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**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

**MARTIN H. ESCOBAR,**  
**Plaintiff,**

**vs.**

**JAN BREWER, Governor of the  
State of Arizona, in her Official and  
Individual Capacity; THE CITY OF  
TUCSON, a municipal corporation,**  
**Defendants.**

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**THE CITY OF TUCSON, a municipal  
corporation,**

**Cross-plaintiff,**

**vs.**

**THE STATE OF ARIZONA, a body  
politic; and JAN BREWER, in her  
capacity as Governor of the State  
of Arizona,**

**Cross-defendants.**

**No. CV10-00249-TUC-SRB**

**RESPONSE TO ORDER TO  
SHOW CAUSE**

1           The City of Tucson ("Tucson") submits the following response to the Court's  
2 order to show cause why the entire case, including Tucson's cross-claim, should not  
3 be dismissed in light of the Court's ruling that Plaintiff Martin Escobar lacks standing  
4 to pursue his claims against the defendants (Dkt 96). As a result, Tucson no longer  
5 is in a position where it is required to defend the implementation of SB 1070 in this  
6 litigation.

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8           Tucson's cross-claim against Governor Brewer also sought an injunction  
9 against the implementation of SB 1070 based upon independent jurisdiction. The  
10 principal issues raised by that claim, however, have been resolved by this Court's  
11 issuance of a preliminary injunction on July 28, 2010 in *United States of America v.*  
12 *State of Arizona, et. al.*, Civ. No. 10-01413 (Dkt 87). Tucson is subject to that  
13 preliminary injunction as a political subdivision of the state and those portions of  
14 Tucson's cross-claim are now moot.

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16           Tucson does not seek to independently pursue the additional issues raised in  
17 its cross-claim in this litigation at this time.

18           Tucson notes that both orders have been appealed to the Ninth Circuit. If  
19 Plaintiff Escobar is successful on appeal, the City will once again be required to  
20 defend itself in this litigation. If the State of Arizona is successful, SB 1070 will once  
21 again be subject to implementation.

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1 Tucson therefore requests that the Court dismiss the cross-claim without  
2 prejudice to Tucson's rights to reassert claims in the event there is a successful  
3 appeal of the other orders.

4 Respectfully submitted this 13th day of September, 2010.

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6 MICHAEL G. RANKIN  
7 City Attorney

8 By s/Michael W.L. McCrory  
9 Michael W.L. McCrory  
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14 **CERTIFICATE OF SERVICE**

15 I hereby certify that on September 13, 2010, I electronically transmitted  
16 the attached document to the Clerk's Office using the CM/ECF System for  
17 filing and transmittal of a Notice of Electronic Filing to the CM/ECF registrants  
18 on record:

19 s/Michelle Gensman  
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