law to perform such services. It is further agreed that the LA warrants that it is fully qualified and authorized under state and local law to perform the services contemplated under this Agreement.
4. Conflict of Interest: Either party may cancel this Agreement for conflict of interest in accordance with Paragraph O of this Agreement, without penalty or further obligation, pursuant to A.R.S. § 38-511.

E. E-VERIFY

To comply with A.R.S. §41-4401(A), each party hereby warrants its compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). If either party uses any subcontractors in performance of this Agreement, subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). A breach of this warranty shall be deemed a material breach of the Agreement subject to penalties up to and including termination of this Agreement. Each party retains the legal right to inspect the papers of any contractor or subcontractor employee who works on the Agreement to ensure that the contractor or subcontractor is complying with this warranty.

F. NON-DISCRIMINATION

Pursuant to Title 41, Chapter 9, Article 4 of the Arizona Revised Statutes and Executive Order 2009-09, the LA shall provide access to equal employment opportunities for all persons, regardless of race, color, religion, sex, age, national origin, or political affiliation, and to all other applicable State and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. Both parties shall take affirmative action to ensure that applicants for employment and employees are treated without regard to race, age, color, religion, sex, or national origin and in compliance with the Americans with Disabilities Act.

G. RECORD KEEPING AND REPORTING REQUIREMENTS

1. Unless otherwise required by law or by Arizona State Archives or other records retention schedule, both parties shall maintain, in either paper or printable official format, all data, books, accounts, reports, files and other records relating to this Agreement and performance of the delegated Functions and Duties as specified in this Agreement for a period of five years after its creation or five years after any administrative or court litigation, claim, negotiation, audit, cost recovery, or other action involving the records has been completed, whichever is later. All such records shall be subject to inspection and audit by the State at reasonable times. Upon request, either Party shall produce the official record of any or all such records.
2. The LA agrees to create and submit reports related to its performance of the delegated Functions and Duties as specified in this Agreement. The reports shall be created and submitted to ADEQ in accordance with the specifications in the Appendices to this Agreement.

H. OVERSIGHT ACTIVITIES

1. ADEQ reserves the right to accompany LA personnel on inspections and may review all records relating to the LA's performance of the delegated Functions and Duties as set forth in this Agreement. ADEQ shall provide prior notice to the LA of its intent to accompany LA personnel on inspections. Where practicable, LA personnel may accompany ADEQ inspectors on inspections for purposes of training, information sharing or coordinating LA and ADEQ activities. Where practicable, the LA shall provide prior notice to ADEQ of its request to accompany ADEQ inspectors on inspections.
2. Periodically, the ADEQ delegating program shall conduct, in consultation with LA, an evaluation of the LA's performance of the delegated Functions and Duties. Either party to this Agreement may request that the frequency of evaluations be increased. The initial results of all program evaluations shall be in writing and shall be communicated to the LA and the Office of Administrative Counsel in a draft report. The LA is entitled to comment on the draft report. After ADEQ'S response to comments, the ADEQ delegating program shall finalize the report and transmit a copy to the LA and the Office of Administrative Counsel. The final reports of all program evaluations are public documents pursuant to A.R.S. § 39-121 *et seq.*

I. DELEGATION OF ENFORCEMENT AUTHORITIES; LOCAL AGENCY OBLIGATIONS

1. This Agreement is subject to the provisions of A.R.S. § 49-106.
2. As a supplement to any independent statutory authority LA may have, LA is hereby delegated the enforcement authorities pursuant to A.R.S. §§ 49-141, 49-142, 49-261, 49-262, and 49-354 (A) and (B), as applicable to the delegated Functions and Duties specified in this Agreement.

3. The LA shall be responsible for initiating timely and appropriate enforcement actions for alleged violations by individuals and facilities affected under this Agreement. The LA shall make compliance determinations and conduct enforcement actions in accordance with ADEQ's Compliance and Enforcement Handbook posted on ADEQ's website. The LA shall use inspection checklists and boilerplate documents provided by ADEQ or such documents that contain the same content as those documents provided by ADEQ.
4. ADEQ retains its authority to take an enforcement action against any individual or facility, the regulation of which is specified in this Agreement. At its discretion, ADEQ may refrain from exercising such authority if ADEQ determines that the enforcement action taken by the LA is timely, appropriate and effective. Except in a case involving an immediate threat to the public health, safety or environment, ADEQ shall give the LA 30 days prior written notice of its intent to initiate an enforcement action if the LA fails to initiate such enforcement action. In a case involving an immediate threat to the public health, safety or environment, ADEQ shall make its best efforts to notify the LA prior to its undertaking such an enforcement action.
5. Where appropriate, and if there is no conflict with applicable environmental statutes and rules, LA may conduct enforcement action using the authority provided by A.R.S. Title 36. Nothing herein shall preclude LA from independently initiating enforcement action pursuant to its own authority under A.R.S. §§ 36-602, 36-603, 49-143, and 49-144, or any other civil or criminal statute or local ordinance, or from pursuing any other available legal or equitable remedy.
6. In those cases where the Attorney General has exclusive authority to bring an action to collect civil penalties, ADEQ shall timely notify the Attorney General of the LA's intent to initiate an enforcement action and such enforcement action shall be coordinated among the LA, ADEQ, the Attorney General and the LA's City Attorney.
7. In cases of civil enforcement, the LA and ADEQ shall coordinate litigation and settlements, unless the LA has independent statutory enforcement authority. The LA and ADEQ may act as co-plaintiffs in order to maximize resources.
8. Civil penalties assessed and collected under the authority of ADEQ's statutory enforcement authority shall be in the name of the State of Arizona, and shall be forwarded to ADEQ with copies of court documentation for deposit into the state general fund in accordance with A.R.S. Title 35, Article 3.
9. ADEQ may execute compliance initiatives directed at certain classes of violations or facilities that are alleged to be in violation of applicable statutes or rules. To the best of its ability, the LA agrees to cooperate in the successful execution of such compliance initiatives that involve facilities, the regulation of which has been delegated in by this Agreement.

J. APPEALS OF LOCAL AGENCY ACTIONS

1. Unless otherwise provided by statute, LA shall conduct administrative hearings for appeals of licensing decisions and enforcement actions taken by the LA under the delegated Functions and Duties of this Agreement in accordance with the A.R.S. Title 41, Chapter 6 Administrative Procedures, A.R.S. § 41-1092 *et seq.*, and the Office of Administrative Hearings, Rules of Procedure, Arizona Administrative Code (A.A.C.) R2-19-101 *et seq.* The LA shall use administrative law judges provided by the Office of Administrative Hearings (OAH).
2. If an OAH administrative law judge conducts an administrative hearing under this Agreement for an appeal of licensing decisions and enforcement actions taken by the LA (*see*: J (1) above), ADEQ shall pay for OAH's costs on behalf of the LA related to the hearing, subject to availability of funds. Pursuant to A.R.S. §35-154(A), every payment obligation of the State under this Contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Contract, this Contract may be terminated by the State at the end of the period for which funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.
3. The LA, the LA's City Attorney, or counsel retained by LA, shall represent the LA at all administrative hearings. Nothing in this agreement mandates that the LA contract for the services of administrative law judges with respect to administrative hearings involving matters arising from the LA's independent authority, functions and duties.
4. Pursuant to A.R.S. § 12-904, if the OAH administrative law judge grants or denies the relief requested, either the appellant or the LA may file a complaint in superior court within 35 days after the decision.
5. The LA shall provide ADEQ an annual report by July 31st of appeals filed and their final resolution during the preceding calendar year.

K. LICENSING AUTHORITY

1. The LA shall provide the ADEQ Director within 30 days after the effective date of this Agreement, and annually thereafter on December 31, the complete service area boundary of its water and wastewater utilities.
2. The LA agrees to comply with the overall time frames set forth in A.A.C. R18-1-525 when issuing licenses pursuant to delegated Functions and Duties under this Agreement. The LA shall provide a quarterly report to ADEQ indicating the number of licenses issued that quarter, by general type of license, and the number of licenses that exceeded the licensing time frame for the licensing decision. If the LA fails to meet a licensing time frame, the quarterly report shall indicate the reason(s) why the licensing time frame was missed and the corrective action the LA has taken. If the LA demonstrates a pattern

of failing to meet the required licensing time frames, ADEQ shall assist the LA in correcting the deficiencies in LA's licensing procedures.

3. The LA shall submit the quarterly reports described in subsection 2 of this Section to the ADEQ primary contact person designated in Appendix A of this Agreement.

L. LOCAL AGENCY INDEPENDENT AUTHORITY; SUBDELEGATION

1. ADEQ's delegation of Functions and Duties to a municipality within the LA's boundaries shall in no way infringe upon, reduce or usurp the LA's right, authority and responsibility to implement non-delegated authorized activities and programs.
2. The LA may not sub-delegate Functions and Duties delegated pursuant to this Agreement to another local government agency or political subdivision without obtaining the prior written approval of the Director, Deputy Director, or appropriate Division Director of ADEQ.
3. ADEQ shall provide the LA a copy of any delegation agreement it has entered into with another jurisdiction, located in whole or in part within the LA's boundaries.

M. CONFLICT RESOLUTION PROCEDURES

1. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona and the Arizona Procurement Code.
2. In the event of any judicial proceeding related to this Agreement or any unauthorized Subcontract the parties agree that venue shall be proper in Maricopa County, Arizona.¹
3. If a dispute that arises out of this delegation agreement is based upon an Administrative Order issued by the Director of ADEQ², any and all appeals from such an Order are subject to hearing at the Arizona Office of Administrative Hearing, and any and all such appeals shall be determined pursuant to hearing as prescribed by A.R.S. §41-1092 et. seq.
4. A state agency, board or commission shall include an agreement to make use of arbitration in all contracts which are subject to mandatory arbitration pursuant to rules adopted under section 12-133.³ If a dispute arises out of this delegation agreement or any subcontract thereto, and the amount in controversy does not exceed the statutory amount as set forth by statute⁴, the matter shall be, upon filing the matter with Maricopa County Superior Court, submitted to and decided by an arbitrator or arbitrators in accordance with the provisions of A.R.S. § 12-133 et seq., [including A.R.S. § 12-1518], and Az.R.Civ.Pro. 72-76.⁵

¹ See A.R.S. §§ 12-123 and 12-401(17)

² See A.R.S. § 49-321 et seq.

³ See A.R.S. § 12-1518

⁴ See A.R.S. § 12-133 (A)(1)

⁵ See A.R.S. § 49-133 et. seq.; See also 17 C.A.R.S. Super.Ct.Local Prac.Rules, Maricopa County, Rule 3.10

5. If a dispute arises out of this delegation agreement or any subcontract thereto, and the amount in controversy exceeds the statutory amount⁶, the matter shall be filed in Maricopa County Superior Court and litigated pursuant to the appropriate litigation statutes.

N. AMENDMENT PROCEDURES

1. Either party may seek to amend this Agreement. An amendment to this Agreement shall be in writing, shall be executed by the Director of ADEQ, the City Manager of the LA, the City Clerk, and shall be approved as to form by the Attorney General and the LA's City Attorney. Amendments shall comply with the provisions in A.R.S. § 41-1081, including Public Notice and Comment.
2. Amendments to this Agreement shall be effective 30 days after written notice of ADEQ's final decision to amend this agreement.

O. TERMINATION PROCEDURES

1. This Agreement may be terminated, in whole or in part, by either party upon providing 30 days prior written notice by certified mail to the other party. The notice shall specify the effective date of termination.
2. The LA shall, prior to the termination of all or part of this Agreement, forward to the ADEQ Director all finished or unfinished files, public documents, pending applications received by the LA for those delegated Functions and Duties, and pending inspection documents related to those Delegated Functions and Duties being terminated, and a summary status report of those delegated Functions and Duties, and shall provide written notification of the effective date of termination to all persons with pending applications and to all regulated facilities affected by the termination of this Agreement.

P. TERM OF AGREEMENT

Unless otherwise stated, this Agreement is effective 30 days after written notice of ADEQ's decision to enter into this Agreement. This Agreement shall expire on June 30, 2050. If a new Agreement is not executed by that date, ADEQ and the LA may agree to extend this Agreement by filing an amendment in accordance with Section L of this Agreement.

⁶ See A.R.S. § 12-133 (A)(1)

Q. INDEMNIFICATION

1. Each party (as "Indemnitor") agrees to defend, indemnify, and hold harmless the other party (as "Indemnatee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnatee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers. The State of Arizona, Department of Environmental Quality, is self-insured per A.R.S. § 41-621.
2. In addition, should City of Phoenix utilize a contractor(s) and subcontractor(s) the indemnification clause between City of Phoenix and its contractor(s) and subcontractor(s) shall include the following:

To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the City of Phoenix and the State of Arizona, and any jurisdiction or agency issuing any permits for any work arising out of this Agreement, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as "Indemnatee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by such contractor from and against any and all claims. It is agreed that such contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. Additionally on all applicable insurance policies, contractor and its subcontractors shall name the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as an additional insured and also include a waiver of subrogation in favor of the State.

R. NAME AND ADDRESS OF PRIMARY CONTACT PERSONS

ADEQ Diane L. Arnst
Regulatory and Policy Analyst
Arizona Department of Environmental Quality
Office of Administrative Counsel
1110 W. Washington Street

Phoenix, AZ 85007
(602) 771-2375
da2@azdeq.gov

LA Brandy Kelso, P.E.
Assistant Water Services Director
City of Phoenix
200 W. Washington, 9th floor
Phoenix, AZ 85003
(602) 495-7676
brandy.kelso@phoenix.gov

The name of a successor to any of the above-named individuals shall not require the execution of an amendment to this Agreement.

S. SEVERABILITY

The provisions of this Agreement are severable to the extent that any provision or application found to be invalid shall not affect any other provision or application of the Agreement, which shall remain in effect without the invalid provision or application.

Appendix A to

#ADQ17- 0008

City of Phoenix, Arizona
Water Quality Management

A. Delegated Functions and Duties:

The LA agrees to perform those delegated Functions and Duties listed in the following table:

Functions and Duties	Applicable Rule(s) in Title 18 of the Arizona Administrative Code	Personnel Qualifications	Standards of Performance
1. General functions and duties pertaining to the administration of <u>Type 4 General Aquifer Protection Permits</u> delegated to the LA pursuant to this table. The extent of the applicable rules for these general functions and duties shall be limited to those relevant to the approvals, authorizations and permits which are herein delegated to the LA. Delegated functions and duties are further limited in Subpart B.	R18-9-101; R18-9-110; R18-9-A301(A)(4), (B) and (D); R18-9-A302 through R18-9-A307; R18-9-A312(G)(1-6) and (F)	C1, C2, C3, C4	D1.1 - D1.4
2. Application review, inspection, issuance or denial of Construction and Discharge Authorizations, compliance and enforcement for the <u>4.01 General Aquifer Protection Permit for Sewage Collection Systems</u>	R18-9-E301	Licensing decision for issuance or denial of a Construction Authorization or Discharge Authorization: C1, C2, C3, All other functions and duties: C1, C2, C3, C4	D1.1 - D1.4

Functions and Duties	Applicable Rule(s) in Title 18 of the Arizona Administrative Code	Personnel Qualifications	Standards of Performance
<p>3. Public Water System: Approval to Construct (ATC) and Approval of Construction (AOC)^[1]</p> <ul style="list-style-type: none"> • Application review, construction inspection, and certificate issuance or denial as appropriate • Compliance and enforcement 	<p>Definitions and applicability per A.A.C. R18-4-103 and R18-4-215 [except (F)-(I)]; R18-4-213; R18-4-201; R18-5-501, -502, and -504 through R18-5-508 as amended</p>	<p>Licensing decision for issuance or denial of an ATC or AOC Certificate: C1, C2</p> <p>All other functions and duties: C1, C2, C3, C4</p>	<p>D1.1 - D1.4; D2.1</p>

B. Exceptions and Special Provisions

The delegated Functions and Duties specified in Subpart A of this Appendix shall be subject to the following exceptions and special provisions:

1. Within 60 days after the effective date of this Agreement, ADEQ and the LA shall jointly develop and approve a schedule of training for administering delegated Functions and Duties.
2. Within 180 days after the effective date of this Agreement, ADEQ and the LA shall jointly develop and approve the process to ensure maintenance of LA proficiencies for the administration and implementation of delegated Functions and Duties in Appendix A, Subpart A.
3. The Director of ADEQ shall not accept, directly from an applicant, any application package that involves the performance of a delegated Function or Duty. However, if the Director of ADEQ determines there is a compelling reason for ADEQ to review and/or approve an application package that involves a delegated Function or Duty, the LA shall provide the application package to ADEQ upon written request by the Director of ADEQ. ADEQ shall forward a copy of the completed file to the LA for any application package reviewed by ADEQ.
4. Functions, and Duties of ADEQ related to the following facilities are NOT delegated:
 - a. Drinking water or wastewater (1) owned by the federal government or the State of Arizona, (2) owned or operated by the LA, or (3) owned or operated by districts subject to the control of the LA.
 - b. Those relating to facilities financed, either wholly or in part, with federal grant funds administered by ADEQ. ADEQ shall provide a list of such facilities to the LA.
 - c. Those related to the implementation of A.A.C. R18-9-A312(G) where the request is beyond the scope of the technologies delegated to the LA.
5. Although approval of any public water system or wastewater facility which is designed by or for the LA, or for a capital improvement project, is NOT delegated to the LA, this exception does not prohibit or otherwise affect later assignment or transfer to the LA of a public water system or wastewater facility having a construction completion approval issued by the LA, if the LA issues a construction completion approval before the owner of the private facility dedicates it to the LA. A private facility to be dedicated to the LA after completion of construction may be reviewed by the LA if all approvals and licenses are

^[1] Only applies to stand-alone water line replacement and/or extension projects (with related appurtenances – e.g., booster pumps).

issued to the owner of the private facility prior to the date of the dedication to the LA. If the LA issues an initial construction authorization and a facility is later assigned or transferred to the LA before the LA issues a construction completion approval, the LA must obtain both new initial construction approval and construction completion approval from Maricopa County. Public water systems or wastewater facilities owned by the City of Phoenix are subject to approval by Maricopa County.²

6. ADEQ and LA agree to co-inspect wastewater facilities, where feasible, for training and coordination purposes.
7. For purposes of performing and reporting delegated Functions and Duties outlined in Appendix A, the LA shall use forms provided by the ADEQ. The LA may use other forms for the purposes of performing and reporting delegated Functions and Duties provided that the LA receives prior written approval from the ADEQ Water Quality Division Director.
8. For the purposes of determining applicability of project cost exemptions under A.A.C. R18-5-505(B) and this agreement, project cost is determined by the sum of the following cost categories:
 - (a) preparation of submittal quality design documents and related application documents for the project proposed for installation,
 - (b) all equipment/components/materials delivered to the construction site,
 - (c) all excavation & backfill,
 - (d) all installation of equipment/components/materials, and
 - (e) all tasks associated with pre-operational testing & startup.
9. Within 60 days of the effective date of this agreement, the LA shall provide ADEQ copies of all existing Maricopa County or LA written policies utilized by the LA to perform delegated Functions and Duties. The LA shall also provide ADEQ with copies of any new LA policies relating to the performance of delegated Functions and Duties within 30 days of the policy becoming final.

C. Personnel Qualifications:

Subject to Subpart D, the Functions and Duties itemized in Subpart A shall be performed by individuals with specified minimum personnel qualifications. Where more than one personnel qualification category is shown in Subpart A, LA personnel performing the itemized functions and duties may qualify under any listed category, subject to the noted limitations.

Duties shall be performed by:

1. A Professional Engineer registered in the State of Arizona pursuant to A.R.S. § 32-123 and R4-30-224; or
 2. An individual who is an Engineer-in-Training pursuant to A.R.S. § 32-101, or an Engineer-in-Training candidate pursuant to A.A.C. R4-30-222 who successfully completes the engineer-in-training examination within 6 months after date of hire, or a graduate of a four-year engineering degree program accredited at the time of graduation by the Accreditation Board for Engineering and Technology or its predecessor organization, and who is directly supervised by a Professional Engineer registered in the State of Arizona; or
 3. A Registered Sanitarian who is registered in the State of Arizona pursuant to A.R.S. § 36-136.01, A.A.C. R9-16-403 and R9-16-404 and who meets the continuing education requirements in R9-16-405; or
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4. A Registered Sanitarian candidate who has applied to take the Sanitarian examination under R9-16-402 and is issued a certificate of registration within 6 months after the date of hire, and who meets the continuing education requirements in R9-16-405 who is directly supervised by a Registered Sanitarian registered in the State of Arizona.

D. Standards of Performance:

The LA shall comply with specified standards of performance for the Functions and Duties itemized in Subpart A. The following LA standards of performance apply to this Appendix:

1. General Provisions

- 1.1 The LA shall process applications to reach a licensing decision for delegated Functions and Duties itemized Subpart A of this Appendix under the framework of A.A.C. R18-1-501 through 524, and within the applicable time frames specified in A.A.C. R18-1-525, Tables 5, and 10 as amended.

Permits	Authority	Overall Timeframe
4.01 General Permit	A.R.S. § 49-245	
300 services or less	A.A.C. R18-9-E301	95
More than 300 services	A.A.C. R18-9-E301	136
Public Water System ATC	A.R.S. § 49-353	
Standard	A.A.C. R18-5-505	43
Complex	A.A.C. R18-5-505	73
Public Water System AOC	A.R.S. § 49-353	
Standard	A.A.C. R18-5-507	43
Complex	A.A.C. R18-5-507	73

- 1.2 Accurate file records shall be maintained by the LA showing evidence of application processing and the licensing including date, basis and stipulations, if any, for all licenses issued or denied, including those prepared by or under the supervision of a Professional Engineer registered in the State of Arizona.
- 1.3 If the project reviewed by the LA involves disposal or discharge of wastewater to a water of the United States, the LA shall direct the applicant to ADEQ (or the U.S. Environmental Protection Agency) for any necessary permits.
- 1.4 The LA shall incorporate within 60 business days of notification the update for any form, procedure or practice applicable to the delegated program.

E. Reporting Requirements:

The LA shall report program information for Functions and Duties delegated to the LA as listed in Subpart A of this Appendix.

1. General Provisions. The LA shall submit annual reports described in this Subpart. Reports shall be submitted on forms provided by ADEQ by the effective date of this Agreement and shall be sent to ADEQ within thirty (30) calendar days after the end of the reporting period, preferably in electronic format. The LA shall send reports to:

Delegation Program Specialist
Water Quality Division
Arizona Department of Environmental Quality

1110 West Washington Street
Phoenix, AZ 85007
delegations@azdeq.gov

2. Public Water Systems. The LA shall submit the following information:
 - a. Approvals to Construct issued.
 - b. Construction inspections performed.
 - c. Approvals of Construction issued.
 - d. Approvals to Construct and Approvals of Construction issued exceeding maximum licensing time frames.
 - e. Exception reports for Approvals which exceeded the maximum licensing time frame.
 - f. Appeals of LA decisions filed by applicants.
 - g. Compliance inspections performed
 - h. Complaints handled.
 - i. Safe Drinking Water Information System/State (SDWIS/State) inventory update forms.
3. Type 4 General Aquifer Protection Permits (Sewage Collection Systems). The LA shall submit the following information:
 - a. The numbers for issued Discharge Authorizations and denied Discharge Authorizations for Type 4 General Permits delegated to the LA.
 - b. The number of issued Discharge Authorizations exceeding overall licensing time frames.
 - c. Exception report for each Discharge Authorization which exceeded the overall licensing time frame.
 - d. The number of appeals of LA decisions filed by applicants and the disposition status for each appeal.
 - e. The numbers for alternative features approved pursuant to A.A.C. R18-9-A312(G) for the issued Discharge Authorizations and for the denied Discharge Authorizations reported in item 3.a above.
4. Enforcement Actions. A copy of each administrative, civil, or criminal action initiated under this Appendix.

F. Agency Contact Persons:

The following LA employees are responsible for administering the delegated Functions and Duties pursuant to this Appendix. The LA shall provide ADEQ written notice of any successor.

Name: Brandy Kelso, P.E.
Title: Assistant Water Services Director
City of Phoenix
Address: 200 W. Washington, 9th Floor
Phoenix, AZ 85003

Office: 602.495.7676
Email: brandy.kelso@phoenix.gov

The following ADEQ employees are responsible for administering the Functions and Duties pursuant to this Appendix. ADEQ shall provide the LA written notice of any successor.

Approvals of Sewage Collection Systems and Public Water Systems

Name: Karen Shanafelt
Title: Manager, Drinking Water Engineering Review
Address: Arizona Department of Environmental Quality
1110 West Washington Street
Phoenix, AZ 85007
Email: ks14@azdeq.gov

Groundwater, Compliance and Enforcement

Name: Travis Taylor
Title: Manager, Inspections & Compliance Unit 2
Address: Arizona Department of Environmental Quality
1110 W. Washington Street
Phoenix, Arizona 85007

Phone: (602) 771-4512

Name: David Lelsz, Ph.D.
Title: Manager, Inspections & Compliance Unit

Address: Arizona Department of Environmental Quality
1110 West Washington Street
Phoenix, AZ 85007

Email: dl2@azdeq.gov

The naming of a successor to any of the above individuals shall not require the re-execution of or an amendment to this Agreement.

DELEGATION AGREEMENT #ADEQ17-0008

Local Agency
City of Phoenix

Arizona Department of
Environmental Quality

BK Larry Sorenson 2/8/18
Ed Zuercher Date
City Manager

M. Cabrera 3/21/18
Misael Cabrera Date
Director

ATTEST:

C. Meyer
City Clerk Date



Pursuant to A.R.S. §§ 49-107 and 41-1081 and the Phoenix City Charter, as adopted in 1913, as amended, Chapter II. General Powers, Rights and Liabilities, the foregoing Agreement has been reviewed by the undersigned attorneys for the City of Phoenix and the Arizona Department of Environmental Quality, who have determined that this Agreement is in proper form and is within the powers and authority granted under Arizona law to ADEQ and the City of Phoenix.

APPROVED AS TO FORM:

By: Julie Krieger
City Attorney MRA

APPROVED AS TO FORM:

By: [Signature]
Assistant Attorney General
3/13/18

2018 FEB 22 PM 3:25

CITY CLERK DEPT.

