

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE STATE OF ARIZONA
THROUGH THE ARIZONA DEPARTMENT OF VETERANS' SERVICES AND THE
CITY OF FLAGSTAFF**

This Intergovernmental Agreement (the "**Agreement**") is made and entered into this ___ day of _____, 2019 ("**Effective Date**"), by and between the City of Flagstaff, an Arizona municipal corporation ("**City**") and the State of Arizona acting by and through its Arizona Department of Veterans' Services ("**ADVS**"). City and ADVS may be referred to herein individually as a "**Party**" or collectively as the "**Parties**."

RECITALS

WHEREAS, ADVS intends to construct a new State Veterans Home to be located at 2100 N. Gemini Drive, Flagstaff, Arizona 86001 (the "**Project**").

WHEREAS, ADVS has requested that the City provide full building inspection services for the proposed Veterans Home to be built in Flagstaff, Arizona.

WHEREAS, the State is empowered by Arizona Revised Statutes § 41-603(B)(4) to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

WHEREAS, the City is empowered by Arizona Revised Statutes § 11-952 to enter into this Agreement and has by motion resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual terms and conditions contained in this Agreement, the sufficiency of which is acknowledged, the Parties agree as follows:

AGREEMENT

- 1. Scope of Work.** The purpose of this Agreement is to provide full building inspection services for the proposed Veterans Home to be built in Flagstaff.
- 2. ADVS Responsibilities.** ADVS will reimburse the City for the cost of providing building inspection services according to the table in Exhibit A. ADVS acknowledges that the costs detailed in Exhibit A are estimates based on the current scope of work provided by ADVS. However, ADVS will not be liable for any amount greater than the total not-to-exceed cost of \$32,109.00 unless the Parties enter into a subsequent written modification of this Agreement that is signed by authorized representatives of both Parties. In addition, ADVS shall not be responsible for any payment in the event of the unavailability of legislative funding, as provided in A.R.S. § 35-154.
- 3. City Responsibilities.** The City will provide full building inspection services for the proposed Veterans Home. This Agreement is based on the understanding of the preliminary

building concept consisting of wood framed building construction, Type VA Construction, assumes slab-on-grade floor, potentially including several buildings, with total square footage of approximately 73,850 feet. The City will perform inspections for all aspects of construction from the ground up, for plan conformance and code compliance, including but not limited to the following:

- a. Inspect all footings for proper size and reinforcement placement.
- b. Inspect all underground drain, waste, and vent (DWV) and domestic potable water plumbing, including pressure tests, and verification of slope, proper fittings, and sizing.
- c. Inspect water, sewer, and electrical utility services from point of connection to building.
- d. Inspect all underground conduits, including sizing, materials, depth, and number of bends.
- e. Verify compaction tests are being performed and are at minimum compaction percentage for placed fills.
- f. Inspection of all masonry or concrete walls prior to placement of grout or concrete, including verification of reinforcement in required locations, rebar sizes, splices, joints in masonry, and lintels spanning openings.
- g. Inspect all wood and/or metal stud framed wall construction, including stud size, spacing, bracing, anchorage to foundations, and shear walls with hold downs.
- h. Inspect all roof deck nailing prior to roofing material installation, for correct fasteners, spacing, and materials.
- i. Inspect all rough electrical installations, including electrical service equipment, feeder cables and subpanels, conduits, branch circuit wiring, junction boxes, and bonding of metal plumbing piping. Final electrical inspection will include verification of GFCI protected circuits, AFCI protected circuits, correct circuit breakers for circuits.
- j. Inspect all HVAC equipment and rough-in duct work, including duct sizing, sheet metal gauges, bends, support, proper clearances of vents for fuel burning appliances.
- k. Inspect all rough plumbing; including gas system for sizing, valves, and fittings; DWV system for slope, fittings, pressure test, pipe sizing, and pipe support; and domestic water supply system for pressure test, sizing, and any backflow assemblies associated with the building. Testing of backflow

assemblies is to be performed by a certified tester, test services to be procured by appropriate contractor.

- l. Inspect all wall and roof/ceiling insulation installations.
- m. Inspect all drywall installations for correct fastener spacing and type, fire ratings of walls, and drywall shear walls if designed as such.
- n. Inspect all exterior finishes including building wrap and flashings, stucco, EFIS, and veneer systems.
- o. Inspect for compliance with the Americans with Disabilities Act (ADA).
- p. Prior to final inspection, verify that all potable water piping in the building has been sanitized prior to occupancy of the building.
- q. Perform a complete final inspection. This will include all life safety requirements, final grading around exterior, final inspection of entire electrical system and applicable code requirements, HVAC system, and all fuel burning appliances, smoke alarm system, potable water system and fixtures.
- r. One (1) inspector will be assigned to this Project for the duration for consistency and efficiency. The inspector will be ICC certified, commercial experience, and minimum ten (10) years of experience.
- s. The City's inspector will conduct a weekly walk through with the Building Inspection Manager and/or the Chief Building Official and the ADVS Facilities Project Manager to discuss and review any issues that may develop during the week. The City will commit to providing inspection on a daily basis as requested, up to three (3) hours a day for the duration of the Project.
- t. This Agreement does not include materials sampling and testing (soils, concrete, grout, etc.), or any required third party special inspections (concrete, masonry, welding, epoxy installed anchors, etc.) as specified in Chapter 17 of the International Building Code, or testing of backflow assemblies as noted in item 3(k).

4. Term of Agreement. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion of the Project and all related deposits and/or reimbursements are made. This Agreement may be cancelled after thirty (30) days written notice to the other Party. It is understood and agreed that, in the event ADVS terminates this Agreement, that ADVS will be responsible for all costs incurred by the City up to the time of termination, subject to the limitations set forth in Section 2 above.

5. Indemnification. Each Party shall indemnify and hold harmless the other Party and its directors, officers, employees, and agents from and against all claims, demands, suits and

costs including, but not limited to, costs of defense, reasonable attorneys' fees, witness fees of any type, losses, damages, expenses and liabilities, whether direct or indirect, by reason of (i) any act or omission by the indemnifying Party, or any of its directors, officers, employees, agents, or invitees relating to the indemnifying Party's actions under this Agreement, but (ii) only to the extent that any loss, damage, expense, and liability is attributable to the acts or omissions of the indemnifying Party, its directors, officers, employees, and agents. The provisions of this Section shall survive the revocation and/or termination of this Agreement.

6. **Assignment.** Neither Party may assign any of its duties, rights or responsibilities under this Agreement without the express written consent (which shall comply with the requirements of Section 8, below) of the other Party.

7. **Entire Agreement/Integration/Severability.** This Agreement integrates all of the terms and conditions mentioned herein, or incidental hereto, and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof. The provisions of this Agreement shall be deemed severable and the invalidity or enforceability of any provision shall not affect the validity or enforceability of the other provisions.

8. **Amendments.** No change or addition is to be made to this Agreement except by written amendment executed by authorized representatives of the Parties. All waivers of the provisions of this Agreement must be in writing and signed by authorized representatives of the Party to be charged, and all amendments and modifications hereto must be in writing and signed by the authorized representatives of the Parties.

9. **Third-Parties.** This Agreement shall not be construed as an agreement for the benefit of any third-party or parties.

10. **Non-Exclusive Agreement.** The Parties to this Agreement shall not be precluded from entering into similar agreements with other agencies.

11. **Notice.** All notices, demands or other communications must be in writing and are deemed duly delivered upon personal delivery (which may include delivery by e-mail), or as of the second business day after mailing by United States mail, postage prepaid, registered or certified, return receipt requested, addressed as follows:

CITY: City of Flagstaff
Attn: Barbara Goodrich City Manager
211 W. Aspen Avenue
Flagstaff, Arizona 86001
E-mail: [bgoodrich@flagstaffaz.gov]

ADVS: Arizona Department of Veterans' Services
Attn: Victor Daniels, Facilities Project Manager
3839 North 3rd Street, Suite 209
Phoenix, Arizona 85012
E-mail: VDaniels@azdvs.gov

If either Party changes its address or other contact information, that Party must give immediate written notice to the other Party. Notice of change of address or other contact information is deemed effective five (5) days after mailing by the Party changing its address, or immediately if delivered by e-mail.

12. Headings. The headings of this Agreement are for purposes of reference only and shall not limit or define the meaning of any provision of this Agreement.

13. Exhibits; Sections. All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement. References to Sections are to Sections of this Agreement unless stated otherwise.

14. Counterparts. For the convenience of the Parties, this Agreement may be executed in two (2) or more counterparts and each executed counterpart shall for all purposes be deemed an original and shall have the same force and effect as an original, but all of which together shall constitute in the aggregate but one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signatures of all Parties may be physically attached to a single document. Neither Party shall have any right, duty or obligation under this Agreement unless and until this Agreement or counterparts hereof have been executed by authorized representatives of both Parties.

15. Jurisdiction/Venue/Applicable Law. It is mutually understood and agreed that this Agreement shall be governed by the laws of the State of Arizona, both as to interpretation and performance. Any action at law, suit in equity or judicial proceeding for the enforcement of this Agreement or any provision thereof shall be instituted only in the courts located within Maricopa County, but with the Parties obligated to engage in arbitration to the extent required by A.R.S. § 12-1518.

16. Conflict of Interest. The Agreement is subject to the conflict of interest and cancellation provisions of the A.R.S. § 38-511, as amended, the provisions of which are incorporated herein.

17. Attorneys' Fees and Costs. If either Party brings an action or proceeding for failure to observe any of the terms or provisions of this Agreement, the prevailing Party is entitled to reasonable attorneys' fees and costs.

18. Compliance with All Laws. Each Party shall comply with all applicable federal, state, and local laws, rules, regulations, and Executive Orders (including but not limited to the anti-discrimination requirements of Executive Order 2009-09). The laws and regulations of the State of Arizona will govern the rights of the Parties, the performance of this Agreement and any disputes hereunder. Any changes in the governing laws, rules and regulations during the terms of this Agreement will apply but do not require an amendment of this Agreement. Without limiting the foregoing requirements in any way, the Parties expressly agree that they will comply with the record-keeping requirements of Arizona Revised Statutes §§ 35-214 and 215, and with Arizona Revised Statutes §§ 41-4401 and 23-214 (except that neither Party

shall be required to utilize the Federal Government’s “E-Verify” system at any time when the Federal Government is not providing access to the “E-Verify” system to that Party).

19. Boycott of Israel. The Parties shall comply with the applicable requirements of Arizona Revised Statutes § 35-393.01. However, the Parties recognize that the U.S. District Court for the District of Arizona has entered an injunction barring enforcement of this statute in *Mikkel Jordahl, et al., v. Mark Brnovich, et al.*, No. CV-17-08263-PCT-DJH, and unless and until the District Court’s injunction is stayed or lifted, A.R.S. § 35-393.01 is unenforceable and neither Party can take any action to enforce it.

20. Attorney Verification. In accordance with Arizona Revised Statutes § 11-952(D) attached hereto and incorporated herein is the written determination, of each Party’s legal counsel that the Parties are authorized under the laws of this State to enter into this Agreement and that this Agreement is in proper form.

21. Further Acts/Additional Documents. Each Party agrees to perform such other and further acts and to execute and deliver such additional agreements, documents, certifications, acknowledgments and instruments as may be reasonably required to consummate, evidence, confirm or carry out the matters contemplated by this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

CITY OF FLAGSTAFF

State of Arizona

Arizona Department of Veterans’
Services

Mayor Coral Evans

Elena Adame
Chief Procurement Officer

ATTEST:

Stacy Saltzburg, C.M.C.
City Clerk

ATTORNEY APPROVAL FOR THE CITY OF FLAGSTAFF

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its ARIZONA DEPARTMENT OF VETERANS' SERVICES, and the CITY OF FLAGSTAFF, an agreement among public agencies which, has been reviewed pursuant to Arizona Revised Statutes §§ 11-951 through 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this _____ day of _____, 2019.

(Name), City Attorney

ATTORNEY APPROVAL FOR ADVS

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its ARIZONA DEPARTMENT OF VETERANS' SERVICES, and the CITY OF FLAGSTAFF, an agreement among public agencies which, has been reviewed pursuant to Arizona Revised Statutes §§ 11-951 through 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to ADVS under the laws of the State of Arizona.

No opinion is expressed as to the authority of the City of Flagstaff to enter into this Agreement.

DATED this _____ day of _____, 2019.

Exhibit "A"

Estimated costs

Position	Net cost (not to exceed)
Building Inspection Services as specified in Section 3 of this Agreement	\$32,109.00

7580999.2